

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

OFFICER-INVOLVED SHOOTING – 016-21

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

Rampart 3/19/21

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

Officer A	3 years, 11 months
Officer B	1 year, 6 months
Officer G	15 years, 3 months
Officer H	2 years, 1 month
Officer I	2 years, 1 month

Reason for Police Contact

On Friday, March 19, 2021, at approximately 1540 hours, a uniformed sergeant was flagged down by a citizen and directed to a male suffering from a mental illness, armed with a hammer. Additional units responded and made numerous attempts to detain the individual, utilizing less-lethal options. The male charged officers while holding a metal object over his/her head, which resulted in an Officer-Involved Shooting (OIS).

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

Subject: Male, 45 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 February 15, 2022.

Incident Summary

On March 19, 2021, at approximately 1540 hours, Witness A was parking her vehicle, when she observed a male, identified as the Subject, wearing a red shirt, standing on the east sidewalk. According to Witness A, the Subject was holding a hammer in his right hand waiving it around, "really aggressively." Based on the Subject's behavior, Witness A believed he was either under the influence of a controlled substance or possibly intoxicated.

Due to her knowledge of recent vandalisms that occurred in the area, Witness A feared the Subject would damage her vehicle and decided to look for an alternate parking space. After pulling her vehicle from the curb, Witness A noticed a marked black and white police vehicle driving north on the street and decided to flag down the police vehicle.

In the police vehicle was Sergeant A. Witness A explained her concerns to Sergeant A and directed him/her to the Subject's location. Unbeknownst to Sergeant A, he/she drove past the Subject prior to being flagged down by Witness A.

Witness A advised Force Investigation Division (FID) detectives that, immediately after speaking with Sergeant A, she drove toward her apartment complex, across the street from where the Subject was standing. Although Witness A could no longer see the Subject, she heard what sounded like the Subject banging the hammer against the pavement multiple times. Witness A entered her apartment and did not witness the incident any further.

According to Sergeant A, Witness A directed him/her to the Subject, who was standing on the east sidewalk, to the rear of Sergeant A's position.

Sergeant A pulled his/her patrol vehicle to the east curb, from where he/she continuously monitored the Subject's behavior through his/her vehicle's side-mirror. Based on Sergeant A's BWV, FID investigators estimated that Sergeant A sat inside his/her patrol vehicle and monitored the Subject from a distance of approximately 70 feet.

Sergeant A heard the Subject speaking to himself in a loud tone of voice, while swinging a hammer he was holding in his right hand. Sergeant A also observed what appeared to be an axe in the Subject's left hand. Sergeant A advised FID investigators at one point, he/she observed a male pedestrian walking on the sidewalk toward the Subject. Because of the Subject's erratic behavior, the pedestrian climbed a chain-link fence to avoid contact with him.

According to Sergeant A, he/she had undergone extensive Department training related to Mental Health Intervention Techniques (MHIT). Prior to his/her current assignment,

Sergeant A had been assigned to the Homeless Outreach Partnership Endeavor (HOPE) unit for almost two years. Sergeant A estimated having “hundreds if not thousands of contacts,” with individuals experiencing homelessness and mental disabilities.

According to Sergeant A, based on his/her observations, he/she formed the opinion that the Subject suffered from a mental illness and was a danger to the community. Upon activating his/her BWV, at 1541:59 hours, Sergeant A broadcast a request for two additional units to assist.

Sergeant A informed FID investigators that he/she requested the two additional units, “in an attempt to detain individual and provide services and also to prevent any crime that might occur from his actions.”

According to Sergeant A, his/her “intent” was “to detain the Subject and have him evaluated by MEU based on his actions that he was displaying on a public street.” Sergeant A was asked if SMART was notified and he/she replied, “No, not at that time.”

Officers A and B broadcast their response to Sergeant A’s additional unit request over the police radio, Rampart base frequency.

After voicing the initial request, Sergeant A made several additional broadcasts over Rampart base frequency as he/she provided the Subject’s description, coordinated the responding unit’s direction of travel, and requested the response of officers equipped with less-lethal munitions. Sergeant A also requested street closures at nearby intersections.

According to Communications Division records, Officers C, D, E, F, and G broadcast over Rampart base frequency they were responding to Sergeant A’s request.

Sergeant A exited his/her police vehicle as Officer G arrived at the location. Upon his/her arrival, Officer G exited his/her police vehicle and deployed a 40-millimeter Less-Lethal Launcher (LLL).

As Sergeant A stood on the street, his/her BWV captured sounds of the Subject yelling unintelligibly in the background. Sergeant A observed the Subject strike himself on the face with the hammer and broadcast his/her observations over the Rampart base frequency.

According to Officer A’s BWV, at 1546:28 hours, Officers A and B arrived at a nearby intersection.

According to Officer E’s BWV, at 1546:52 hours, Officers E and F arrived at a nearby intersection and blocked southbound traffic with their police vehicle. Both officers exited the vehicle. Officer E deployed a 40-millimeter Less Lethal Launcher.

According to Sergeant A's BWV, at 1547:01 hours, Officers H and I arrived at a nearby intersection. According to Officer H's BWV, upon his/her arrival, he/she deployed a 40-millimeter LLL.

At 1547:02 hours, Sergeant A met with Officers A, B, G, H, and I as they stood across the street from the Subject. Sergeant A designated Officer G as the contact officer and directed him/her to give his/her 40-millimeter LLL to another officer. Sergeant A informed FID investigators the Subject was speaking Spanish and ensured that the contact officer was fluent in the Spanish language.

At 1547:30 hours, Sergeant B arrived and approached the team of officers as Officer G designated officer assignments.

Officer G designated Officer B as less-lethal and handed him/her the LLL. Officer G designated Officer A lethal force with a pistol and Officers H and I as the arrest team.

Sergeant A provided the officers with the Subject's clothing description and directed them to his position, across the street. Sergeant A advised the officers, "He's armed."

Sergeant A noticed the Subject began to walk northbound, along the east curb. Sergeant A advised FID investigators that this was the first time he/she observed the Subject in possession of a hammer in one hand and what he/she believed to be an axe in the other hand. Sergeant A observed the Subject walking toward a male citizen, later identified as Witness B. Witness B was standing in the entrance of a local school. Fearing for Witness B's safety, Sergeant A directed the officers to initiate contact with the Subject.

At 1547:51 hours, Sergeant A shouted toward Witness B to go inside and shut the door, as the team of officers began to walk toward the Subject. The Subject could be heard shouting, "They are going to kill me."

Sergeant A advised FID investigators that at that moment, he/she recalled hearing the Subject saying, "I'm going to kill you." Sergeant A was unsure if the Subject was speaking to him/her and the officers or to Witness B.

Officers E and F, who were blocking traffic, began to walk north in the direction of the group of officers who began to follow the Subject.

Officers C and D arrived at scene and initially blocked the street with their police vehicle, as requested by Sergeant A.

Officers C and D's DICVS captured video footage of their entire emergency Code-Three response to the incident. However, the DICVS stopped recording at 1549:12 hours. According to Officer C, the DICVS was shut down upon their arrival at scene because they were only supposed to be blocking traffic. Officer D couldn't recall if he/she or his/her partner de-activated the DICVS.

Sergeant A directed Officer B to get up front with the 40-millimeter LLL as the Subject walked north along the sidewalk. Seconds later, the Subject turned toward the team of officers, who were standing in the roadway and swung the hammer as if he was going to throw it at the officers.

As the team of officers continued to follow the Subject, Sergeant B advised the officers to, "Watch that hammer. Is he trying to attack someone with that hammer? You're going to have to forty him dude."

After swinging the hammer, the Subject turned away from the officers and continued to walk toward a nearby boulevard. Officer G directed the Subject to, "Toss it or we're going to hit you with the bullet, the bullets." (All communications between the Subject and the officers took place in Spanish, unless otherwise noted.)

Six seconds later, Sergeant A again directed Officer G to, "Tell him he's going to get hit with a forty. Tell him he's going to get hit with a forty."

The Subject continued to walk toward the boulevard in Officers C and D's direction. Officer I shouted toward the officers to, "Watch out," as the Subject closed the distance.

Officer D unholstered his/her TASER and held it along his/her right thigh as the Subject walked east along the sidewalk, onto the boulevard, away from Officer D.

Officer G shouted to the Subject, "Hey, we're going to hit you with the [40mm LL] bullets and it's going to hurt you."

As the Subject walked east along the south sidewalk, Officer G directed Officer D to turn his/her vehicle around and follow the team of officers. Officer G directed Officer D to parallel the officers with his/her vehicle to allow them to utilize the vehicle as cover.

Officer D entered his/her vehicle and began to drive along the south curb, paralleling the officers, as the officers followed the Subject on foot.

Sergeant A advised Officer B, "Forty, forty get ready." Officer A then stated, "Hey, [...] be prepared," as the Subject walked east on the boulevard. Officer B replied, "Forty ready."

As the team of officers followed the Subject, Officer G advised Sergeant A that he/she didn't like being in the open and wanted to use Officer D's police vehicle as cover. Sergeant A responded to Officer G, "Dude, I don't want to get closer with the hammer. Okay? Don't get closer with the hammer man."

At 1548:45 hours, Sergeant A directed Officer H to assume the role of contact officer and for him/her to start giving the Subject commands. Sergeant A told Officer G to, "Fall back."

Sergeant A advised FID investigators that at this point in the incident, he/she decided to make the personnel change after it became apparent that Officer H was more fluent in the Spanish language than Officer G.

Throughout the incident, Sergeant A can be heard in the various BWV's referring to Officer H by another officer's name. Sergeant A advised FID investigators that he/she confused Officer H's name with that officer, who was not present during the incident and was not working that day. Sergeant A stated it was confusing during the moment and he/she was, "Still learning the officers' names."

Sergeant B discontinued to follow the Subject with the team of officers. Sergeant B attempted to advise Sergeant A that he/she was going to stay back as Sergeant A was directing the team of officers. After doing so, Sergeant B walked back to his/her police vehicle.

Sergeant B advised FID investigators that he/she removed him/herself from the tactical operation because in the event that a non-categorical use of force occurred, he/she would be able to conduct the administrative investigation.

At 1548:52 hours, Officer H stated to the Subject, "Hey, partner stay there. Hey, we're going to hit you with a beanbag. Partner you're not in trouble, stay there."

Sergeant A broadcast on Rampart base frequency that the Subject was, "Walking eastbound [...], still armed with a hammer."

At 1549:08 hours, Officer H shouted to the Subject, "Countryman, we only want to help you. Drop the hammer. Partner, hey countryman."

At 1549:22 hours, the Subject struck the pavement with the hammer in his right hand as he continued to walk east.

Officer I advised FID investigators, "He struck the hammer onto the ground violently. Like he wanted to hit the ground and I feel like it was a form of intimidation, like don't come near me." "I think he was trying to intimidate us with that motion. So I felt like he was resisting violently resisting us with that motion there, telling us, hey, don't come near me or else I'm going to use this hammer."

According to Officer H, "My interpretation of him hitting the concrete, the cement, the floor, the street, the pavement was he basically was letting us know not to get close to him and that he was hitting that as hard as he could to get our attention that he could -- he has an object that could hit pretty hard."

Officer H shouted to the Subject, "If you hit someone it's going to go bad for you. I'm telling you."

At 1549:27 hours, Sergeant A stated, "Who's my lethal? Get next to your partner." Followed by, "Forty up. We're not going to let him pass the street anymore. We got people in front of him."

At 1549:29 hours, the Subject was walking east, toward where a pedestrian was standing. Sergeant A advised FID investigators that the Subject was "approaching an area that was more populated. I felt that that would be the time for us to take action, to stop him from his actions. I brought up an officer who was assigned to the 40-millimeter to stop him with a 40 millimeter."

At 1549:35 hours, Officer A unholstered his/her pistol and held it at the low-ready position.

According to Officer A, he/she was designated as lethal which meant, if lethal force became necessary, he/she was the assigned officer to do so. Officer A observed the Subject waiving a hammer in a manner that he/she believed could potentially harm him/her or the other officers when he/she unholstered his/her pistol.

Simultaneously, Officers E and F, who were walking to the rear of the team of officers, stopped following the Subject and returned to their vehicle. Officers E and F continuously listened to Rampart base frequency and monitored the movement of the team of officers.

At 1549:37 hours, Officer H shouted to the Subject, "If you hit someone, I'm telling you right now."

At 1549:39 hours, the Subject was standing on the southwest corner of an intersection as the same pedestrian walked westbound onto the boulevard, into the eastbound lanes of traffic, in what appeared to be an attempt to avoid the Subject. Officer B waived toward the pedestrian and told him to move. Sergeant A again stated, "Forty ready."

At 1549:44 hours, the Subject shouted, "Shoot." Officer H replied, "Hey, we don't want to shoot you."

At 1549:47 hours, the Subject began to walk north, through the crosswalk on the boulevard, when Sergeant A shouted, "Forty get ready. Clear for the forty, clear for the forty."

At 1549:49 hours, as Officer H continuously gave the Subject commands, the Subject turned and faced the team of officers, and once again swung the hammer as if he was going to throw it at the officers.

At 1549:51 hours, Sergeant A shouted, "Hit him. Forty stand-by, go, hit him."
At 1549:53 hours, the Subject turned away from the officers and was walking through the intersection, when Officer B shouted, "Forty stand-by," and he/she discharged a 40-millimeter foam projectile at the Subject from approximately 36 feet. After making

impact, the foam projectile can be seen falling to the ground along the Subject's left side.

Officer B advised FID investigators that, from a distance of 30 to 35 feet, he/she aimed the 40-millimeter LLL just below the Subject's belt line, "Legs, glute area," when he/she fired the first projectile. In Officer B's opinion, the Subject must have been wearing thick or baggy clothing because the projectile struck the Subject but it didn't appear to be "that effective."

At 1549:54 hours, Sergeant A shouted, "More. Hit him. Hit him again. Hit him again come on. Let's go, forty ready, forty stand-by, forty stand-by." Simultaneous to Sergeant A's order, the Subject turned toward the officers once again and swung the hammer at the officers as if he was going to throw it. The Subject then turned away from the officers and continued north.

At 1550:02 hours, as the Subject was walking, Officer B discharged a second, 40-millimeter foam projectile at the Subject from approximately 41 feet.

Officer B advised FID investigators that, from a distance of 30 to 35 feet, he/she aimed at the Subject's right shoulder area when he/she fired the second projectile. Officer B observed the projectile strike the backpack the Subject had slung over his shoulders. In Officer B's opinion, the projectile was ineffective.

At 1550:03 hours, Sergeant A stated to Officer B, "Dude, you got to aim higher man a little bit higher. One more round. One more round. Take cover."

At 1550:13 hours, Sergeant A updated the Subject's location over Rampart base frequency, "Subjects walking northbound [...] from [the boulevard]."

At 1550:17 hours, as the Subject was still walking north, next to the vehicles parked along the west curb with his back toward the officers, Officer B shouted, "Forty stand-by," and discharged a third, 40-millimeter foam projectile at the Subject, from approximately 51 feet.

Officer B advised FID investigators that, from a distance of 30 to 35 feet, he/she aimed the 40-millimeter launcher just below the Subject's belt line when he/she fired the third projectile. In Officer B's opinion, the third less-lethal projectile he/she fired was ineffective.

After Officer B fired his/her third 40-millimeter round, he/she had no additional less-lethal ammunition. Sergeant A directed Officer B to, "Switch it with [him/her]," as he/she pointed to Officer H who was carrying a 40-millimeter LLL and was taking a position along the west curb. Sergeant A advised FID investigators that he/she initially wanted Officer B to be the only officer to deploy the 40-millimeter LLL munitions to minimize the number of officers involved in the use of force.

According to Officer H's BWV, at 1550:27 hours, Officers H and I stood on the eastside of the street, across the street from the Subject. Officer H loaded his/her 40-millimeter LLL and announced, "Forty up," multiple times as the Subject began to enter an east/west alley.

At 1550:29 hours the Subject shouted, "Help me, father."

At 1550:42 hours, as the Subject was entering the alley with his back toward the officers, Officer H braced the launcher against a cement light standard and discharged a 40-millimeter foam projectile at the Subject, from approximately 45 feet.

Officer H advised FID investigators that, from a distance of 10 to 15 feet, he/she aimed at the left side of the Subject's back, when he/she fired the projectile. Officer H did not see the projectile strike the Subject, and the round was ineffective.

As Officer H fired, the Subject could be heard shouting in Spanish, "Help me father."

At 1550:45 hours, after Officer H fired the LLL, the Subject entered the alley and began to walk west. Sergeant A directed Officer H to close the distance on the Subject and to move to a position at the mouth of the alley. Sergeant A shouted, "Give him orders," as Officers A, B, C, G, H, and I followed the Subject on foot, to the mouth of the alley. Officer D continued to follow the officers with the police vehicle and then stopped.

In describing his/her ability to provide cover with the vehicle, Officer D stated, "And then all the officers are going down the alley. At which point, I proceeded to drive behind them, to try and catch up. They still don't have moving cover, but the -- the alley is tight so I'm a little bit behind them."

At 1550:53 hours, Officer H took a position on the southwest corner of the east/west alley and shouted toward the Subject, "Hey stay there, or I'm going to hit you again."

At 1550:57 hours, the Subject shouted in Spanish, "Help me blessed father."

At 1550:58 hours, as the Subject had his back toward Officer H, Officer H braced the launcher against a wrought iron gate at the southwest entrance of the alley and discharged a second, 40-millimeter foam projectile at the Subject, from approximately 55 feet.

Officer H advised FID investigators that, from a distance of 10 to 15 feet, he/she aimed at the Subject's upper back when he/she fired the projectile. Officer H observed the foam projectile strike the Subject on the upper back however, the Subject did not react. The Subject continued to walk westbound through the alley.

At 1551:01 hours, after firing the projectile, Officer H gave the command, "Stay there." Officer H advised Sergeant A and the officers around him/her that he/she was out of 40-millimeter ammunition.

According to Officer H, after the Subject was struck on the back with the 40-millimeter projectile, the Subject turned toward the officers and produced what appeared to be a three to four-foot long axe. The Subject held the axe in his right hand and raised it "in an upward motion like if he were to, I guess, either throw it or slam it down."

At 1551:02 hours, Officer G ordered the Subject to, "Get to the ground."

According to Officer C's BWV, at 1551:04 hours, Officer A holstered his/her pistol as he/she stood at the entrance of the alley.

Officer A advised FID investigators that he/she holstered his/her pistol as the Subject gained distance from him/her and the other officers, and that he/she was preparing to engage in a foot pursuit.

At 1551:06 hours, Officer G ordered the Subject to, "Get to the ground. We're not going to hurt you."

At 1551:09 hours, Officer I advised the officers around him/her that the Subject had an "axe."

Officer I advised FID investigators, "I noticed that subject had taken out an ax-like weapon. Looked like a pickax ice climber's pickax and he had it in his left hand. So he had both the hammer in his right hand and a pickax in his left hand."

Officer I estimated the handle of the, "axe-like weapon," was approximately 10 to 12 inches in length, and "it has a curved blade, almost like a scythe or a sickle, that has a pointed tip and it was all black."

At 1551:10 hours, Officer H stated, "He's got an axe, he's got an axe."

Officer H advised FID investigators that, after he/she observed the Subject with the axe, he/she thought he/she, "Was going to die." Officer H stated, "Well, I mean, I didn't have a helmet, so the clear -- I guess my only true exposed part to me that I felt vulnerable was my face. And, I mean, that axe was -- the blade itself would probably be -- and with a good amount of force could probably just penetrate, I guess, the skin -- my skull. I just thought that -- I just needed to find some sort of cover before -- I don't know."

With regard to the potential for officers to be struck by the hammer or apparent axe, Sergeant A stated, "But I believe -- and I believe the rest of the officers believe the same -- that he was literally going to throw it at us. Keeping our distance from him. However, the hammer can fly a good distance and still probably hit any of us."

At 1551:20 hours, at Sergeant A's direction, Officer B approached Officer D, who was seated in the police vehicle and obtained Officers C and D's assigned 40-millimeter LLL.

Officer D took possession of Officer B's 40-millimeter LLL and attempted to seat it in the designated locking rack, in the center console of his/her vehicle.

As Officer D continued to follow the team of officers in his/her vehicle, the 40-millimeter LLL fell forward. Officer D would later leave the 40-millimeter LLL with no live ammunition, unsecured in his/her vehicle as he/she went to assist the team of officers.

At 1551:22 hours, Officer H ordered the Subject, "Partner, stay there."

At 1551:22 hours, Sergeant A updated the Subject's location over Rampart base frequency and stated that the Subject was continuing to walk west through the alley.

Sergeant A also advised CD that the Subject was, "Armed with a hammer and an axe."

At 1551:32 hours, Officer H shouted toward the Subject, "Hey, I'm going to hit you with a TASER. It's going to hurt you."

At 1551:37 hours, Officers G and H both unholstered their TASER's as they continued to follow the Subject. Officer I noticed the officers unholstered their TASER's and accordingly announced, "I'll be lethal," unhostering his/her pistol.

At 1551:39 hours, after Sergeant A completed his/her broadcast, Officer B ran toward the Subject, carrying the 40-millimeter LLL he/she had just obtained from Officer D. Sergeant A directed Officer B not to shoot and to "give it to" Officer H.

At 1551:47 hours, Officer G ordered the Subject to, "Drop, drop the hammer. Drop the hammer."

At 1551:57 hours, the Subject stated in Spanish, "Get me in the head. Get me in the head," as he began to walk north, on the east sidewalk.

At 1552:02 hours, Officer B handed Officer H the 40-millimeter LLL. Officer H handed Officer B his/her TASER as he/she took possession of the 40-millimeter LLL. Sergeant A directed Officer H to hit the Subject on the legs.

Sergeant A advised FID, "I told [him/her] to hit him in the legs since it was ineffective on the top due to the backpack. We were aiming for the top shoulder. That was ineffective, I told [him/her] to attempt to hit him in the legs."

At 1552:11 hours, Officers A, B, C, H, and I and Sergeant A walked north along the east curb, behind the Subject. Officer G walked north. Officer D continued to follow the team of officers in the police vehicle.

According to Officer D, he/she was unable to move up and provide cover with his/her vehicle, "because the officers [were] in the middle of the street." As a result, after

following the officers for a short distance, Officer D parked his/her vehicle and then advanced on foot.

At 1552:16 hours, Sergeant A updated the Subject's position over Rampart base frequency.

According to Sergeant A, the area the Subject was approaching "has numerous street vendors and open businesses. It's a lot of traffic, a really high volume of pedestrians of all ages. A lot of times people walk back to back just to walk the sidewalk because it's overcrowded. During this particular incident, I can literally see all the way to the end of [the street] that it was extremely congested with pedestrians and vehicles." Sergeant A also advised, "I also realized that if he [the Subject] reached all the way to [the nearby street], he was going to create a more hazard for the community members based on the ways that he continued to behave. So it was imperative that we stopped him before he got to that corner."

At 1552:20 hours, as the Subject had his back toward the officers, Officer H discharged a third, 40-millimeter foam projectile at the Subject, from approximately 62 feet.

Officer H advised FID investigators that, from a distance of 7 to 10 feet, he/she aimed at the Subject's legs when he/she fired the projectile. Officer H did not observe a response from the Subject, and he/she was unsure if the projectile struck him.

At 1552:27 hours, the Subject turned and faced officers, Officer H discharged a fourth, 40-millimeter foam projectile at the Subject, from approximately 35 feet.

Officer H advised FID investigators that, from a distance of 7 to 10 feet, he/she aimed at the Subject's naval or stomach area, when he/she fired the projectile. Officer H did not observe a response from the Subject and was unsure if the projectile struck him.

At 1552:27 hours, simultaneous to Officer H firing the less-lethal projectile at the Subject, Officer G pointed his/her TASER at the Subject and stated, "Drop it." The Subject ignored the officer's commands and continued to walk north along the east sidewalk.

Officer G continued to follow the Subject from the roadway. Officer G pointed his/her TASER at the Subject once again and stated, "Drop it." Officer G then shouted, "Hey, I need lethal up here with me."

At 1552:33 hours, the Subject again shouted in Spanish, "Get me in the head."

At 1552:36 hours, Officer G walked out from behind the parked vehicles along the street and closed the distance on the Subject. Officer G pointed his/her TASER at the Subject once again and stated, "Drop it."

At 1552:37 hours, Officer I unholstered his/her pistol as he/she stepped out onto the roadway.

According to Officer I, at that moment, he/she believed Officer G was going to deploy his/her TASER at the Subject, who was armed. Officer I advised FID investigators, "I was the closest officer to him/her, so I went up with him/her. I unholstered my weapon."

At 1552:39 hours, the Subject was walking north along the street. As the Subject had his back toward the officers, Officer G approached the Subject from behind and fired his/her TASER at the Subject.

According to Officer G, the Subject was, "Walking towards [a nearby street], which is one of our primary thoroughfares for the vendors to sell on the street, which is approximately a hundred, hundred fifty feet away from where the suspect is at, at that point. I know if the subject makes it over [...] he's gonna have access to a lot of victims there. He's -- number one, his mental state is not nowhere near anywhere in a good state. Based on his actions and him being immune to the pain of the 40, I immediately felt that he was under the influence of some kind of narcotic that he's not feeling the pain. So I make a decision, you know, that he's gonna pose immediate threat of violence to us and also the individual -- the victims of the citizens in the street."

Officer G advised FID investigators that he/she aimed his/her TASER at the Subject's shoulder or back area and fired his/her TASER from a distance of 15 feet. Officer G believed the probes contacted the Subject's left side. Officer G momentarily observed signs of pain on the Subject's face. In Officer G's opinion the TASER deployment was ineffective.

Simultaneous to Officer G deploying the TASER, Officer H discharged a fifth, 40-millimeter foam projectile at the Subject, from approximately 55 feet.

Officer H advised FID investigators that, from a distance of 10 to 12 feet, he/she aimed at the Subject's upper back when he/she fired the projectile. The projectile had no effect on the Subject.

At 1552:40 hours, after Officers G and H deployed less-lethal, the Subject turned and faced the officers. The Subject raised the hammer in his right hand and held it over his head, while still holding the metal axe-like object in his left hand.

At 1552:41 hours, Officer A unholstered his/her pistol as he/she stood in the roadway, behind Officer I.

According to Officer A, "An officer's decision to unholster his/her firearm should be based on a tactical situation, and I had reason to believe that this tactical situation would raise (sic) to the point where deadly force may be justified." "Based on [the Subject's] manner and the close proximity that he could have thrown the hammer towards me and my officers my partners."

Officer A informed FID investigators that he/she held his/her pistol at the low-ready when he/she immediately noticed an officer (Officer I) standing to his/her right side. With concerns of a possible crossfire situation, Officer A holstered his/her pistol.

At 1552:42 hours, Officer I stated to the Subject in English, "Do not throw it," as he/she pointed his/her pistol in the Subject's direction.

According to Officer I, the Subject "raised the hammer again over his head and he looked like he was about to throw it. So I drew my weapon again and pointed it at him. And I said, 'Don't throw it.' I thought the Subject was going to throw it at me or the officer next to me on my left, who was trying to deploy the TASER."

At 1552:43 hours, Officers J and K arrived at scene.

At 1552:46 hours, the Subject turned away from the officers and continued to walk north along the east sidewalk. Officer I holstered his/her pistol.

At 1552:38 hours, Officers E and F responded. As the officers arrived, Officer E deployed the 40-millimeter LLL. Officer E took a position along the west side of the street, across the street from where the Subject was standing.

Officers E and F's police vehicle was parked in a position which allowed their DICVS to capture video of the subsequent OIS.

At 1552:44 hours, Sergeant A directed officers to, "Bring another TASER." In response, Officer B approached Officer H and took the empty 40-millimeter LLL and handed Officer H back his/her TASER.

At 1552:49 hours, as the Subject continued to walk north, Sergeant A directed officers to flank the Subject on the left and to get cover.

Sergeant A advised FID investigators, "I was thinking of a team takedown and try to -- that's the reason I had that officer with me on the right. And when I told the team on the left side, 'Flank him on the left side,' I had this officer with me already planning for a team takedown to divert his attention away from the other officer and me to go behind him and take him down. However, it didn't work."

At 1552:50 hours, Officer D parked and exited the police vehicle. Officer D joined the team of officers and walked north on the street. Officers A, B, C, D, E, F, G, H, I, J, and K, walked north on the street. Sergeant A walked north along the east sidewalk, several feet behind the Subject.

At 1552:50 hours, Officer C announced that Officer E was taking a position on the left with a 40-millimeter LLL.

Officer E advised FID investigators, "He [the Subject] was walking northbound [...], he still was armed with the objects in his hands. So my concern was that he was going to continue northbound [...] where, like I stated, it's pretty heavily heavy populated with people on foot, so that would make the current situation a whole lot worse with the fact that we would have a horrible background, possible hostage situation."

At 1552:58 hours, as the Subject stood on the east curb, Officer E shouted, "Hey," at the Subject. The Subject turned in Officer E's direction as he/she discharged a 40-millimeter foam projectile at the Subject. The projectile appeared to impact the Subject's lower body.

Officer E advised FID investigators that, from a distance of 35 to 40 feet, he/she aimed at the Subject's naval area, when he/she fired the projectile. Officer E believed the projectile struck the Subject.

According to Officer E, "After I struck him, he grunted or whatever. Made a weird noise. He raised both arms up in the air and then he took either one or two steps off the curb towards my direction."

At 1552:59 hours, as Sergeant A stood on the east curb, the foam projectile struck the Subject and he raised the hammer that was in his right hand, over his head, while holding the axe-like metal object in his left hand. The Subject began to run west from the sidewalk, onto the street. After taking several steps in Officer E's direction, Sergeant A shouted, "Shoot him."

Sergeant A advised FID investigators that, "I was yelling at the officer that had the 40 to shoot [the Subject]. Because I can see that he was approaching, so I believed that they were going to take action to stop this threat, immediate threat with a 40. But at the same time, I heard the gunfire go off."

When issuing the five prior commands he/she had given for officers to use less-lethal force against the Subject, Sergeant A had used the term "hit" him.

At 1553:00 hours, According to Officer I's BWV, as he/she stood along the vehicles parked along the east side of the street, Officer I unholstered his/her pistol for a third time. Although he/she could not recall the exact moment, Officer I advised FID investigators that he/she unholstered because he/she, "Gained sight of the Subject again and he was armed with a hammer and the pickax, and he threw the hammer at Officer A as [Officer A] Tased him."

At 1553:01 hours, as Officer A stood on the street, along a white van parked along the east curb, Officer A discharged his/her TASER at the Subject, from a distance of approximately 15 feet.

According to Officer A, "He was still swinging the hammer and then that's when I deployed mine. And then immediately after I deployed mine, that's when he threw the hammer."

Officer A advised FID investigators from a distance of 7 to 8 feet, he/she aimed his/her TASER at the Subject's abdomen. As the Subject held the hammer over his head, Officer A discharged his/her TASER at the Subject. Officer A was unsure if the TASER probes struck the Subject.

At 1553:02 hours, immediately after Officer A's TASER deployment, Officer H discharged his/her TASER at the Subject, from a distance of approximately 18 feet, as he/she stood in between Officers A and I.

Officer H advised FID investigators that, from a distance of 5 to 7 feet, he/she aimed his/her TASER at the Subject's "stomach," and it was ineffective. According to Officer H, he/she discharged his/her TASER as the Subject was, "attempting to throw his axe." "It felt like [...] I was the target for his axe throwing.

Although Officer H recalled discharging his/her TASER as the Subject was throwing what he/she believed to be the axe, Officer I's BWV revealed that Officer H discharged his/her TASER as the Subject was throwing the hammer.

At 1553:02 hours, the Subject fell to his hands and knees as he threw the hammer in the direction of Officers A, B, H, and I. The hammer hit the ground in front of Officer A and struck him/her on the legs.

After throwing the hammer, the Subject immediately stood back up and transitioned the metal object from his left to his right hand.

According to Officers E and F's DICVS, Officer K unholstered his/her pistol at 1553:03 hours, moments after the Subject threw the hammer toward the officers. As Officer K unholstered his/her pistol, he/she moved to the west side of the street, outside of the Subject's range.

Officer K did not activate his/her BWV camera; therefore, he/she had no video footage of this incident. While cross-referencing Officer E's digital in-car video which captured the moment Officer K unholstered his/her pistol along with Officer I's BWV, FID investigators were able to determine the exact time Officer K unholstered his/her pistol.

At 1553:03 hours, the Subject faced the officers and raised the axe-like metal object over his head in a throwing motion.

According to Officer I, "When he switched over from his left hand to his right hand of the pickax, he raised it above his head and he motioned that he was going to throw that pickax, which could cause great bodily injury or death to me or my partner next to me, that's when I -- that's -- when he started raising the pickax,

that's when I formulated the idea that I would have to shoot the Subject to stop the --"

Simultaneously, Officer I raised his/her pistol and pointed it toward the Subject.

Officer I advised FID investigators that he/she held his/her pistol with a two-handed grip, he/she aligned his/her pistol sights, as he/she aimed at the Subject's torso or center mass from a distance of 15 to 20 feet. According to Officer I, "As he/she was throwing, I saw his/her arm lift. So as he/she was throwing the pickax, that's when I shot the round."

Officer I fired one round. The Subject threw the metal object toward the officers and fell to the roadway, face-down and motionless.

According to Officer I, as the metal object flew past his/her head, he/she felt "the wind rush from the pickax near the right side of my face."

According to Officer I, "I was scared. I thought if that would have hit me or my partner, it would have either killed me or took an eye out or vice versa to my partner would have killed [him/her] or taken [his/her] eye out or cause any other great bodily injury to [him/her.] At the level that it was and speed that it was thrown I mean, I'm not a physicist or anything, but I feel like it would have caused a really great damage and that scared me."

Officer I advised FID investigators that the background behind the Subject when he/she fired was several vehicles parked along the east curb and an apartment complex along the eastside of the street.

Approximately three seconds elapsed from the time Sergeant A yelled, "shoot him," to Officer I subsequently firing his/her pistol. Officer I did not indicate in his/her interview whether he/she heard Sergeant A yell, "shoot him," and did not make any statements suggesting that Sergeant A's command was a factor in his/her decision to use lethal force.

According to Officer I, "So when he threw the hammer, I thought that we could -- when he missed, I thought we could still exhaust more of our resources and still try the de-escalation process and the preservation of life, but then when he started raising -- [...] When he switched over from his left hand to his right hand of the pickax, he raised it above his head and he motioned that he was going to throw that pickax, which could cause great bodily injury or death to me or my partner next to me, that's when I -- that's -- when he started raising the pickax, that's when I formulated the idea that I would have to shoot the Subject to stop the --"

At 1553:06 hours, Officer I shouted, "Shots fired, shots fired, shots fired."

As previously mentioned, the DICVS in Officers E and F's police vehicle captured video of the OIS, including footage of the Subject throwing the metal object which narrowly missed Officers C, H, I, and J.

At 1553:08 hours, Sergeant A shouted to the team of officers to, "Stop." Sergeant A directed Officer I to cover the Subject with his/her pistol and asked for an arrest team.

Simultaneously, Officer F broadcast on Rampart base frequency, "Shots fired shots fired [location], officer needs help shots fired."

At 1553:20 hours, Sergeant A broadcast there was an Officer-Involved Shooting, the Subject was down, and he/she needed a Rescue Ambulance to respond.

According to Officer B's BWV at 1553:23 hours, Officer B unholstered his/her pistol and held it with two hands, at the low-ready position. According to Officer B, "Since he did try to throw stuff or try to injure officers that were trying to detain him, he might be just kind of not -- temporarily knocked down, possibly having some sort of another (Unintelligible) on him, maybe a knife, maybe some kind of -- maybe another -- maybe a firearm or something like that, something that could cause injury to myself or my partners or anyone in the area."

Sergeant B separated Officer I and subsequently obtained a public safety statement.

At 1554:34 hours, Officers A, B, E, K, and Sergeant A approached the Subject, who was lying face-down on the east side of the roadway. At 1554:43 hours, Officer E holstered his/her pistol as Officers A and B handcuffed the Subject.

At 1555:34 hours, an officer entered Officers C and D's police vehicle, and moved the vehicle out of the roadway. While doing so, the officer discovered a 40-millimeter LLL, unsecured in the vehicle center console. The officer secured the 40-millimeter LLL in the designated rack, between the driver and passenger seats.

At 1557:17 hours, approximately four minutes and thirteen seconds after the OIS, Officer B turned the Subject over onto his back and Officer A began CPR. Officers K and M also performed CPR on the Subject. The Subject was later transported to a hospital where he was subsequently pronounced deceased.

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
Sgt. A	Yes	Yes	Yes	Yes	Yes
Sgt. B	Yes	Yes	No	Yes	Yes
Officer K	No	No	No	Yes	Yes
Officer D	Yes	No	Yes	Yes	Yes

Officer I	Yes	Yes	Yes	Yes	Yes
Officer C	Yes	Yes	Yes	No	Yes
Officer H	Yes	Yes	Yes	Yes	Yes
Officer A	Yes	Yes	Yes	Yes	Yes
Officer B	Yes	Yes	Yes	Yes	Yes
Officer E	Yes	Yes	Yes	Yes	Yes
Officer F	Yes	Yes	Yes	Yes	Yes
Officer J	Yes	Yes	Yes	Yes	Yes
Officer G	Yes	Yes	Yes	Yes	Yes

Los Angeles Board of Police Commissioners' Findings

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

B. Drawing and Exhibiting

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

C. Less-Lethal Use of Force

The BOPC found Officers A, B, E, G, and H's less-lethal use of force to be In Policy.

D. Lethal Use of Force

The BOPC found Officer I'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 Officers 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*

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 – Sergeant A met with responding officers, began creating a tactical plan, and assigned roles to Officers A, B, G, H, and I. Officer G assisted in the assignment of roles. Throughout the incident, Sergeant A's plan remained fluid as the Subject changed his direction of travel. He also requested additional units to block traffic at various intersections to contain the Subject's movements. Sergeant B arrived and observed Sergeant A was the Incident Commander (IC). Sergeant B planned to complete the administrative portion of the incident and removed him/herself from the tactical operation. According to Sergeant B, he/she and Sergeant A had an understanding that if one sergeant was directing the tactical incident, the other would avoid direct involvement to be available for the ensuing investigation.

Officers E and F began following the Subject with Sergeant A's team of officers. However, after noting the number of officers following the Subject, Officers E and F created a plan in which they would attempt to provide containment by redeploying to a more advantageous position. Officers E and F later re-joined the team and were able to obtain an advantageous position on the west side of the street where they also took cover.

Assessment – Officer I followed the Subject and observed an ineffective TASER deployment. The Subject raised his hammer and threw it at Officer A. Officer G assessed and believed he/she could continue attempts at de-escalation. However,

the Subject immediately raised the axe and began to throw it at Officers A and I. Officer I determined lethal force was necessary to prevent serious bodily injury or death to himself or officers near him/her. Officer I fired his/her service pistol, reassessed, saw that the Subject had collapsed, and determined he was no longer a threat.

Sergeant A pulled to the side of the road after Witness A left the location. Sergeant A stated that he/she began his/her assessment and watched the Subject from his/her side mirror. The Subject was yelling incoherently and subsequently struck himself in the face with the hammer. The Subject was waving his hammer as a pedestrian climbed a fence to avoid an encounter with the Subject. Based on his/her assessment, Sergeant A formed the opinion that the Subject suffered from a mental illness and was a danger to the community.

Officers A, B, E, G, and H, all discharged less-lethal devices to stop the Subject. Before each deployment, Officers A, E, G, and H assessed the Subject's behavior, determining that he posed an immediate threat of violence or physical harm to officers and the public.

Redeployment and/or Containment – Officers A, E, G, and H redeployed to positions of cover when discharging their less-lethal devices. Additionally, Officer G directed Officers C and D to redeploy from their containment positions to provide cover to Sergeant A and nearby officers as they followed the Subject.

Other Resources – Sergeant A requested two additional units before engaging the Subject. When additional units arrived, Sergeant A ensured he/she had lethal/less-lethal officers and an arrest team. After the OIS occurred, Sergeant A requested an RA and assigned responding officers to various containment positions. Sergeant A also assigned additional officers to monitor evidence until FID investigators arrived. Discovering that he/she had exhausted his/her supply of 40mm rounds, Officer H transitioned to his/her TASER, to have a less-lethal option.

Lines of Communication – Sergeant A communicated with the group of officers regarding changes to the plan throughout the incident. Officers G and H communicated with the Subject and attempted to de-escalate his behavior. Before discharging his/her less-lethal rounds, Officer B communicated with Sergeant A and the other officers. After it became apparent that Officer H was more fluent in the Spanish language than Officer G, Sergeant A directed Officer H to assume the role of contact officer and to start giving the Subject commands.

The BOPC was critical of Sergeant B's lack of communication and planning during this incident. According to Sergeant B, he/she and Sergeant A had an understanding that if one sergeant was directing the tactical incident, the other would avoid direct involvement to be available for the ensuing investigation. Based on that understanding, Sergeant B removed him/herself from the tactical operation. Sergeant B attempted to advise Sergeant A that he/she was going to discontinue

following the Subject with the team of officers and stay back; however, he/she did not believe Sergeant A heard him/her. The BOPC opined that Sergeant B should have communicated clearly with Sergeant A and remained to assist him/her with the tactical operation.

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

1. Code Six

Sergeant A was on routine patrol when he/she was flagged down by Witness A regarding the Subject, Sergeant A did not advise CD of his/her Code Six location at that point. After speaking with Witness A, Sergeant A parked his/her police vehicle and monitored the Subject. After monitoring the Subject, Sergeant A broadcast his/her Code Six location and requested two additional units to respond to his/her location. Per FID investigators, based on BWV and the incident history, Sergeant A broadcast his/her Code Six location approximately one minute after he/she was flagged down by Witness A.

The BOPC noted that approximately one minute elapsed between the time Sergeant A was flagged down by Witness A and when he/she advised CD of his/her Code Six location. While the BOPC would have preferred that Sergeant A had placed him/herself Code Six when he/she arrived on scene (when he/she was flagged down by Witness A), the BOPC noted that Sergeant A was in the process of gathering information while speaking to Witness A. Also, the BOPC believed Sergeant A's experience with potentially mentally ill community members was a factor in his/her decision to monitor and assess to determine which resources would be needed. Additionally, Sergeant A remained in his/her vehicle at a safe distance until additional units were at scene.

The BOPC also noted Sergeant A's decision to request additional resources instead of a backup unit. The BOPC discussed the Subject's erratic behavior and the possible negative effect that multiple Code Three responses could have had on the Subject at that point. The BOPC believed Sergeant A's experience with potentially mentally ill community members was a factor in his/her decision to request a non-emergency response. The BOPC determined Sergeant A's decision to request additional units was sufficient and an informed choice for this incident based on Sergeant A's experience and observations of the Subject.

Based on the totality of the circumstances the BOPC determined that the tactics employed by Sergeant A were a substantial deviation, with justification, from approved Department tactical training.

2. Utilization of Cover

During the incident, Sergeant A and Officer G used limited cover. Before reaching the street where the OIS occurred, Officer B did not utilize cover; Officer

B took cover behind a white van. Except for the two times when he/she fired his/her 40mm LLL, Officer H did not utilize cover during this incident. Except for a point when he/she took cover on the east side of the street behind a row of parked vehicles, Officer I did not utilize cover during this incident. Except for a point after he/she discharged his/her TASER, Officer A did not utilize cover throughout this incident.

The BOPC discussed Officers A, B, H, and I and Sergeant A's limited use of cover throughout the incident. The BOPC noted that Officers A, B, H, and I and Sergeant A were engaged in a rapidly unfolding incident wherein the Subject dictated the route of travel. The BOPC also noted the lack of available cover along the Subject's route of travel. While there were parked vehicles at various points along his route, the Subject was continuously moving, limiting the officers' options and ability to remain behind cover. The BOPC further noted that when available, Sergeant A and the officers used or attempted to use wrought iron fencing, parked vehicles, and light poles as cover. While the BOPC would have preferred that Officers A, B, H, and I and Sergeant A had obtained better cover, the BOPC noted that they were limited by the topography, the Subject's momentum, and the need to ensure he did not harm a member of the public.

Based on the totality of the circumstances the BOPC determined that the tactics employed by Officers A, B, G, H, and I and Sergeant A were not a substantial deviation from approved Department tactical training.

3. 40mm LLL Deployment

During the incident, Officer H discharged a total of five 40mm rounds. While the investigation determined that Officer H's second and fifth 40mm round struck the Subject, FID investigators were unable to determine if his/her first, third, or fourth 40mm round struck the Subject. Per Department policy, the discharge of a less-lethal weapon that does not contact an individual or their clothing is not a reportable Use of Force. Therefore, Officer H's first, third, and fourth 40mm rounds will be assessed solely for tactics while his/her second and fifth 40mm rounds will be assessed under less-lethal force.

The Subject continued north, then west in an alleyway. Officer H took cover on the east sidewalk, across from the mouth of the alley. According to Officer H, he/she had observed the Subject waving and slamming the hammer in a heavily populated area. Believing that the Subject posed a threat of serious injury, Officer H fired his/her first 40mm round at the Subject's "lower back" from approximately 10 to 15 feet. Officer H did not see the round strike the Subject and believed it was ineffective. According to the FID investigation, Officer H discharged his/her 40mm round at the left side of the Subject's back from an approximate distance of 45 feet. FID investigators were unable to determine whether the 40mm round struck the Subject.

Officer H followed the Subject. Officer H handed his/her TASER to Officer B and took Officer D's 40mm LLL (from Officer B). Officer H observed the Subject raise his hammer in an upward motion as though he was going to throw it or slam it down onto the ground. Sergeant A advised Officer H multiple times to shoot the round and to aim for the Subject's legs since it was a larger target area. Officer H aimed at the Subject's legs and attempted to fire a 40mm round; however, the 40mm LLL did not fire. Officer H adjusted the 40mm LLL and discharged his/her third round at the Subject's legs from approximately 7-10 feet. Officer H was unsure if the round struck the Subject and did not observe a reaction from him. According to the FID investigation, Officer H discharged his/her third 40mm round from approximately 62 feet. FID investigators were unable to determine whether the round struck the Subject.

According to Officer H, he/she observed the Subject continue to disregard officers' orders to drop the hammer. The Subject turned toward the officers and made a striking motion with the hammer. In response, Officer H fired his/her fourth 40mm round at the Subject's "lower mid-torso" or "naval" area from approximately 7-10 feet. Officer H did not see the Subject respond and was unsure if the round struck him. According to the FID investigation, Officer H discharged his/her fourth 40mm round from approximately 35 feet. FID investigators were unable to determine whether the round struck the Subject.

The BOPC discussed Officer H's use of the 40mm LLL during rounds one, three, and four. The BOPC noted that Officer H was unsure if his/her first, third, or fourth 40mm round struck the Subject. The BOPC also noted that FID was unable to determine if Officer H's rounds struck the Subject. Despite this fact, the BOPC noted that Officer H discharged his/her rounds at approved target areas, from the recommended distances, after determining that the Subject posed an immediate threat of violence or physical harm to the public and officers. The BOPC also noted that the Subject had been provided multiple use of force warnings before Officer H discharged his/her first 40mm round.

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

4. Handcuffing Protocols

The Subject was taken into custody following the OIS. Officers A and B conducted a pat-down search of the Subject after he was handcuffed. During the search, Officers A and B placed the Subject on his right side. When the search was complete, the Subject rolled back into the prone position while Officer B removed his backpack. Officer B checked the Subject's condition by gently pushing on his back, saying, "Hey, amigo;" he was nonresponsive. The Subject remained in the prone position until Officers A and B briefly rolled him to his right side to check for injuries. The Subject was then allowed to roll back to the prone

position. The Subject remained in the prone position until Officers A and B placed him on his back and began CPR. Officers K and M also performed CPR on the Subject

The BOPC noted that after the Subject was handcuffed, officers placed him on his side while searching. The BOPC also noted that following the search, officers placed the Subject back in the prone position, where he remained until officers placed him on his back and initiated CPR.

The BOPC noted that the UOFRB majority had discussed Officers A and B's actions after taking the Subject into custody. After handcuffing the Subject, Officers A and B placed him on his right side. After the Subject was searched, Officer A released his/her grip on the Subject's arm, allowing him to roll back prone. By initially placing the Subject on his side, the UOFRB majority opined that Officers A and B engaged in the first level of rendering aid. Although the Subject rolled back prone, Officer B remained by his side. While Officer B did not check for a pulse, he/she remained with the Subject and checked to see if he was conscious. The UOFRB majority noted that the Subject was unresponsive and opined that he may have succumbed to his injuries at that point. In terms of first aid, while Officers A and B did not apply direct pressure, the UOFRB majority noted that the Subject had sustained a gunshot wound to the head, an injury that likely exceeded the officers' medical training and equipment. The UOFRB majority also noted that Officer B was concerned about exacerbating the Subject's injuries by pressing on affected areas. Despite the severity of the Subject's injuries, officers initiated and maintained CPR until LAFD arrived. While the UOFRB majority would have preferred that Officers A and B had kept the Subject on his side, based on the totality of the circumstances, the UOFRB majority determined that Officers A and B's actions were a substantial deviation with justification from Department tactical training.

The UOFRB minority also discussed Officers A and B's actions after taking the Subject into custody. The UOFRB minority opined that while not trained medical experts, officers have a duty to render assistance and ensure the care and well-being of those they encounter. The UOFRB minority opined that once the Subject was in custody, neither Officer A nor Officer B checked his pulse or respirations. Merely pushing on the Subject's back was not a sufficient assessment of his condition. While Officers A and B placed the Subject in a recumbent position during the search, once the search was complete, the Subject was allowed to lay prone for nearly two minutes. While Officers A and B momentarily rolled the Subject back to his side while checking for injuries, the Subject was once again allowed to return to the prone position. The Subject laid prone until officers rolled him to his back. The UOFRB minority opined that a coordinated effort between Officers A and B have allowed them to control the Subject's body, keeping him in the recovery position. The UOFRB minority noted that this first level of care by officers provides for continuous assessment while awaiting trained medical personnel. The UOFRB minority believed that Officers

A and B's failure to keep the Subject in the recovery position was substantial deviation, without justification, from approved Department tactical training.

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

The BOPC also considered the following:

- **40mm LLL Protocols** – While providing the Subject with a use of force warning, Officer G stated, “Toss it or were going to hit you with the bullets, the bullets.” According to Officer G, he/she could not recall the Spanish word for “beanbag” or “40 millimeter.” Officer G was attempting to say, “rubber bullets” but it came out only as “balas,” Spanish for bullets. While providing the Subject a use of force warning, Officer H warned that he would be struck by a beanbag when referring to the 40mm. Officer H told the Subject in Spanish, “Hey, partner, stay there. Hey, we’re going to hit you with a beanbag.”

While directing an officer to discharge the 40mm LLL, Sergeant A stated, “Shoot him.” Soon after, Officer I discharged his/her service pistol at the Subject. Based on the FID investigation, there was no indication that Officer I heard the Sergeant A's statement or that it created confusion in how lethal force could be utilized during this incident. During his/her FID interview, Officer I did not attribute his/her decision to discharge his/her service pistol to Sergeant A's statement.

- **Situational Awareness** – Throughout the incident, Sergeant A referred to Officer H using an incorrect name. Sergeant A advised FID investigators that he/she confused Officer H's name with an officer who was not present during the incident.
- **TASER Protocols** – According to the FID investigation, Officer H discharged his/her TASER at the Subject as he was throwing the hammer. According to Officer H, he/she discharged his/her TASER in Probe Mode from approximately 5-7 feet. According to the FID investigation, Officer H discharged his/her TASER from approximately 18 feet. According to Department policy, the optimal range is 7-15 feet.
- **Contact/Cover Roles** – Officer A was assigned as the lethal cover officer. During the incident, Officer A holstered his/her service pistol. According to Officer A, he/she holstered his/her service pistol when the Subject proceeded into the alley. Officer A was prepared to engage in a foot pursuit and did not want to run while holding his/her service pistol. Before the OIS, Officer A transitioned to his/her TASER to stop the Subject from throwing the Hammer. After Officer A transitioned to his/her TASER, Officer I transitioned to lethal cover.

- **Non-Medical Face Coverings** – Per BWV footage, Officers B and E were not wearing non-medical face coverings at the scene. Any additional Department personnel at the scene not wearing non-medical face coverings were to be addressed at the divisional level.
- **Required Equipment** – Officers D, I, and K did not have a baton on their persons during this incident. Officers E, F, and H did not have an HRD on their persons during this incident.
- **Securing Equipment** – Officer D attempted to secure Officer B's unloaded 40mm LLL in the locking rack in Officer D's police vehicle. The 40mm LLL was not secured and fell forward. Officer D left his/her police vehicle a short time later; the 40mm LLL was unsecured in his/her police vehicle.
- **Preservation of Evidence** – Officer L arrived at scene after the OIS occurred. While moving Officers C and D's police vehicle out of the roadway, Officer L ran over Officer G's expended TASER cartridge.
- **Incident Commander Broadcast** – While Sergeant A functioned as the IC, he/she did not advise CD that he/she had assumed the role of IC.
- **Medical Treatment (Rendering Aid)** – Following the OIS, Sergeant A requested an RA to provide medical aid to the Subject. While searching the Subject, Officers A and B placed him on his right side. When prompted by Officer L, Officers A and B placed the Subject on his back and began CPR. Officers K and M also performed CPR on the Subject. The Subject was transported to a hospital where he was treated by a doctor. Despite the life-saving efforts, the doctor pronounced the Subject dead.
- **Command and Control** – Officer G assisted Sergeant A in designating roles at the beginning of the incident. Officer G designated Officer A as lethal cover and Officers H and I as the arrest team. After the OIS, Officer E began directing Officers A and B as they took the Subject into custody. Officers A and B handcuffed the Subject. Officer E suggested they cut off the Subject's backpack, search him, and then remove his handcuffs once the RA arrived. Officer L approached Officers A and B and directed them to place the Subject in a recovery position from a prone position and begin CPR.

The actions of Officers E, G, and L were consistent with Department training.

After being flagged down, Sergeant A monitored the Subject for approximately one minute then requested additional units. Sergeant A requested less-lethal-equipped officers and officers for containment/traffic control. Sergeant A also requested a Spanish-speaking officer to be the contact officer. According to BWV, Sergeant A verified that Officer G was bilingual. When Officer A was confused about who the Subject was, Sergeant A clarified it was the Subject and

not the pedestrian who climbed the fence. When Officer G began giving the Subject orders, Sergeant A stopped him/her, advising that they needed to formulate a plan first.

Sergeant A told the officers that he/she needed an arrest team and a lethal cover officer. Officer G assigned those roles, including a less-lethal officer. As the roles were being designated, the Subject immediately started walking north toward the school, approaching Witness B. Sergeant A did not have time to discuss his/her complete plan with the officers before initiating a following of the Subject. Sergeant A, prompted by the Subject's proximity and movement towards Witness B, stated to the group of assembled officers, "He's armed, let's go before he walks out." According to BWV the "he" was about Witness B. Witness B was in the Subject's direct path. As the Subject was within steps from Witness B, Sergeant A yelled in Spanish for Witness B to go inside, Witness B complied and closed the door. The Subject passed the closed doorway without incident.

As the officers walked on the boulevard, Sergeant A ordered his/her lethal and 40mm LLL designated officers to move up and stated, "We're not going to let him pass the street anymore, we have people in front of him. Forty ready, Forty ready." As the Subject then walked north, Sergeant A directed officers to "Hit him with the forty." Sergeant A continued to state "hit him" approximately six times. Assessing that earlier less-lethal rounds were ineffective, Sergeant A directed Officer H to "hit him in the leg" with the 40mm LLL. Moments before the OIS, Sergeant A stated, "Shoot him." During his/her FID interview, Sergeant A explained that he/she was directing his/her comment to the less-lethal officers. Immediately following the OIS, Sergeant A shouted, "Stop!" to the surrounding officers and immediately pulled Officer B back to prevent a crossfire. To provide Command and Control and tactical oversight, Sergeant A walked around the rear of the parked vehicle and joined officers in the street. Sergeant A observed the Subject on the ground. The Subject appeared to have sustained a gunshot wound to the head and was not moving. Sergeant A began formulating a plan with the officers to safely take the Subject into custody. Sergeant B approached Sergeant A and advised him/her to remove Officer I from tactical operations since he/she had utilized lethal force. In response, Sergeant A replaced Officer I with Officer E as the lethal cover officer. Sergeant A requested an RA to provide medical aid to the Subject and broadcasted the OIS on Rampart Base Frequency. Sergeant A designated Officers A and B as the arrest team. Sergeant A ensured the officers understood their assigned roles and were ready to safely approach the Subject for handcuffing. After the Subject was taken into custody, Sergeant A directed officers to monitor evidence, identify witnesses, and set up a command post.

The BOPC discussed Sergeant A's actions during the incident. Sergeant A immediately began providing officers with his/her observations and formulated a team. To ensure there were more less-lethal than lethal options, Sergeant A

assigned Officer A as the sole lethal officer. The BOPC noted the Subject was continually moving and walking away from officers. The incident was fluid, challenging, and largely dictated by the Subject at the beginning. While the Subject approaching Witness B cut short the time Sergeant A had to communicate a complete plan, the BOPC noted that Sergeant A remained situationally aware and ready to modify tactics as necessary. The BOPC noted that Sergeant A monitored Officer G's Spanish commands to the Subject, and when they were insufficient, immediately replaced him/her with a more proficient Spanish-speaking officer.

The BOPC noted that Sergeant A could have provided more guidance and clarified some of his/her directions, specifically when he/she stated, "Shoot" moments before the OIS. However, the BOPC also noted that based on the FID investigation, there was no indication that Officer I heard Sergeant A's statement or that it created confusion in how lethal force could be utilized during this incident. During his/her FID interview, Officer I did not attribute his/her decision to discharge his/her service pistol to Sergeant A's statement. The BOPC concluded that Officer I's decision to fire his/her service pistol was based solely on his/her independent justification

The BOPC discussed the significance of Sergeant A telling officers they could not allow the Subject to cross the street (where the Subject would encounter unsuspecting community members). The BOPC considered the lack of available options. The BOPC noted that there were numerous citizens in the Subject's path that he could quickly approach and harm. The BOPC also noted that containment was difficult due to the Subject's constant movement. Attempting to place officers in front of the Subject would likely have escalated the incident and created a possible crossfire. The BOPC noted that Sergeant A remained actively engaged in managing this critical incident and maintained exceptional situational awareness. Sergeant A's previous experience as a patrol officer, his/her experience with Mental Health Intervention Techniques, and his/her proficiency in the Spanish Language all were contributing factors in his/her command and control.

The overall actions of Sergeant A were consistent with Department supervisory training.

Sergeant B arrived at scene and observed Sergeant A directing the incident and assembling a tactical team. Observing the Subject's behavior, Sergeant B told Officer G that he/she would need to discharge his/her less-lethal weapon at the Subject. Sergeant B followed Sergeant A and the officers a short distance before deciding to disengage. According to Sergeant B, he/she and Sergeant A had an understanding that if one sergeant was directing the tactical incident, the other would avoid direct involvement to be available for the ensuing investigation. Based on that understanding, Sergeant B removed him/herself from the tactical operation and walked back to his/her police vehicle. Sergeant B attempted to

advise Sergeant A that he/she was going to discontinue following the Subject with the team of officers and stay back; however, he/she did not believe Sergeant A heard him/her. According to Sergeant B, he/she and Sergeant A were the only supervisors available, and if he/she became involved, there would be no other supervisor to investigate the non-categorical use of force. After the OIS occurred, Sergeant B approached Sergeant A. Because Officer I was involved in the OIS, Sergeant B advised Sergeant A to remove him/her from the tactical operations. After Sergeant A agreed, Sergeant B separated and monitored Officer I, and obtained his/her PSS.

The BOPC was critical of Sergeant B's lack of communication and planning during this incident. The BOPC noted the dynamic nature of the incident. The Subject walked a lengthy distance and ignored all commands from officers. During the incident, the Subject motioned as though he was going to throw his hammer at the officers following him. There were multiple officers with less-lethal weapons and officers trailing behind. The BOPC concluded these factors were indications that a second supervisor would have been beneficial to assist Sergeant A and the officers involved. The BOPC determined that based on the totality of the circumstances, Sergeant B removing him/herself for administrative purposes was not reasonable. The BOPC opined that Sergeant B should have communicated clearly with Sergeant A and remained to assist him/her with the tactical operation.

While Sergeant B intended to limit the impact on surrounding divisions by being available for a non-categorical use of force investigation, the BOPC determined that removing him/herself from the tactical operation was a substantial deviation without justification from approved Department tactical training, requiring a finding of Administrative Disapproval for Tactics.

- 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.

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.

In conducting an objective assessment of this case, the BOPC determined that Officers A and B's tactics were a substantial deviation without justification from approved Department tactical training, requiring a finding of Administrative Disapproval.

The BOPC determined that the tactics employed by Sergeant B were a substantial deviation without justification, from approved Department tactical training, requiring a finding of Administrative Disapproval.

The BOPC determined that the tactics employed by Sergeant A were a substantial deviation with justification. The BOPC also determined that Officers E, G, H, and I's tactics were not a substantial deviation from approved Department tactical training.

Accordingly, the BOPC found Officers E, G, H, I, and Sergeant A's tactics to warrant a Tactical Debrief. The BOPC found Officers A, B, and Sergeant B's tactics to warrant a finding of Administrative Disapproval.

B. Drawing and Exhibiting

- **Officer A**

First Occurrence

According to Officer A, he/she had observed the Subject holding a hammer and waving it to show his "aggressive demeanor." The Subject had struck the hammer on the ground and ignored officers' commands to put the hammer down. Believing that the Subject's behavior could cause serious bodily injury or death, Officer A unholstered his/her service pistol.

Second Occurrence

According to Officer A, the Subject had raised the hammer over his head as though he was going to throw it at the officers. Believing that the situation had escalated to the point where deadly force might be justified, based on the Subject's proximity and ability to throw the hammer, Officer A unholstered his/her service pistol a second time.

The BOPC evaluated Officer A's drawing and exhibiting of his/her service pistol. The BOPC noted that Officer A arrived at the location and was briefed by Sergeant A regarding the Subject. Officer A observed the Subject waving a hammer overhead and striking the ground with it. Officer A believed the Subject was behaving violently. Believing the situation might escalate to the point where deadly force may be justified, Officer A unholstered his/her service pistol. As the Subject entered the alley, Officer A holstered his/her service pistol anticipating a foot pursuit. While walking north, from the alley, Officer A observed the Subject raise the hammer over his/her head as though he/she was going to throw it at officers. In response, Officer A unholstered his/her service.

Based on the totality of circumstances, the BOPC determined that an officer with similar training and experience as Officer A, would reasonably believe that there was

a substantial risk the situation may escalate to the point where deadly force may be justified.

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

- **Officer B**

According to Officer B, he/she had observed the Subject hold the hammer over his head and make a throwing motion at him/her and the officers near him/her. In response, Officer B had sought cover from a parked vehicle when he/she heard what he/she believed were less-lethal munitions. Looking toward the Subject, Officer B observed him lying on the ground. However, Officer B still believed the Subject was a threat and that he was possibly armed with other weapons. To prevent the Subject from causing serious injury to himself or other officers, Officer B unholstered his/her service pistol.

The BOPC evaluated Officer B's drawing and exhibiting of his/her service pistol. The BOPC noted that Officer B had been with the officers since they started following the Subject and had observed his behavior with the hammer and axe. The BOPC also noted that before unholstering his/her service pistol, Officer B had observed the Subject raise the hammer over his head and make a throwing motion at him/her and the officers near him/her. While Officer B observed the Subject lying on the ground before unholstering his/her service pistol, he/she still believed the Subject was a threat and was possibly armed. Based on the Subject's actions leading up to Officer B's drawing and exhibiting, combined with the fact that the Subject had also been armed with the axe, the BOPC opined that it was reasonable for Officer B to believe the Subject still presented a risk of serious injury.

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

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

- **Officer E**

According to Officer E, he/she believed the Subject was still armed with a hammer or axe and was unsafe to approach. To provide lethal cover for the safety of the arresting officers, Officer E unholstered his/her service pistol.

The BOPC evaluated Officer E's drawing and exhibiting of his/her service pistol. The BOPC noted that during this incident, Officer E had observed the Subject swinging and banging the hammer. The BOPC also noted that before unholstering

his/her service pistol, Officer E had struck the Subject with a 40mm round. In response, the Subject had moved toward Officer E. While Officer E observed the Subject lying on the ground before unholstering his/her service pistol, he/she still believed the Subject was a threat and was possibly armed. Based on the Subject's actions leading up to Officer E's drawing and exhibiting, the BOPC opined that it was reasonable for Officer E to believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

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

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

- **Officer I**

- First Occurrence**

- According to Officer I, he/she knew the Subject was armed with a hammer and a "sharp pickax" which he/she believed could cause serious bodily injury. To protect him/herself and his/her partner, Officer I unholstered his/her service pistol.

- Second Occurrence**

- According to Officer I, after officers utilized less-lethal munitions on the Subject, the Subject remained armed. Believing that the Subject posed a deadly threat to him/herself and his/her partners, Officer I unholstered his/her service pistol a second time to provide lethal cover.

- Third Occurrence**

- According to Officer I, the Subject threw his hammer at Officer A. To protect Officer A from a deadly threat, Officer I unholstered his/her service pistol.

- The BOPC evaluated Officer I's drawing and exhibiting of his/her service pistol. The BOPC noted that Officer I arrived at the location and observed the Subject waving a hammer overhead and striking the ground with it. Officer I observed the Subject turn toward officers and make a throwing motion with the hammer. Believing the situation might escalate to the point where deadly force may be justified, Officer I unholstered his/her service pistol three times throughout the incident. Before each unholstering, the Subject had raised the hammer over his head and appeared to be a deadly threat.

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

Therefore, the BOPC found Officer I's drawing and exhibiting of a firearm, all three occurrences, to be In Policy.

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

C. Less-Lethal Use of Force

- **Officer B – (40mm LLL – 3 Sponge Rounds)**

First Round

According to Officer B, he/she had observed the Subject swinging a hammer at the officers, ignoring their commands, and acting "violently." Officer B observed that the Subject was walking toward numerous tents and people in the area. According to Officer H's BWV, as the Subject was standing on the southwest corner of an intersection a pedestrian walked west into the eastbound lanes of the boulevard, ostensibly to avoid the Subject. Officer B waved toward the pedestrian and told him to move. Officer B was "very" concerned for the safety of people in the area and believed that the Subject posed an imminent threat of serious bodily injury. Sergeant A told Officer B that he/she could discharge his/her 40mm LLL device when ready. Officer B believed that numerous use of force warnings had been provided to the Subject in Spanish and English and determined that he/she was within the 40mm LLL's effective range. Officer B advised officers that he/she was going to fire the 40mm LLL as the Subject walked northbound. To stop the Subject, Officer B discharged one 40mm round, aiming "just below" his belt line, near his legs/glutes, from approximately 30-35 feet. In response, the Subject turned toward the officers and swung his hammer at them. The Subject then turned and continued walking north. According to the FID investigation, Officer B discharged his/her first 40mm round from approximately 36 feet.

Second Round

According to the FID investigation, after Officer B discharged his/her first 40mm round, Sergeant A stated, "More. Hit him. Hit him again. Hit him again come on. Let's go, forty read, forty stand-by, forty stand-by." Because the Subject was wearing multiple layers of thick clothing, Officer B believed the 40mm round was ineffective. Believing that the Subject still posed an immediate threat of violence or physical harm to the public, Officer B discharged a second 40mm LLL at the Subject's right shoulder, from approximately 30-35 feet. According to the FID investigation, Officer B fired his/her first 40mm round from approximately 41 feet.

Third Round

Officer B believed the second 40mm round was ineffective because it struck the Subject's backpack. Believing that the Subject continued to pose an immediate threat of violence or physical harm, Officer B fired a third 40mm round at the Subject's leg area; however, the round was again ineffective. While Officer B heard Sergeant A directing him/her to discharge the 40mm LLL at the Subject again, he/she was out of rounds and advised Sergeant A. According to the FID investigation, Officer B fired his/her first 40mm round from approximately 51 feet.

In evaluating Officer B's use of less-lethal force, the BOPC considered the Subject's actions before and at the time Officer B discharged his/her 40mm rounds. The BOPC noted that the Subject was swinging a hammer, ignoring officers' commands, and acting violently toward officers. Despite numerous commands to stop, the Subject refused, continuing to walk through populated areas, armed with a hammer and axe. The BOPC also noted that while Sergeant A authorized the use of less-lethal munitions, Officer B formed independent justification before discharging his/her 40mm LLL.

Assessing Officer B's first round, the BOPC noted that the Subject had received numerous use of force warnings. Before discharging his/her first round, Officer B ensured that a use of force warning was given in Spanish. Disregarding the warnings and commands to drop his weapons, the Subject continued walking away from the officers, toward community members. Based on the Subject's behavior, the BOPC opined that it was reasonable for Officer B to believe the Subject presented an immediate threat of violence or physical harm to officers and the public. The BOPC also opined that Officer B's first 40mm round was proportional to the Subject's level of resistance.

Assessing Officer B's second 40mm round, the BOPC noted that his/her first round had failed to stop the Subject or cause him to drop the hammer. The BOPC also noted that the Subject continued to raise the hammer overhead while facing the officers. Based on the Subject's behavior, the BOPC opined that it was reasonable for Officer B to believe the Subject continued to present an immediate threat of violence or physical harm to officers and the public. The BOPC also opined that Officer B's second 40mm round was proportional to the Subject's level of continued resistance.

Assessing Officer B's third 40mm LLL, the BOPC noted that Officer B's second round had failed to stop the Subject or cause him to drop the hammer. Based on the Subject's behavior, the BOPC opined that it was reasonable for Officer B to believe the Subject continued to present an immediate threat of violence or physical harm to officers and the public. The BOPC also opined that Officer B's third 40mm LLL was proportional to the Subject's level of continued resistance.

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

Therefore, the BOPC found Officer B's less-lethal use of force to be In Policy.

- **Officer H – (40mm LLL – 2 Sponge Rounds)**

First Round

Observing that his/her first 40mm round was ineffective, Officer H redeployed to the west sidewalk, stopping at the mouth of the alley. According to FID investigators, they were unable to determine if Officer H's first 40mm round struck the Subject. Believing that the Subject posed a threat of serious injury, Officer H discharged his/her second 40mm round at the Subject's "upper back" from approximately 10 to 15 feet as the Subject proceeded through the alley. While Officer H's second 40mm round struck the Subject, it was ineffective. After firing his/her second 40mm round, Officer H discovered that he/she was out of rounds. According to the FID investigation, Officer H discharged his/her second 40mm round from approximately 45 feet.

Second Round

According to Officer H, the Subject continued walking northbound. Officer H aimed his/her 40mm LLL at the Subject's "upper back" area and fired his/her fifth 40mm round from approximately 10-12 feet away. According to FID investigators, they were unable to determine if Officer H's third or fourth 40mm round struck the Subject. While Officer H's fifth 40mm round struck the Subject, it was ineffective. According to the FID investigation, Officer H discharged his/her fifth 40mm round from approximately 55 feet.

In evaluating Officer H's use of less-lethal force, the BOPC considered the Subject's actions before Officer H discharged his/her second and fifth 40mm rounds (Rounds One and Two above). The BOPC noted that the Subject was swinging a hammer toward officers and while walking toward citizens. Despite numerous commands to stop, the Subject refused, continuing to walk through populated areas, armed with a hammer and axe. The BOPC also noted that while Sergeant A had authorized the use of less-lethal munitions, Officer H formed independent justification before discharging his/her 40mm LLL.

Assessing Officer B's first round, the BOPC noted that the Subject had received numerous use of force warnings. Before discharging his/her first round, Officer B ensured that a use of force warning was given in Spanish. Disregarding the warnings and commands to drop his weapons, the Subject continued walking away from the officers and toward community members. Based on the Subject's behavior, the BOPC opined that it was reasonable for Officer H to believe that the Subject

presented an immediate threat of violence or physical harm to officers and the public. The BOPC also opined that Officer H's first 40mm round was proportional to the Subject's level of resistance.

Assessing his/her second 40mm round, the BOPC noted that Officer H's second round failed to stop the Subject or cause him to drop the hammer. Believing that the Subject was going to cause harm as he continued to raise his hammer overhead while facing the officers, Officer H discharged a second 40mm impact round at the Subject. Based on the Subject's behavior, the BOPC opined that it was reasonable for Officer H to believe the Subject continued to present an immediate threat of violence or physical harm to officers and the public. The BOPC also opined that Officer H's second 40mm round was proportional to the Subject's level of resistance.

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

Therefore, the BOPC found Officer H's less-lethal use of force to be In Policy.

- **Officer E – (40mm LLL – 1 Sponge Round)**

Officer E observed the Subject walking north, away from the officers. It appeared there were TASER darts in his backpack or shoulder, and he was armed with two objects in his hands. According to Officer E, the Subject continued to present a threat to officers and the public by waving his hammer and making throwing motions with it toward officers. Officer E took cover near a parked vehicle on the west sidewalk, parallel to the Subject; the Subject was on the east side of the street. To get the Subject to turn toward him/her, providing an optimal target area, Officer E stated, "Hey!" Officer E then fired one 40mm round at the Subject's "belly" area from approximately 35 to 40 feet. Because the Subject made a "remark" or "groaning" noise, Officer E believed the 40mm round struck him. The Subject then stepped off the east sidewalk toward Officer E.

In evaluating Officer E's use of less-lethal force, the BOPC considered the Subject's actions before Officer E discharged his/her 40mm round. The BOPC noted that the Subject had struck his hammer on the ground, walked toward citizens while waving it, and hand motioned as if throwing the hammer at officers. Despite numerous commands to stop, the Subject refused, continuing to walk through populated areas, armed with a hammer and axe. Based on the Subject's behavior, the BOPC opined that it was reasonable for Officer E to believe the Subject presented an immediate threat of violence and/or physical harm to officers and the public. The BOPC also opined that Officer E's 40mm round was proportional to the Subject's level of resistance. The BOPC noted that while Sergeant A had authorized the use of less-lethal munitions, Officer E formed independent justification before discharging his/her 40mm LLL.

The BOPC noted that Officer E appeared to self-deploy to the west side of the street. However, the BOPC noted that Officer E had continued to monitor this incident as he/she and Officer F redeployed. As Officers E rejoined officers, he/she heard Sergeant A request a 40mm LLL and observed officers flanking the Subject on the west side of the street. In response, Officer E deployed to a position of cover on the west side of the street, which allowed him/her to safely engage the Subject. The BOPC noted that while Officer E chose to use the element of surprise, at that point, the Subject had been provided multiple use of force warnings in Spanish and English.

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

Therefore, the BOPC found Officer E's less-lethal use of force to be In Policy.

- **Officer H – (TASER, in Probe Mode)**

According to the FID investigation, the autopsy report noted a total of four contusions to the Subject's shoulders. Also, according to the FID investigation, investigators were unable to determine if any of the TASER darts contacted the Subject's skin.

According to Officer H, he/she observed the Subject throw his hammer at the officers and him/her. Officer H observed another officer discharge their TASER at the Subject; however, it was ineffective. Observing the Subject raise the axe in his right hand, Officer H aimed his/her TASER at the Subject's stomach and discharged his/her TASER in Probe Mode from approximately 5-7 feet. According to the FID investigation, Officer H discharged his/her TASER from approximately 18 feet. While Officer H believed he/she discharged his/her TASER as the Subject was throwing the axe, according to the FID investigation, he/she discharged his/her TASER as the Subject was throwing the hammer.

In evaluating Officer H's use of less-lethal force, the BOPC noted that Officer H discharged his/her TASER as the Subject was throwing a hammer at officers. Based on the Subject's behavior, the BOPC opined that it was reasonable for Officer H to believe the Subject presented an immediate threat of violence and/or physical harm to officers. While Officer H believed the Subject was throwing an axe, it was still reasonable for Officer H to believe the Subject presented an immediate threat of violence and/or physical harm to officers. The BOPC also opined that Officer H's use of the TASER was proportional to the Subject's level of resistance. The BOPC noted that while Sergeant A had authorized the use of less-lethal munitions, Officer H formed independent justification before discharging his/her TASER.

In terms of the distance Officer H discharged his/her TASER from, the BOPC noted that while 15 feet is the optimal range, Department policy does not expressly forbid

officers from exceeding the optimal range. The BOPC also noted that the optimal range is not based on the length of the TASER's wires, which range from 21 to 25 feet, but rather on the most effective spread of the probes to accomplish neuromuscular incapacitation. Based on the totality of this incident, the BOPC opined that 18 feet was reasonable as the Board would not have expected Officer H to walk three feet closer to the Subject before discharging his/her TASER.

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

Therefore, the BOPC found Officer H's less-lethal use of force to be In Policy.

- **Officer A – (TASER, in Probe Mode)**

According to Officer A, he/she had observed that previous less-lethal deployments were ineffective. Officer A observed the Subject continue to swing his hammer at the officers and believed the Subject posed an imminent threat. Officer A aimed his/her TASER at the Subject's "abdomen area" and discharged his/her TASER in Probe Mode from approximately 7-8 feet. Officer A "immediately" observed the Subject throw his hammer toward officers. The hammer struck Officer A in the foot. According to the FID, Officer A discharged his/her TASER from an approximate distance of 15 feet.

In evaluating Officer A's less-lethal use of force, the BOPC considered the Subject's actions before Officer A deployed his/her TASER. The BOPC noted that Officer A had observed the Subject walking toward numerous citizens while waving the hammer. The BOPC also noted that the Subject was swinging his hammer overhead and had motioned as if he was going to throw it at officers. Despite numerous commands to stop, the Subject refused, continuing to walk through populated areas, armed with a hammer and axe. Based on the Subject's behavior, the BOPC opined that it was reasonable for Officer A to believe the Subject presented an immediate threat of violence and/or physical harm to officers. The BOPC also opined that Officer A's use of the TASER was proportional to the Subject's level of resistance. The BOPC noted that while Sergeant A authorized the use of less-lethal munitions, Officer A formed independent justification before deploying his/her TASER.

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 less-lethal force was proportional and objectively reasonable.

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

- **Officer G – (TASER, in Probe Mode)**

According to Officer G, he/she believed the Subject continued to pose a threat of violence to officers and the public. To stop the Subject's actions and force him to drop his hammer, Officer G aimed at the left flank area of the Subject's back and discharged his/her TASER, in Probe Mode, from approximately 7 – 10 feet. Officer G believed that while the Subject felt the effects of the TASER, he only became more agitated.

In evaluating Officer G's use of less-lethal force, the BOPC considered the Subject's actions before Officer G deployed his/her TASER. The BOPC noted that Officer G had observed the Subject walking toward numerous citizens while waving the hammer. The BOPC also noted that the Subject was swinging his hammer overhead and had motioned as if he was going to throw at officers. Despite numerous commands to stop, the Subject refused, continuing to walk through populated areas, armed with a hammer and axe. Based on the Subject's behavior, the BOPC opined that it was reasonable for Officer G to believe the Subject presented an immediate threat of violence and/or physical harm to officers. The BOPC also opined that Officer G's use of the TASER was proportional to the Subject's level of resistance. The BOPC noted that while Sergeant A authorized the use of less-lethal munitions, Officer G formed independent justification before deploying his/her TASER.

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

Therefore, the BOPC found Officer G's less-lethal use of force to be In Policy.

Accordingly, the BOPC found Officers A, B, E, G, and H's less-lethal use of force to be In Policy.

D. Lethal Use of Force

- **Officer I** – (pistol, one round)

Background - According to Officer I, his/her background was several parked vehicles along the east curb and the exterior wall of an apartment complex. The FID investigation revealed multiple vehicles parked on the east curb of the street, with an apartment complex on the east sidewalk.

According to Officer I, he/she had observed the Subject holding the hammer in his right hand near his right thigh and the axe in his left hand near his left thigh. The Subject turned toward Officers A and I and raised the hammer above his head. Officer I pointed his/her service pistol at the Subject while warning him to not throw the hammer. Officer I observed the Subject throw the hammer at him/her and Officer A. While Officer I believed he/she might be able to continue attempts at de-escalation, the Subject immediately transitioned the axe from his left to his right

hand. The Subject clenched his teeth, raised the axe above his head, and faced Officers A and I. Officer I feared for his/her life and Officer A's life. Believing he/she had to use lethal force to stop the Subject's actions, Officer I fired one round from his/her service pistol at the Subject's center mass. The Subject threw the metal object toward the officers and fell to the roadway, face-down and motionless. Officer I announced, "shots fired," and held his/her position as lethal cover.

The BOPC assessed the reasonableness, necessity, and proportionality of Officer I's use of lethal force. The BOPC noted that during this incident, the Subject was holding his hammer in his right hand and what appeared to be an axe in his left hand. The BOPC also noted that despite numerous commands to stop, the Subject refused, continuing to walk through populated areas, armed with a hammer and axe. On multiple occasions, the Subject turned toward officers and motioned with the hammer as if throwing it at officers. As the incident progressed, the Subject threw the hammer at officers, striking Officer A. Officer I then observed the Subject transfer the axe to his right hand and raise it overhead in an overhand throwing motion. Based on the Subject's actions, the BOPC opined that it was reasonable for Officer I to believe the Subject was going to throw the axe at officers. Based on the Subject's behavior, the BOPC also opined that it was reasonable for Officer I to believe the Subject presented an imminent threat of death or serious bodily injury. The BOPC noted that while the OIS rapidly unfolded, Officer I fired one round, assessed, and ceased fire after he/she determined that the Subject no longer presented an imminent threat of death or serious bodily injury.

In terms of Sergeant A's statement - "Shoot" - before Officer I fired his/her service pistol, the BOPC noted that he/she was directing an officer to discharge the 40mm LLL. The BOPC also noted that based on the FID investigation, there was no indication that Officer I heard Sergeant the Subject's statement or that it created confusion in how lethal force could be utilized during this incident. During his/her FID interview, Officer I did not attribute his/her decision to discharge his/her service pistol to Sergeant A's statement. The BOPC concluded that Officer I's decision to fire his/her service pistol was based solely on his/her independent justification.

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

Therefore, the BOPC Officer I's lethal use of force to be In Policy.