

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

**OFFICER-INVOLVED SHOOTING – 041-21**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On (X) Off ( )</u></b>	<b><u>Uniform-Yes (X) No ( )</u></b>
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Pacific	7/26/21		
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<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
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Officer A	2 years, 2 months
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**Reason for Police Contact**

Officers responded to a radio call of a hot prowl residential burglary in progress. The Subject had broken a living room window to gain entry and was holding the Victim at knife point. Upon the officers' arrival, they ordered the Subject to drop the knife; however, he did not comply and an Officer-Involved Shooting (OIS) occurred. The Subject was struck by gunfire and died at scene.

<b><u>Subject</u></b>	<b><u>Deceased (X)</u></b>	<b><u>Wounded ( )</u></b>	<b><u>Non-Hit ( )</u></b>
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Male, 58 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 June 28, 2022.

## **Incident Summary**

On July 26, 2021, at approximately 0430 hours, the Victim was asleep inside her apartment when she was awakened by the Subject, banging on the front living room window. This prompted the Victim to open the inner front door and speak to the Subject through the security screen door. She told the Subject to go away or she would call the police if he did not comply.

The Subject responded by threatening to kill himself. The Victim stated she closed the inner door. The Subject immediately broke the window and climbed into the residence. The Victim began to scream and attempted to dial 911 and telephone her daughter; however, she was too nervous to complete either of the calls.

Witness A resided in the same apartment complex as the Victim. According to Witness A, she woke to the sound of screaming outside. She looked out of her window and observed the Subject banging on the Victim's window with his fist. Witness A left her window to obtain a telephone. Moments later she heard glass break. Witness A walked to her front door, opened it and looked out toward the Victim's apartment and no longer saw the Subject outside the apartment. Witness A telephoned 911 to report what she had observed. At that point, Witness A could not see what was going on inside the residence but could hear the Victim screaming and the Subject yelling something unintelligible.

Concurrent with Witness A's observations, Witness B, who resided nearby, heard screaming and looked out of his window. Witness B observed the Subject place a jacket over his hand and break the Victim's window. The Subject then entered the apartment through the window. Witness B then telephoned 911.

At 0555:54 hours, Communications Division (CD) broadcast, "Pacific Units, 459 Hot Prowl, [...], stand by for additional."

In response to the broadcast, uniformed Police Officers A and B broadcast that they were responding with emergency lights and siren activated (Code 3) to the radio call.

According to Officers A and B, the officers had worked several shifts together and had discussed police tactics.

According to Officer A, the officers had discussed de-escalation tactics, the use of less-lethal force, communication, and redeployment. As the officers were headed to the call, he/she believed his/her role was Cover Officer and Officer B's role was Contact Officer.

At 0557:19 hours, CD broadcast additional information, "[...] additional on your 459 Hot Prowl, [...]. The victim is in apartment number [...]. The PR has no suspect description. Hears glass breaking, still on the line with her."

At 0558:54 hours, CD broadcast additional information, “[...] additional on your 459 Hot Prowl, [...]”. The suspect is a male, no further description. Still on the line with the PR.”

At 0559:10 hours, CD broadcast further information, “Attention all units, additional on your 459 Hot Prowl, [...]. The suspect is [...], male, [...], 45 to 50 years, long hair, wearing a black jacket, no weapons seen. The suspect broke a window with his hands and entered the neighbor’s property. (Unintelligible) can be heard yelling in the background.”

Police Officers C and D broadcast they were backing up Officers A and B on the radio call.

At 0600:44 hours, Officer A broadcast that they were at scene. The officers exited their vehicle and approached the front gate to the apartment complex. Officer A attempted to open the gate but was unable. He/she broadcast a request to have the individual who called 911 come and open the gate. Moments later, Officer A walked further north on the exterior of the property and contacted an unidentified male who was leaning partially outside of an open west-facing window and pointing toward the south.

The male told Officer A that the gate was open. Officer A asked the male if he knew which apartment it was, and the male responded by motioning and pointing in an upwardly direction toward the south. Officer B was able to open the gate and told his/her partner that he/she had located the apartment. The officers then entered the courtyard of the complex. According to Officers A and B, they both observed the living room window was broken. According to Officer A, he/she observed an unidentified female exit one of the lower apartment units and point to the apartment.

As the officers walked up the staircase, Officer B was in front, followed by Officer A.

According to Officers A and B, they each considered waiting for additional resources before going up the stairs; however, they believed that based on exigent circumstances, they needed to immediately assist the resident. According to Officer B, he/she observed the broken window, heard a man yelling inside the residence, and believed there was a struggle or fight going on inside between a suspect and the resident. According to Officer A, he/she observed the broken window, he/she heard two voices yelling, and he/she believed someone in the apartment needed the officers’ help.

According to Officer B, after hearing the commotion, he/she told Officer A they needed to get upstairs; however, this statement could not be heard on either of the officers’ Body-Worn Video (BWV) recordings.

As Officers A and B began to walk up the steps, they both unholstered and held their pistols in a one-handed grip at their sides. According to Officer B, he/she unholstered his/her pistol due to the fact that burglary suspects are usually armed and dangerous and they could cause great bodily injury or death. According to Officer A, “Someone who smashed a window to get into an apartment I believe could possibly be armed or

dangerous. So, at that point, I unholstered my firearm because I thought potentially the situation could rise to a level where the use of lethal force might be justified. My -- I also observed my partner unholster his/her gun, which further affirmed my belief that something was happening in the apartment.”

According to Officer A, as the officers climbed the steps, he/she heard a male and a female voice yelling but could not understand what they were saying. When Officer B reached the top of the steps and stood on the landing, he/she faced in a southern direction, looked into the apartment through the broken glass of the living room window, and used his/her handheld flashlight to illuminate the inside of the apartment. The Subject stood behind the Victim inside the living room. The left side of the Subject’s body was bladed toward Officer B, with his right hand down by his side and his left hand on the Victim’s shoulder. Officer B ordered, “Let me see your hands!”

Moments later, Officer B moved slightly to his/her left toward the security screen door, as Officer A reached the landing. Officer A faced south toward the broken window, as he/she stood with his/her left foot on the landing and his/her right foot on a lower stairstep.

The Subject was standing directly behind the Victim and slightly to her right as he began to square his shoulders toward the officers and raise a large kitchen knife with his right hand. The Subject held the knife horizontally with the tip of the blade pointed outward. At that moment, the Subject was no longer holding the Victim’s shoulder with his left hand. Officer A immediately came to a two-handed grip and pointed his/her pistol toward the Subject and Victim, as he/she illuminated them with the light affixed to his/her pistol. As Officer A held his/her pistol, his/her arms protruded past the plane of the window and into the residence. According to Officer A, when he/she shined his/her light into the dark apartment, he/she observed the Victim with a scared look on her face and the Subject holding a large knife.

Officer A noted that the wall of the residence provided him/her cover from his/her waist down.

When asked if he/she considered redeploying, Officer A stated, “So, one, if I redeployed, I’d instantly lose eyes on the suspect and what actions he’s doing. Two, if I did redeploy, it would be down the steps, which like I said, were very narrow, steep, and wet. So, it just was completely unfeasible to -- to redeploy downward. And if I had -- if we had gone further into the apartment -- I mean onto the landing, I believe the door would have opened up blocking us from -- I think it -- I don’t recall which way the door would have opened up but it would have just given him an avenue of escape down the stairs, towards the street, towards the public. So, there was really no feasible option of redeploying in that time, especially because of the victim’s close vicinity to the suspect, any redeployment by me would have instantly put her in further danger and completely negated any ability I had to help her.”

Officer A recalled observing the Subject holding the knife with the tip of the blade pointed at and touching the base of the victim's skull and neck.

The Victim was crying and told the officers that the Subject wanted to kill himself, as she slowly walked toward her front door. Officer A ordered the Subject to, "Drop the knife!" The Subject replied, "No," as he began walking behind the Victim with the blade of the knife pointing outward.

According to Officer B, the Victim stated that the Subject was going to kill her; however, this statement was not captured on the officers' BWV.

Officer B moved slightly back and to his/her right and pointed his/her pistol inside the apartment. He/she then quickly brought his/her pistol down to a low-ready position. According to Officer B, when he/she heard Officer A order the Subject to drop the knife, he/she pointed his/her pistol at the Subject. Officer B quickly determined that the Victim was in front of the Subject, so he/she pointed his/her pistol back to a low-ready position.

As Officer B pointed his/her pistol into the apartment his/her BWV footage intermittently shows his/her index finger on the trigger of his/her service pistol.

Officer A again ordered the Subject to, "Drop the knife!" The Subject quickly sidestepped to his right and moved directly behind the Victim. This movement placed the Victim between the Subject and the officers. The Subject hunched over slightly, which allowed his head to be blocked by the Victim, who was shorter in stature. Simultaneously, the Subject placed his left hand on the Victim's left shoulder and held the knife with the blade pointed outward near her right shoulder and neck area. The Subject again responded, "No."

According to Officer A, each time he/she ordered the Subject to drop the knife, he responded, "Kill;" however, BWV captured the Subject responding, "No" to Officer A's commands.

At 0602:27 hours, both Officers A and B simultaneously broadcast for a backup. Officer A briefly transitioned to a single-handed grip on his/her pistol, as he/she used his/her left hand to key his/her lapel microphone to broadcast the backup. He/she then reacquired his/her two-handed grip of his/her pistol. A review of the police radio only captured Officer A state the word "backup."

The Victim continued to cry as she slowly made her way to the front door with the Subject directly behind her. As the two moved, a portion of the Subject's left upper body and head became exposed. The Subject's left hand was still on the Victim's shoulder. The position of the knife was blocked by the Victim's body. Officer A for a third time ordered, "Drop the knife!"

According to Officer A, when the Subject grabbed the Victim's shoulder and neck area, the knife moved from the back of her neck and disappeared behind her body. At that point, he/she believed the Subject was stabbing her or was preparing to do so.

According to Officer A, his/her background was the south wall of the residence, which he/she believed had a bedroom on the other side of it.

When asked about his/her background, Officer A stated, "I did a balance test, basically, in a split second of the risk that there is somebody behind in my background and that if I miss the shot, there's that possibility that I miss the shot and that the -- or it just goes through -- through and through him and injures somebody in the other room. But weighing that against the immediate risk of him killing or injuring the victim, it was a clear choice to take the shot at that moment."

As Officer A for a fourth time ordered, "Drop the knife," he/she used a two-handed grip and aimed his/her pistol using the red dot sight toward the Subject's head and fired one round.

Officer A stated, "I believe he is either about to stab her at this moment or he already is stabbing her because she's screaming and has like a -- you know, a shocked look on her face. And at that moment that his head came over her left shoulder, I raised my handgun and fired a single shot in an attempt to stop him from hurting her, injuring or killing her."

The Subject was struck in the head by the round and immediately fell backward, while still holding the knife in his right hand with the blade pointed upward.

As the Subject fell to the floor and onto his back, the knife fell from his hand and slid a few feet above his head. According to Officer B, he did not see the knife until after the shooting and after it dropped from the Subject's hand.

According to the Victim, the Subject let go of her when the police shined a light on them and ordered the Subject to drop the knife. She added that she did not know what the Subject was doing at the time of the OIS, because her back was turned to him and she was moving to open the front door for the police. The Victim believed the police shot the Subject because he may have put a knife to his own chest.

The investigation determined that Officer A fired one round in a southeasterly direction from an approximate distance of five feet. It was also determined that the OIS occurred approximately seven seconds after Officer A gave the first command to the Subject to drop the knife. According to Officer A, he/she did not have time to warn the Subject that force would be used, because he/she used his/her limited time to attempt to de-escalate the situation by repeatedly ordering the Subject to drop the knife.

When asked if he/she considered deploying any less-lethal options, Officer A stated, "I had my Taser with me, but he was using the female victim as a shield. And as we know

with the Taser, the two prongs come out, there was no way for me to effectively utilize the taser without -- one, it would have been ineffective because it probably -- the prongs wouldn't have gone in him because the woman was blocking him. And, two, I would have more likely than not hit the victim with the taser and it would have just been ineffective."

Officer A added, "When you're the first unit there, your main task is to get information and figure out if a crime is occurring and you have more of an urgency to get upstairs because it doesn't seem like much, but the time it would have taken me to get that beanbag shotgun out could have been the time that maybe one second -- that one second, he/she could have stabbed and killed the victim. So, it was more imperative for us to get eyes on the victim and stop the threat than get the beanbag shotgun. Because often, unit that's back you will bring the less lethal with them."

At 0602:34 hours, Officer B broadcast, "25, Shots fired! Shots fired! Officer needs help!" Communications Division acknowledged and subsequently broadcast a help call. While the Subject lay on the floor, the Victim cried and pled with the officers not to kill him as she moved toward the door. Officer B holstered his/her pistol and told Officer A to keep his/her eyes on the Subject while he/she opened the door. Officer B then reached in through the broken window in order to unlock the outer security door from the inside. According to Officer B, the Victim unlocked the security door before he/she was able to do so.

Officer B then opened the outer security door. Both officers ordered the Victim out of her residence. The Victim complied and Officer B guided her out of the residence and onto the landing. Officer B stood outside the apartment in the doorway and again unholstered his/her pistol. According to Officer B, he/she unholstered his/her pistol a second time because the Subject had not been handcuffed and the residence had not been cleared.

At 0603:03 hours, Officer B broadcast, "25, suspect down. House not secured."

Moments later, Officers C and D arrived and Officer D broadcast that the officers were at scene.

As the Victim stood crying on the landing, the officers asked the Victim to go downstairs, which she began to do.

At 0603:29 hours, Officer A broadcast a request for a Rescue Ambulance (RA) to treat the Subject.

Officer D passed the Victim and directed her off the stairs. She then met with Officers A and B.

At 0604:10 hours, Officer A broadcast that there was a suspect down and it did not appear there were any outstanding suspects; however, the officers were standing by for

additional units to clear the apartment. As the officers waited for additional units to arrive, Officer B called into the residence and stated that the Los Angeles Police Department was outside, and that any occupants inside needed to make themselves known immediately.

Officers A, B, and D formulated a plan to render aide to the Subject and clear the house. Officer D broadcast for additional units and a supervisor to respond to the officers' location. Officer D stepped onto the landing between Officers A and B to get a view into the apartment and unholstered his/her pistol. Officer A directed Officer C to remain with the Victim, which he/she did.

Multiple uniformed personnel responded to the location, including, Police Officers E, F, and G and Sergeants A and B.

As additional officers arrived at scene, they began to make their way into the courtyard and toward the stairs. Officer F made his/her way to the top of the stairs and briefly unholstered his/her pistol, then quickly holstered it again. Officer E followed behind Officer F.

As the officers stacked up on the stairs, Officer A informed them of the Subject and the knife's location, and that the residence still needed to be cleared.

At 0607:29, CD asked if it was clear for the Fire Department to enter. Officer A responded by telling CD to have them stand by.

Officers A, B, D, and E formed a plan to enter the location, conduct a search, and take the Subject into custody. Officers E and F were the designated arrest team. Additional officers arrived and entered the residence, conducted a search for additional occupants, and discovered it to be unoccupied. As the officers cleared the apartment, the Subject laid motionless on the floor on his back. Officers E and F rolled the Subject onto his stomach, placed his hands behind his back, and Officer E handcuffed the Subject's wrists. Officer F then rolled the Subject back into a supine position to assess him for injuries. He/she also conducted a brief pat-down search of the Subject's front pockets for weapons but did not recover anything.

At 0610:09 hours, it was broadcast that no additional assistance was needed (Code 4), and CD was notified that the Rescue Ambulance could enter.

Officer F checked the Subject's right carotid pulse and then his left carotid pulse and declared that he felt a faint pulse. Officer E began to administer chest compressions to the Subject, as officers attempted to locate the Subject's gunshot wound. After a short time, the officers located a gunshot wound on the right side of the Subject's neck.

Officer E rechecked the Subject's right carotid pulse and told the officers that he/she did not feel a pulse. In response, Officer F again checked the Subject's left carotid pulse and directed Officer E to continue giving chest compressions, which he/she did. Officer



F then cut a piece of the Subject's shirt, which was held against the back of the Subject's head. After a short time, Officer F replaced Officer E, and he/she began to administer chest compressions to the Subject.

Officer D learned that Officer A had fired his/her pistol. Subsequently, he/she accompanied Officers A and B outside of the apartment, separated them, and waited for a supervisor to arrive.

At approximately 0612 hours, Los Angeles Fire Department Rescue Ambulance personnel arrived and entered the apartment and directed Officer E to stop compressions. Fire Department personnel then assessed the Subject and ultimately determined him to be deceased at 0615 hours.

**BWV and DICVS Policy Compliance**

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Officer A	Yes	Yes	Yes	Yes	Yes
Officer B	No	Yes	Yes	Yes	Yes

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

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

**B. Drawing and Exhibiting**

The BOPC found Officers A and B'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 in the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

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

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

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

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the suspect to escape;
- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;

- The proximity or access of weapons to the suspect;
- Officer versus suspect factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

**Drawing or Exhibiting Firearms:** Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall conform with this policy on the use of firearms. Moreover, any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

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

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

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

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

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

**Rendering Aid:** After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and

emergency medical assistance to all members of the community, including victims, witnesses, suspects, persons in custody, suspects of a use of force and fellow officers:

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

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

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

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

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

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

## Definitions

**Deadly Force:** Deadly force is defined as any use of force that creates a substantial

risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

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

**Imminent:** Pursuant to California Penal Code 835a(e)(2), “[A] threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to a peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”

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

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

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

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

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

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

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

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

## A. Tactics

### Tactical De-Escalation

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

#### Tactical De-Escalation Techniques

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

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

*Planning; Assessment; Time; Redeployment and/or Containment; Other Resources; and, Lines of Communication.*

**Planning** - Officers A and B had worked together approximately five times before this incident. During those instances, they discussed tactics, specifically, the roles of driver and passenger officers, contact and cover officers, lethal and less-lethal force options, and redeployment. Additionally, they discussed switching their roles if the situation required it.

After the OIS, Officers A, B, D, E, and G formed a plan to clear the apartment, apprehend the Subject, and render medical aid. Per the plan, Officers E and F were the designated arrest team and Officer G was designated as less-lethal.

**Assessment** - Arriving at the scene, Officers A and B observed that the Victim's front window had been shattered and heard yelling, screaming, and sounds of a struggle inside her apartment. Looking inside, Officers A and B observed the Subject standing behind the Victim, who was crying. Officer A observed the Subject holding a knife, which he refused to drop. Based on the situation, the officers assessed the need for backup units. While Officer B initially pointed his/her service pistol toward the Subject, he/she assessed that the Victim would be in his/her foreground and lowered his/her muzzle. After the OIS, Officers A and B assessed the need to wait for additional resources before entering the Victim's apartment.

**Time** - Observing the Subject behind the Victim, Officers A and B used cover and distance to create time. Before the OIS, Officers A and B gave the Subject multiple opportunities to drop his knife; however, his actions limited their ability to use time as a de-escalation technique. After the OIS, the Victim was directed out of her apartment and down the stairs. With the Victim out of harm's way, officers had time to formulate a plan to safely enter the apartment and tend to the Subject.

**Redeployment and/or Containment** - Based on the complex's layout and the location of the Victim's apartment, specifically the narrow second-story landing, Officers A and B could not redeploy without losing sight of the Victim and the Subject. The front window, which extended over the stairs, provided the officers' sole view into the apartment. Also, BWV footage depicted the Victim and the Subject walking toward the door as Officer A ordered him to drop the knife. Based on the evidence, the Subject was forcing the Victim to her car, and likely would have exited the apartment with her despite the officers' presence. The Subject's actions limited the officers' ability to contain him.

**Other Resources** - Officers C and D advised CD that they were responding to the call with Officers A and B. When the Subject refused to drop the knife, Officers A and B requested backup units. After the OIS, Officer B broadcast an officer "help" call, summoning additional resources; Officer A requested a Rescue Ambulance. Before making entry into the apartment, Officers A, B, D, E, and G ensured officers were equipped with lethal/less-lethal options.

**Lines of Communication** - While responding to this incident, Officers A and B spoke, ensuring they both understood the updated information from CD. Observing the Subject standing behind the Victim, Officer B ordered him to show his hands. Observing the Subject armed with a knife, Officer A repeatedly ordered him to drop the knife. The Subject replied, "No." Before the OIS, the Victim had said that the Subject wanted to kill himself. While Officer A did not understand what the Victim said, he/she believed he/she heard the Subject say "kill." Before entering the Victim's apartment, Officer B announced his/her presence and for any occupants to make themselves known. While the Subject appeared to understand the officers' commands, his actions limited their ability to use communication as a de-escalation technique.



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

### 1. Basic Firearm Safety Rules

Hearing Officer A's order to drop the knife, Officer B pointed his/her service pistol toward the Subject and placed his/her finger on the trigger. According to Officer B, he/she was "up at target." Because the Victim was in front of the Subject, Officer B lowered his/her service pistol to a "low ready" position. During his/her Force Investigation Division (FID) interview, Officer B did not recall placing his/her finger on the trigger.

The BOPC noted that during his/her interview, Officer B did not recall placing his/her finger on the trigger of his/her service pistol during this incident. However, based on his/her BWV footage, Officer B placed his/her finger on the trigger as he/she pointed his/her pistol toward the Subject. Officer B's finger remained on his/her trigger after he/she assumed a low-ready position and after the OIS. It appeared that Officer B removed his/her finger from the trigger moments before holstering his/her service pistol. While FID investigators were unable to determine the total time Officer B's finger was on the trigger, based on the footage, the BOPC opined that Officer B's finger was on his/her trigger for approximately 12 seconds.

A Subject Matter Expert (SME) from the Tactics Unit, Training Division, advised that a stressful situation can elicit a sympathetic response from an officer, causing that officer to act unconsciously and without recollection after the fact. Considering the SME's testimony, the BOPC opined that an officer's actions would comport to Basic Firearm Safety Rule No. 3 if his/her sights were aligned on a target and he/she intended to shoot when he/she placed his/her finger on the trigger. However, Officer B did not articulate that he/she aligned his/her sights on the Subject or that he/she intended to shoot. While the BOPC understood the SME's testimony, they were concerned that Officer B did not recall placing his/her finger on the trigger. The BOPC was also concerned that Officer B placed his/her finger on the trigger before personally identifying the specific threat the Subject posed to the Victim. According to Officer B, he/she did not observe the Subject's knife until after the OIS.

Based on the totality of the circumstances the BOPC determined, that the tactics employed by Officer B were a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:

**Simultaneous Broadcast and Backup v. Help Call** - When the Subject refused to drop the knife, Officers A and B simultaneously requested backup units. As a result, "backup" was all that was transmitted. Per the Department's radio code procedures,

a Help Call shall be broadcast when an officer requires immediate aid for a life-threatening incident or an incident that requires immediate aid because of serious bodily injury, death, or a serious threat to public safety is imminent. Alternatively, one officer could have broadcast a Help Call, as opposed to a Backup, before the OIS.

**Non-Medical Face Coverings** – Before the OIS, Officer A was not wearing a non-medical face covering at the scene as directed by the Chief on May 20, 2020.

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

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved 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 and Officer B's tactics to warrant a finding of Administrative Disapproval.

## **B. Drawing and Exhibiting**

- **Officers A and B** [First Occurrence]

Entering the complex's courtyard, Officer B walked up the staircase to the Victim's apartment, followed by Officer A; both officers unholstered their service pistols. According to Officer A, he/she heard yelling and screaming from inside the apartment and observed that the front window had been smashed. Based on his/her observations, Officer A believed there was possibly a suspect inside the apartment with the victim, and that the suspect could be armed and dangerous. Officer A believed that the situation could rise to a level where lethal force may be justified. According to Officer B, he/she observed the broken window and heard a struggle inside the apartment. Based on his/her observations, Officer B believed a "violent" criminal had entered the apartment and that a victim might be in trouble. Based on his/her experience, Officer B knew that burglary suspects carried tools/weapons that can cause serious bodily injury or death.

- **Officer B** – [Second Occurrence]

Holstering his/her service pistol, Officer B reached through the broken window to unlock the security door. Simultaneously, the Victim arrived at the security door, unlocked it, and exited her apartment. Officer B then unholstered his/her service pistol. According to Officer B, the Subject had not yet been handcuffed and the

location had not been secured. Officer B did not know if there were additional suspects inside the apartment and believed the situation could still escalate to the point where deadly force may be justified.

The BOPC evaluated Officers A and B's drawing and exhibiting. The BOPC noted that Officers A and B were responding to a hot prowler burglary. Both officers articulated that burglary suspects are often armed or dangerous. Arriving at the scene, both officers observed that the Victim's front window had been shattered and heard yelling, screaming, and sounds of a struggle inside her apartment. The BOPC opined that based on comments of the radio call and the officers' subsequent observations, it was reasonable for them to believe that a serious, violent crime was in progress and that the situation may escalate to the point where deadly force may be necessary.

Regarding Officer B's second occurrence, the BOPC noted that he/she holstered his/her service pistol to focus on opening the locked front door to get the Victim out of her apartment. After the Victim exited the apartment, Officer B unholstered his/her service pistol. Because the Subject had not yet been apprehended, and the apartment had not yet been cleared, the BOPC opined that it was reasonable for Officer B to believe that the situation may again escalate to the point where deadly force may be necessary.

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

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

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

- **Officer A** – (pistol, one round)

As the Victim began to walk toward the front door, the Subject followed her. While crying, the Victim stated that the Subject wanted to kill himself. Officer A heard the Victim yelling but could not understand her. In response, Officer A ordered the Subject to drop the knife. The Subject replied, "No;" however, Officer A thought he said, "kill." Officer A ordered the Subject a second time to drop the knife. The Subject again said, "No," as he quickly sidestepped to his right, placing himself directly behind the Victim. The Subject leaned forward, concealing his head behind the Victim's head/torso as he placed his left hand on her left shoulder. Officer A believed the Subject was preparing to stab the Victim. The Subject placed the blade, tip forward, behind the Victim's right shoulder/neck. Officer A believed the knife's blade was touching the base of the Victim's neck. Officer A then lost sight of the knife. Unable to see the knife, Officer A believed that the Subject was stabbing

or about to stab the Victim. As they continued toward the front door, a portion of the Subject's head was exposed behind the Victim's left shoulder. Again, Officer A ordered the Subject to drop the knife, but he refused to comply. As he/she ordered the Subject a fourth time to drop the knife, Officer A discharged one round from his/her service pistol, from approximately five feet, striking the Subject in the head. Officer A discharged his/her service pistol to stop the Subject from seriously injuring or killing the Victim.

The BOPC assessed the proportionality, objective reasonableness, and necessity of Officer A's use of lethal force. The BOPC noted that when Officer A arrived at the scene, he/she observed obvious signs of forced entry and heard yelling and screaming inside the Victim's apartment. Looking through the broken front window, Officer A observed the Subject menacing the Victim with a large kitchen knife. Officer A described the Victim as terrified and having a scared "deer-in-the-headlights" look on her face. Despite repeated commands, the Subject refused to drop the knife. The BOPC further noted that when the Subject placed his hand on the Victim's shoulder, Officer A believed the Subject was preparing to stab her. Officer A also believed that the Subject placed the knife's blade against the base of the Victim's neck. When the knife disappeared behind the Victim's head, Officer A believed that the Subject was stabbing or about to stab the Victim, because she was screaming and had a shocked look on her face. To protect the Victim from serious bodily injury or death, Officer A discharged his/her service pistol, assessed, then ceased firing as he/she no longer perceived an imminent deadly threat. The BOPC opined that Officer A's use of force was proportional to the threat the Subject posed to the Victim.

The BOPC noted that before the OIS, Officer A ordered the Subject to drop the knife four times. Twice the Subject replied, "No;" the third time he simply refused to comply; the fourth time Officer A was mid-sentence when he/she assessed the need to discharge his/her service pistol. The BOPC also noted that Officer A believed that the Subject responded, "Kill" when ordered to drop the knife. While he/she attributed the Victim's words to the Subject, the BOPC felt that Officer A's perception was reasonable based on the nature of this incident. While it was not known to Officer A, the BOPC noted that the Subject was forcing the Victim to her vehicle at knifepoint. The BOPC also noted that as the Victim walked toward the front door, the Subject crouched behind her, using her to shield himself from the officers' service pistols. Based on the Subject's actions, the BOPC opined that it was objectively reasonable for Officer A to believe that he presented an imminent threat of death or serious bodily injury to the Victim. The BOPC also opined that Officer A could not just wait and see if the Subject would stab and/or cut the Victim.

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 to be In Policy.