

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

OFFICER-INVOLVED SHOOTING – 020-21

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No()
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Rampart	4/2/21		
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Officer(s) Involved in Use of Force	Length of Service
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Officer M	13 years, 7 months
Officer H	3 years, 8 months

Reason for Police Contact

On April 2, 2021, at approximately 1457 hours, officers responded to a “shooting in progress” radio call at MacArthur Park. Upon their arrival, they heard gunfire coming from within the park.

The officers located the Subject with the assistance of a police helicopter. The Subject removed the handgun from her waistband and pointed it at the police helicopter for approximately 15 seconds. Moments later, the Subject pointed it at officers, resulting in an Officer-Involved Shooting (OIS).

Suspect	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Female, 43 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 March 15, 2022.

Investigative Summary

Witnesses observed the Subject firing a handgun into the air and at water fowl, at MacArthur Park and called 911.

In response, Communications Division broadcast a “*shooting in progress*” radio call over the Rampart Area Base Radio Frequency (hereafter Base). The comments of the call described the Subject. Additionally, the comments noted the Subject was walking south in the middle of the park near the lake while armed with a .45 caliber handgun.

Officers A and B were driving east on Wilshire Boulevard approaching Park View Street in the vicinity of MacArthur Park when the call was broadcast. The officers heard gunfire coming from the south side of the park and Officer B broadcast, “[W]e hear like three gunshots, on the south side of the park.” The officers drove to the northwest side of the MacArthur Park Lake and stopped while they looked for the Subject. After approximately 30 seconds, Officer B observed the Subject and broadcast, “[T]he subject is going to be on the east side of the lake, right south of Wilshire.” Officers A and B then drove to the south side of Wilshire Boulevard, west of Alvarado Street, where they parked their police vehicle and entered the park on foot to continue monitoring the Subject.

Officers C and D heard the initial radio call and Officer B’s broadcast. Shortly thereafter, while in the area of Alvarado Street and Wilshire Boulevard, Officer C observed numerous bystanders on the west side of Alvarado Street pointing toward the MacArthur Park Lake and telling him/her that the Subject was in the park. Officer C stopped his/her police vehicle on the west side of Alvarado Street, south of Wilshire Boulevard. Upon exiting, he/she observed the Subject walking south on a concrete walkway near the lake. Officer C utilized his/her police radio and broadcast the Subject’s updated location.

Officers E, F, G, and H joined Officers C and D near Officer C’s police vehicle. As Officer F met with the officers, he/she spoke briefly with a witness, who was standing nearby. The witness pointed out the Subject’s current location and provided a clothing description. Officer F observed the Subject and utilized his/her police radio to broadcast a request for a “Code Sam” (a beanbag shotgun), a “Code Robert” (a police rifle), and a ballistic shield. Additionally, Officer F repeated the Subject’s description and advised responding units that she was walking south through MacArthur Park, toward 7th Street.

The officers were joined by Sergeants A and B. Sergeant A utilized his/her police radio to coordinate the closure of 7th Street, while Sergeant B directed the officers to use their vehicles for cover and don their ballistic helmets.

As the Subject walked south, Officers I and J arrived at the southeast portion of the park.

Upon entering the park, Officer I observed the Subject and noted she was armed with a handgun. According to Officer I, the Subject looked “agitated,” “aggressive,” and “erratic.” Officer J immediately obtained a ballistic shield while Officer I sought cover behind a tree.

Officers G and H, who were still on the east side of the lake, returned to their police vehicle and drove south on Alvarado Street to 7th Street. According to Officer H, their intent was to redeploy and begin evacuating community members from the south side of the park. Once there, they joined Officers I and J, who were already evacuating community members from the southeast portion of the park.

Officer I was giving commands to the Subject when the police helicopter, staffed by Officers K and L, arrived overhead. Officer K, the pilot, began orbiting the police helicopter over the incident while Officer L, the Tactical Flight Officer (TFO), assessed the incident and communicated with officers on the ground.

The police helicopter was on scene for approximately one minute when the Subject used her left hand to remove the loaded semiautomatic handgun from her left front waistband. The Subject raised the handgun above her head and tracked the Air Unit. Upon observing this, TFO L advised units on the ground that the Subject pointed the gun at the Air Unit and asked if she had fired. Simultaneously, Officer K accelerated the aircraft and ascended to avoid being struck by any potential gunfire.

Officer H also observed the Subject point her handgun at the helicopter. According to Officer H, the Subject’s actions caused him/her to become “worried” for the safety of the civilians and police officers in the immediate area and for the officers in the helicopter. In response, Officer H unholstered his/her pistol and ordered the Subject to drop her handgun. After approximately 10 seconds, the Subject lowered her pistol, placed it back in her waistband, and continued walking south.

Officers M and N also responded to this incident. According to Officer M, while en route to the call, he/she heard officers broadcast that they were at the park and that they heard shots being fired. He/she then heard Officer F’s request for a police rifle. Officer N parked the officers’ police vehicle on 7th Street west of Alvarado Street, and Officer M removed his/her police rifle from the security rack in the passenger compartment of their vehicle.

After exiting the vehicle and obtaining his/her rifle, Officer M moved to the rear of the vehicle where he/she observed the Subject, north of him/her standing in the park. At the time, Officers G, H, I, and J were positioned east of the Subject and utilizing trees

for cover. Officer M heard an officer on the radio identifying a potential “crossfire” situation. As such, he/she redeployed into the park and joined Officers G, H, I, and J.

Officers G, H, I, J, and M monitored the Subject as she walked west along a footpath near the lake. According to Officer H, he/she and the officers he/she was with remained south of the Subject as they followed behind her. The group moved from tree to tree, evacuating bystanders from the park as they continued to monitor the Subject’s movement. The officers lost sight of the Subject when she walked behind a large concrete structure that was between the officers and the footpath. Upon losing sight of the Subject, the officers moved west and sought cover behind a large palm tree that provided them with a view of the footpath.

Approximately one minute later, the Subject came back into view as she continued walking west on the same footpath. When they again observed the Subject, the officers redeployed to a larger palm tree that was approximately 50 feet west of their location.

Once behind the tree, the officers assumed the following positions:

- Officer M was positioned on the west side of the tree with his/her rifle pointed north toward the Subject.
- Officer J was positioned on the east side of the tree and deployed a ballistic shield with his/her left hand while using his/her right hand to point his/her handgun north toward the Subject.
- Officer H was positioned to the right of Officer J’s shield and assumed a kneeling position while pointing his/her handgun north toward the Subject.
- Officer G stood behind, above, and slightly offset to the right of Officer H, as he/she pointed his/her handgun north toward the Subject.
- Officer I stood behind Officer M and while giving verbal commands to the Subject and maintaining his/her handgun in a low-ready position.
- Officer N stood behind the other officers with his/her handgun at a low-ready position.

While the officers stood behind the tree, the Subject stopped on the footpath and faced them from approximately 65 feet away. The Subject then used her left hand to remove her handgun from her waistband and held it down along her left side. Officer I repeatedly ordered the Subject to, “drop the gun!” Instead, the Subject pointed the pistol at the officers for approximately two seconds before pointing it upward. In response, Officer I yelled, “Don’t point! Drop it! Drop the gun!” A moment later, the Subject again pointed the gun at the officers and assumed a two-handed shooting grip. Officer I quickly verbalized to the officers around him/her and stated, “She’s pointing! She’s pointing! She’s pointing! Hey shoot!”

Officer I redeployed from behind Officer M to behind Officer H and placed his/her hand on Officer H's back as he/she said the final, "[S]he's pointing," followed by, "[H]ey shoot."

According to Officer I, the Subject pointed her pistol at them twice. Officer I was not certain if the other officers saw the Subject point the gun at them the first time, so after the second occurrence, he/she yelled, "[H]ey shoot." Officer I was in fear for their safety but was unable to fire due to his/her position behind the officers.

When the Subject joined her hands in a two-handed shooting grip, Officer H fired three rounds from his/her duty handgun. Immediately after Officer H fired his/her first round, the Subject maintained the two-handed grip on the pistol while she simultaneously stepped to her right and lowered the muzzle. Immediately after his/her first round, Officer H fired a second and third round. The Subject then turned to her left and began to fall toward the ground. As the Subject fell, Officer M fired two rounds from his/her police rifle. The rounds can be seen impacting the water behind where the Subject was previously standing before she fell to the ground.

Neither Officers H nor M mentioned hearing Officer I's verbalization to shoot. Both officers indicated their decision to fire was based on their specific observations of the Subject's actions, which are addressed in the following pages.

Officers H and M were not asked, and did not state, whether they heard Officer I state, "She's pointing! She's pointing! She's pointing! Hey shoot."

Based on the officers' BWV, the first two times Officer I stated "she's pointing," Officer M was simultaneously stating, "If she points that thing, I'm going to dump her." As Officer M concluded his/her statement, Officer I continued, uninterrupted, stating, "[S]he's pointing, hey shoot."

Neither officer fired when the Subject initially pointed her weapon in their direction. Officer H explained that he/she did not fire because the Subject's weapon "was no longer pointed at me[,] and that, "she did not pose an immediate threat to me at that time." However, after Officer I yelled, "[H]ey shoot," and with his/her hand in contact with Officer H's back, Officer H immediately fired. During his/her interview, Officer H explained that the Subject "took a shooting stance" and "with her right arm grabbed the handgun which indicated to me, she was about to fire." Officer H added that the officers' "cover" was "compromised" due to the limited cover the tree provided and the number of officers behind it, so he/she fired three times.

Officer M fired approximately two seconds after Officer I yelled, "[H]ey shoot," and after redeploying to his/her left.

Officer J explained that he/she did not fire because he/she “was not able to see the Subject’s gun at the time,” or whether it was being pointed in their direction. He/she added that his/her observations were obstructed by trees and the limited viewing area of the window on the shield.

The Subject’s gun was ultimately located on the ground where she fell. When interviewed by Force Investigation Division (FID) investigators, Officer H stated, “After my third shot, I observed her drop the handgun from what I recall and immediately fall backwards to her back.” Additionally, upon being interviewed, Officer I stated, “As she went to the ground, she dropped the gun next to the bags that she had.” When later interviewed by FID investigators, the Subject believed the officers started firing at her after she had already dropped her handgun. A review of BWV and citizen video footage determined the Subject was pointing her handgun in the officers’ direction when Officer H began firing.

Force Investigation Division investigators analyzed all available video evidence and determined the Subject was still holding the handgun immediately after Officer H fired his/her first round; however, the exact moment she relinquished the firearm could not be determined.

Background

Upon inspecting the scene and relevant video evidence, FID investigators determined that both officers fired in a downward angle from a slightly elevated position atop a sloping hillside south of the Subject. At the point they fired, both officers had a similar background that included a concrete walkway, the southeast portion of the MacArthur Park Lake, a small island on the lake, and the north side of the MacArthur Park Lake.

Immediately before he/she fired his/her police rifle, Officer M observed the Subject through his/her Aimpoint Micro T-1 red dot sight and three-power magnifier. According to Officer M, he/she could see the Subject’s left forearm through his/her optic, but not her pistol. Officer M indicated he/she then heard two shots fired. He/she believed the first shot was fired by a police officer who was standing to his/her right and believed the second shot was fired by the Subject.

Footage from Officer M’s BWV shows that, as Officer H fired his/her second round, Officer M side-stepped to his/her left before firing his/her police rifle. When interviewed by FID investigators, Officer M indicated that hearing gunfire on his/her right side caused him/her to instinctively move to his/her left.

While moving to his/her left, Officer M was able to observe the Subject’s pink shirt and a portion of her left arm. According to Officer M, the manner in which her arm was angled led him/her to believe her firearm was still pointed in his/her direction. Upon seeing this,

Officer M fired two rounds, before he/she brought his/her rifle to a low-ready position, applied the safety, and performed an assessment. Officer M stated he/she was trained to fire two rounds and then assess, as such he/she did not assess between the two rounds.

While continuing to monitor the incident from the police helicopter, TFO L observed the Subject fall to the ground and immediately requested a Rescue Ambulance (RA) for her. TFO L directed the RA to stage near Wilshire Boulevard and Alvarado Street.

After observing the Subject fall to the ground, Officer I told her to, "Turn around" and "throw the gun to the side." Immediately after, Officer I said, "Don't reach for the gun." After approximately 20 seconds, the Subject sat up and faced the officers. Officer I then ordered the Subject to, "Start walking to your side" and "walk away from the gun." The Subject stood and faced the officers with her hands in the air.

Prior to the OIS, Sergeants A and B directed a team of officers to redeploy from the east side of the park to the south side of the park so that they could establish containment. In an effort to accomplish this, Sergeant A directed Officer O to drive his/her police vehicle along a concrete walkway so that several additional officers could use it as cover while they moved to the south side of the park. As Officer O drove south, he/she was followed by Officer P who was equipped with a 40mm Less-Lethal Launcher (hereafter 40mm), Officer Q who was equipped with a shield, and Officers E, F, and R. The OIS occurred while the team was moving toward the south side of the park. In response to the gunfire, the team ran to assist the other officers. Approximately 35 seconds after the OIS, the team arrived to the south side of the park and positioned themselves at Officer O's police vehicle, approximately 40 feet east of Officers G, H, I, J, M, and N.

At the time of the OIS, Sergeants A and B were supervising the officers who were containing the east side of the lake. Sergeant A heard gunfire coming from the south side of the lake, followed by a broadcast from the Air Unit indicating that the Subject was down, but still moving. Sergeant A used his/her police radio and advised officers to maintain their positions. He/she also informed them that a team of officers was redeploying to the south side of the lake to assist. Simultaneously, Sergeant B redeployed to his/her police vehicle and drove to the south side of the park where he/she joined the officers.

When Officer O and his/her team of officers arrived at the south side of the park, the Subject was standing on the concrete walkway. She was facing south toward Officers H and M with her hands in front of her. The Subject had a purse and a backpack slung over her left shoulder. Approximately 30 seconds later, the Subject turned north and began walking away. Officer P, who was positioned near the front of Officer O's police vehicle, fired one 40mm round from an approximate distance of 70 feet.

Officer P believed his/her 40mm round contacted the Subject. A review of BWV footage determined the 40mm round struck a small tree between Officer P and the Subject and did not appear to have contacted her.

Prior to Officer P discharging the 40mm, Officers E and O alerted the officers in the vicinity that less-lethal munitions were about to be discharged. No such warning was provided to the Subject.

Officers G, H, I, J, and M were aware that the Subject was unarmed. As the Subject walked north and away from her gun, Officer I directed Officer M to move north so that the officers could secure the handgun. Officer I announced that they were advancing and that the Subject was unarmed. Officer I and his/her team of officers were quickly joined by Officer P and the other officers positioned near Officer O's police vehicle.

As the officers approached, Officers I and M ordered the Subject to get on the ground. In response, the Subject moved north and sat on a concrete ledge near the lake with her hands held in front of her. As the officers stood approximately 30 feet away, Officer I ordered the Subject to lay on the ground and directed the officers who were formerly near Officer O's police vehicle to function as an arrest team. The Subject refused Officer I's commands to lay on the ground. Approximately 50 seconds later, the officers slowly walked toward the Subject. In response, the Subject stood, walked to the lake, and entered the water.

The Subject remained in the MacArthur Park Lake for approximately 2 hours and 35 minutes. During that time, she swam in the water, and rested on an island on the east side of the lake while officers monitored her from the shore and made numerous attempts to call her out of the water.

At approximately 1750 hours, the Subject swam to the east shore, exited the lake, and began walking south on the concrete footpath. As she did so, Sergeant A and several other officers took her into custody.

Once the Subject was in custody, she was walked to 7th Street where members of the Los Angeles Fire Department (LAFD) were staged. The Subject was subsequently seated on a gurney and transferred into the RA, where she was examined by LAFD Firefighter/Paramedics (FF/PMs). During their examination, FF/PMs identified gunshot wounds to the Subject's upper torso, right arm, and back.

The LAFD transported the Subject to the hospital where she was treated for non-life-threatening injuries.

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	Yes	Yes	Yes
Officer I	Yes	Yes	Yes	Yes	Yes
Officer J	Yes	Yes	Yes	Yes	Yes
Officer P	Yes	Yes	Yes	Yes	Yes
Officer N	Yes	Yes	Yes	Yes	Yes
Officer M	Yes	Yes	Yes	Yes	Yes
Officer G	Yes	Yes	Yes	Yes	Yes
Officer H	Yes	Yes	No	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 G, H, I, J, N, P, and Sergeants A and B's tactics to warrant a Tactical Debrief. The BOPC found Officer M's tactics to warrant a finding of Administrative Disapproval.

B. Drawing and Exhibiting

The BOPC found Officers G, H, I, J, M, N, and Sergeant A's drawing and exhibiting of a firearm to be In Policy.

C. Lethal Use of Force

The BOPF found Officer H's lethal use of force to be In Policy.

The BOPC found Officer M's lethal use of force to be Out of 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 subjected 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 subjected offense;
- The level of threat or resistance presented by the suspect;
- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the suspect to escape;
- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the suspect;
- Officer versus suspect factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,

- Whether a person is a member of a vulnerable population.

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

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

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

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

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

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

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

- To the extent of the officer's training and experience in first aid/CPR/AED; and

- To the level of equipment available to the officer at the time assistance is needed.

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

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

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

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

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

Definitions

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

Feasible: Feasible means reasonably capable of being done or carried out under the

circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

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

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

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

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

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

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

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

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

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

A. Tactics

Tactical De-Escalation

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

Tactical De-Escalation Techniques

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

Tactical de-escalation does not require that an officer compromise his/her/hers or his/her/hers 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 – Officers heard gunshots inside MacArthur Park and observed the Subject armed with a handgun. Concerned for the public’s safety, Officer I directed Officers G, H, J, M, and N to clear citizens out of the park and from the Subject’s path. Officer I directed officers westbound from tree to tree, evacuating bystanders from the park as they continued to monitor the Subject’s movement. Officer I also gave multiple commands to the Subject to drop her handgun. Sergeants A and B formulated a plan to send a team of officers from the east side of the park to the south side of the park, to contain the Subject.

The BOPC noted that Officer I assumed command and control of the team of officers with him/her, but did not assign them specific roles. The BOPC would have preferred that Officer I had clearly designated contact, cover, lethal, and less-lethal roles to his/her team.

Assessment – Officer I ordered the Subject multiple times to drop her handgun, but she ignored his/her orders and walked away from him/her and the officers around

him/her. As Officers G, H, I, J, M, and N continued moving westbound, assessing the Subject's actions, she pointed her handgun at the Air Unit. Officer I continued to order her to drop her handgun. While it appeared the Subject heard Officer I's orders, she did not comply.

Time – There is an equation, distance plus cover, equals time. Here, Officer I directed Officers G, H, J, M, and N to move westbound, using trees as cover, while clearing citizens from the Subject's path. The trees afforded officers cover and distance while ordering the Subject to drop her handgun. When the Subject pointed her handgun at the officers, she substantially impacted their ability to de-escalate or employ other options for the situation.

The BOPC noted that the area was an open field and would have preferred that officers had used additional police vehicles for cover. However, the BOPC also noted that the Subject was mobile, and officers effectively used the cover available.

Redeployment and/or Containment – When the Subject pointed her handgun at the Air Unit, the pilot ascended to approximately 1000 feet. As the Subject walked along the lake adjacent path, Officers G, H, I, J, M, and N deployed from tree to tree, using them for cover while monitoring the Subject's movement. As officers redeployed from the east side of the park to the south side, Sergeant A directed them to use a police vehicle as cover. When the Subject entered the lake, Sergeant B directed officers to redeploy farther back and give the Subject commands from a distance.

Other Resources – Multiple police units responded to the initial call of a 415 shooting in the park. Arriving at the scene, units deployed around the park and requested less-lethal force options, a patrol rifle, and a ballistic shield. The Air Unit responded to this incident and monitored the Subject from the air, providing updated information to units on the ground. After the Subject entered the lake, a Public Address system was used to communicate with her. Sergeant A contacted Metropolitan Division so that the incident could be screened by the Special Weapons and Tactics (SWAT) Team. It was determined the incident did not meet the established SWAT deployment criteria because the Subject's gun was in custody, and she was not known to be armed with any additional weapons. However, the SWAT lieutenant referred Sergeant A to the Underwater Dive Unit (UDU) for additional assistance and dispatched a SWAT Crisis Negotiation Team (CNT) to MacArthur Park to assist in speaking with the Subject. Upon being advised of the incident by Sergeant A, the UDU, Officer-in-Charge, initiated a UDU callout, which resulted in the response of approximately twelve UDU members. An inflatable boat and other specialized diving equipment were also dispatched to the incident. The Subject surrendered before divers entered the water.

Lines of Communication – Arriving at the scene, the Air Unit provided updated information regarding the Subject's actions and movements to officers on the ground.

Sergeants A and B broadcast they were at the scene and directed officers on the east side of the park to utilize their police vehicles as cover. Sergeant A broadcast directions to officers on the south side of the park. Officer I directed Officers G, H, J, M, and N on their movements from tree to tree for cover while also issuing multiple orders to the Subject. The Subject appeared to hear officers' orders but did not comply. Officer O advised Officer I and his/her group of officers that a 40mm LLL would be deployed. While the 40mm LLL had already been used, Officer I announced to Officer O's team of officers that his/her (Officer I's) team was advancing and that the Subject was unarmed. After the Subject entered the lake, officers continued to communicate with her. Officers continued to communicate with the Subject after she exited the water, apprehending her without further incident.

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

1. Code Six

When Officers G, H, I, J, M, N, and P arrived at the scene, they did not notify CD that they were Code Six. Due to the fluid incident, officers did not want to broadcast on Rampart Base Radio Frequency, to keep the frequency clear.

Based on the totality of the circumstances the BOPC determined that the tactics employed by Officers G, H, I, J, M, N, and P were a substantial deviation, with justification, from approved Department tactical training.

2. Basic Firearm Safety Rules

As Officer M removed his/her patrol rifle from the police vehicle's rifle rack, he/she appeared to momentarily cover Officer N with the muzzle. Officer N was standing outside the driver's door of their police vehicle. As Officer M loaded a round into the chamber of his/her patrol rifle and conducted a chamber check, he/she appeared to cover Officer N again. Officer M then walked to the rear of his/her police vehicle. While standing at the rear of his/her police vehicle, Officer M utilized the magnified optics on his/her patrol rifle to search the park for the Subject.

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

3. Utilization of Cover

While contacting the Subject, Officers G, H, I, J, M, and N simultaneously used the same palm tree for cover. As Officer H discharged his/her second round, Officer M side-stepped to his/her left, away from the cover of the palm tree, before discharging his/her police rifle. When interviewed by FID investigators, Officer M indicated that hearing gunfire on his/her right side caused him/her to instinctively move to his/her left. Before discharging his/her 40mm round at the Subject, Officer P moved away from the cover of a police vehicle.

The BOPC noted that Officers G, H, I, J, M, and N were moving as a team while attempting to locate cover in an open space with limited options. While having all officers use one tree was not ideal, the BOPC opined that the officers used the available cover to the best of their abilities. While the use of police vehicles, in addition to the tree, would have afforded better cover, the BOPC noted that the officers used a ballistic shield to supplement the cover afforded by the tree. The BOPC also noted that the officers appeared to stagger themselves, lowering their profiles, and maximizing the tree's cover.

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

4. 40mm LLL Deployment

Following the OIS, the Subject turned north and began walking away. While the Subject was holding a purse and backpack, she left her handgun on the ground where it had landed. Unaware that the Subject no longer had her handgun, Officer O advised Officer I and his/her group of officers that a 40mm LLL would be deployed. Believing that the Subject posed an immediate threat of violence to officers and citizens, Officer P discharged one round from his/her 40mm LLL at the right side of the Subject's torso, from approximately 70 ft. Officer P's 40mm round struck a small tree between him/her and the Subject but did not appear to contact her. Before Officer P discharged the 40mm LLL, Officers E and O alerted officers in the vicinity that less-lethal munitions were about to be discharged. The Subject was not provided a use of force warning.

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

- The BOPC also considered the following:

Tactical Planning/Tactical Communication – At the time of the incident, Officers M and N were working together for the first time. Officer M advised Officer N to be his/her “spotter” while he/she (Officer M) deployed his/her patrol rifle, but he/she did not confirm if Officer N understood the responsibilities of a spotter.

While directing his/her team of officers, which included Officers G, H, J, M, and N, Officer I did not designate contact, cover, lethal, and less-lethal roles.

Non-Conflicting Simultaneous Commands – Before the OIS, multiple officers gave the Subject orders to drop her handgun.

Spare Ammunition – Officer M left his/her spare rifle magazines in the trunk of his/her police vehicle when he/she deployed into the park. While he/she was equipped with his/her service pistol and a rifle sling, his/her patrol rifle was limited to one magazine

Tactical Language – After Officer M first observed the Subject with the optics of his/her patrol rifle, he/she stated, “I got her dead to rights.” At the time of this statement, there were no officers or members of the public around Officer M. After the Subject removed her handgun from her front waistband, Officer M stated, “She points that thing, I’m gonna dump her.” Officer M appeared to direct this statement to him/herself and not to the officers around him/her.

Profanity - Officer I used profanity while directing a citizen to exit the park. Following the OIS, Officer M used profanity while ordering the Subject to get on the ground. The profanity was intended to gain compliance, and it was not excessive or derogatory.

Non-Medical Face Coverings – Sergeant B and Officer M were not wearing a non-medical face covering at the scene.

Required Equipment – Officers C, D, S, and U did not have their batons on their person during the incident.

Officer B did not have his/her baton on his/her person during the incident. Officer A did not have his/her baton or hobble restraint device (HRD) on his/her person during the incident. Sergeant A did not have his/her baton, HRD, or Oleoresin Capsicum (OC) spray on his/her person during the incident. Officers M and N did not have the microphones for their Digital In-Car Video System (DICVS) on their person during the incident.

Rifle Magazine Markings – Officer M did not have clear markings on the exterior of his/her rifle magazine to indicate the round count.

Medical Treatment/Rendering Aid – At approximately 1753:40 hours, Officer S walked the Subject to West 7th Street, west of South Alvarado Street, where members of LAFD were staged. The Subject was examined by LAFD FF/PMs. During his/her examination, FF/PMs identified gunshot wounds to the Subject's upper torso, right arm, and back. The Subject was subsequently transported by RA to the hospital where she was treated for her injuries. The Subject remained at the hospital until April 5, 2021, when she was released and booked into the custody of LAPD's Metropolitan Detention Center. The investigation determined that the Subject sustained three through-and-through gunshot wounds that resulted in six total openings to her right forearm, right flank, right back, left flank, and left-back.

These topics were to be discussed at the Tactical Debrief.

Command and Control

Sergeant B was the first supervisor to arrive at the scene at the east side of MacArthur Park followed shortly after by Sergeant A. Sergeant A utilized his/her police radio to coordinate the closure of West 7th Street, while Sergeant B directed the officers to use their vehicles for cover and don ballistic helmets.

Officers I and J responded to West 7th Street and South Alvarado Street and observed the Subject walking southbound on the pathway adjacent to the lake, armed with a handgun. Officer I directed Officer J to deploy a ballistic shield as Officer I began to clear citizens from the park. Officer I ordered the Subject multiple times to drop her handgun. The Subject ignored Officer I's orders and continued west along the lake. Officers I and J were joined by Officers G, H, M, and N. Officer I directed them to continue west to clear citizens from the park and the Subject's path. Sergeant A broadcast for units on West 7th Street to move west due to crossfire concerns. Officer I broadcast that the units on West 7th Street were attempting to clear citizens from the area.

Sergeants A and B directed a team of officers to redeploy from the east side of the park to the south side of the park so that they could establish containment around the Subject. Sergeant A directed Officer O to drive his/her police vehicle along a concrete walkway so that several additional officers could use it as cover while they moved to the south side of the park.

Officer I directed his/her group of officers to redeploy to a large palm tree for cover as the Subject re-emerged into view. Officer I gave commands to the Subject to drop her handgun. The Subject did not comply, pointed her handgun at officers, and an OIS occurred. Before the OIS, Officer I can be heard saying, "Hey, shoot." However, it did not appear that this created confusion in how lethal force could be

used as Officers H and M formed independent justification for discharging their firearms and did not attribute their decision to Officer I's words.

At the time of the OIS, Sergeants A and B were supervising the officers who were containing the east side of the lake. Sergeant A heard gunfire coming from the south side of the lake, followed by a broadcast from the Air Unit indicating that the Subject was down but still moving. Sergeant A broadcast for officers to maintain their positions and that a team of officers was redeploying to the south side of the lake to assist. Simultaneously, Sergeant B redeployed to his/her police vehicle and drove to the south side of the park where he/she joined officers at the scene of the OIS.

Following the OIS, Officers E, F, O, P, Q, and R arrived at the scene of the OIS. Officer O advised Officer I and his/her group of officers that a 40mm LLL would be deployed. Officer I initiated the officers' approach towards the Subject. Officer I designated an arrest team to take the Subject into custody and gave her orders to comply with officers. The Subject walked away from the officers and entered the lake. As the Subject entered the water, Officer I advised officers not to deploy less-lethal, concerned that she may begin to drown.

Sergeant A declared him/herself as Incident Commander (IC) and established a Command Post at South Lake Street south of West 7th Street. After the Subject entered the lake, Sergeant A telephonically provided information to Metropolitan Division so that the incident could be screened by the SWAT. It was determined the incident did not meet the established SWAT deployment criteria because the Subject's gun was in custody, and she was not known to be armed with any additional weapons. The SWAT lieutenant referred Sergeant A to the UDU for additional assistance and dispatched a CNT to assist in speaking with the Subject. Sergeant A spoke with the UDU lieutenant, who initiated a UDU callout resulting in the response of approximately twelve UDU members. An inflatable boat and other specialized diving equipment were also dispatched to the incident.

Sergeant C arrived at MacArthur Park and took over as IC.

Sergeant B identified Officers H and M as involved in the OIS. Sergeant B took a PSS from Officer M and Sergeant C took a PSS from Officer H.

Captain A arrived at MacArthur Park and declared him/herself as IC.

The Subject swam to the east shore, exited the lake, and began walking south on the concrete footpath. As she did so, Sergeant A approached with an arrest team to take her into custody. The Subject was taken into custody before any attempt by the UDU or CNT to contact the Subject.

The BOPC noted that both Sergeants A and B arrived at the east side of the lake shortly before a tactical situation was developing on the south side, which initially limited their command and control of the incident. The BOPC opined that having either supervisor respond to the south side would have assisted in managing that area of the incident; however, the BOPC also considered that Sergeants A and B arrived at the scene of an active, fluid, and rapidly evolving incident. The BOPC noted that Sergeant A assumed the role of IC during the incident and broadcast that information after the OIS, but he/she could have made the IC declaration earlier. The BOPC also noted that Sergeant B did not immediately separate, monitor, and obtain a PSS from Officers H and M, but considered that he/she did not do so because it was still an active tactical situation.

The overall actions of Sergeants A and B and Officers I and O were consistent with Department tactical training and the expectations of field supervisors and senior officers during a critical incident.

- 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 involved personnel to discuss individual actions that took place during this incident.

In conducting an objective assessment of this case, the BOPC determined that Sergeants A and B's actions did not deviate from approved Department tactical training. The BOPC also determined that Officers G, H, I, J, N, and P's actions were a substantial deviation, with justification, from approved Department tactical training. The BOPC also determined that Officer M's actions were a substantial deviation, without justification, from approved Department tactical training.

Thus, the BOPC found Officers G, H, I, J, N, P, and Sergeants A and B's tactics to warrant a Tactical Debrief. The BOPC found Officer M's tactics to warrant a finding of Administrative Disapproval.

B. Drawing and Exhibiting

- **Officer G** – pistol - three occurrences

First Occurrence:

According to Officer G, he/she unholstered his/her service pistol when he/she observed the Subject draw her firearm. Officer G was concerned that the Subject may shoot "somebody." Officer H observed the Subject place her handgun back in her waistband and continue west. Officer H holstered his/her service pistol because he/she and other officers were paralleling the Subject while attempting to contain her.

Second Occurrence:

According to Officer G, he/she unholstered his/her service pistol again because the Subject "drew the firearm again" and started "waving at the helicopter." Officer G observed the Subject place her handgun "back in her waistband" and he/she holstered his/her service pistol "to move."

Third Occurrence:

According to Officer G, he/she unholstered his/her service pistol again when he/she observed the Subject reach for the handgun in her waistband. Officer G recalled "seeing down" the "barrel" of the Subject's handgun.

- **Officer H – pistol**

According to Officer H, he/she observed the Subject at the southeast corner of the lake. The Subject produced a gray handgun which she began to wave in the air. Fearing that the Subject may fire at him/her, his/her partner, or civilians in the area, Officer H unholstered his/her service pistol.

- **Officer I – pistol - two occurrences**

First Occurrence:

According to Officer I, he/she observed the Subject remove a handgun from her waistband. Believing that the incident could lead to serious bodily injury or death, Officer I took cover and unholstered his/her service pistol. Observing the Subject start "walking around," Officer I holstered his/her service pistol.

Second Occurrence:

According to Officer I, he/she unholstered his/her service pistol as he/she observed the Subject "walking toward [the officers'] direction." Officer I attempted to "gain cover," but was also trying to get "the civilians out of there" because that was his/her "main concern."

- **Officer J** – pistol

According to Officer J, he/she observed the Subject's handgun in the front of her waistband. Officer J also observed the Subject holding her handgun and pointing at the "air." Believing that the situation may escalate to the point where deadly force may be justified, Officer J unholstered his/her service pistol.

- **Officer J** – shotgun

According to Officer J, an officer advised him/her to relieve Officer T; Officer T had been holding a shotgun for over 10 minutes. In response, Officer J took Officer T's shotgun.

- **Officer M** – police rifle

According to Officer M, he/she heard a broadcast for an ADW suspect "there now" involving a female who was armed with a handgun, attempting to shoot birds in MacArthur Park. While Officer M was responding to the call, a unit broadcast that they heard shots being fired. To Officer M, the call appeared to be a shooting in progress. Officer M noted that MacArthur Park is "heavily populated." Arriving at the park, Officer M deployed his/her police rifle. While responding, Officer M had heard an officer request a patrol rifle.

- **Officer N** – pistol - two occurrences

First Occurrence:

According to Officer N, he/she unholstered his/her service pistol because he/she observed the Subject pointing her handgun in the air. Officer N was aware that the Subject had been pointing her handgun at the Air Unit and was concerned that she may cause the helicopter to crash. Officer N also observed the Subject point her handgun toward officers.

Second Occurrence:

According to Officer N, he/she observed the Subject "still had the gun in her hand" and was "still not listening to commands." Officer N "wasn't sure" what the Subject was "about to do."

- **Officer N** – shotgun

According to Officer N, he/she “took the shotgun” out of a police vehicle and “was assigned” to “take over for the long gun” after Officer M was “pulled back.”

- **Sergeant A** – pistol

According to Sergeant A, he/she unholstered his/her service pistol during the onset of the incident as he/she moved from a police vehicle to a palm tree to speak with Officer S; Officer S had taken a barricade position behind the tree. Sergeant A was unsure if the Subject was still armed. Sergeant A returned to the police vehicle and then holstered his/her service pistol.

The BOPC evaluated Officers G, H, I, J, M, and N. and Sergeant A’s drawing and exhibiting of a firearm. The BOPC considered that CD had broadcast a radio call for shooting in progress. Responding officers heard gunshots inside the park and observed the Subject holding a handgun; officers also had requested a police rifle. The BOPC noted that Officers G, H, I, J, M, and N had observed the Subject holding a handgun, which she pointed toward them. Officers also knew that the Subject had pointed her handgun at the Air Unit. Concerned for their safety and the safety of the public, officers exhibited a patrol rifle, shotguns, and service pistols. Based on the Subject’s actions, the BOPC concluded that it was reasonable for Officers G, H, I, J, M, and N, and Sergeant A to believe there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

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

Therefore, the BOPC found Officers G, H, I, J, M, and N, and Sergeant A’s drawing and exhibiting of a firearm to be In Policy.

C. Lethal Use of Force

- **Officer H** – (pistol, three rounds)

Background – The FID investigation determined the background included a concrete walkway, the southeast portion of the MacArthur Park Lake, a small island on the lake, and the north side of the MacArthur Park Lake.

According to Officer H, he/she observed the Subject remove her handgun from her waistband. The Subject waved the handgun back and forth then point it toward officers for several seconds. In response, Officer H aimed his/her service pistol at the Subject and placed his/her finger on the trigger. As Officer H was preparing to

discharge his/her service pistol, the Subject redirected her handgun; Officer H immediately took his/her finger off the trigger. Officer H was “scared” that either he/she or his/her partner would be killed if the Subject pointed her handgun in their direction. Approximately five seconds after “flanking” the officers, the Subject pointed her handgun at officers and assumed a shooting stance. This indicated to Officer H that the Subject was about to shoot at him/her and his/her partners. Officer H also knew there was a crowd of people behind him/her and that he/she and the other officers had limited cover. In response, Officer H discharged his/her service pistol toward the Subject. After discharging his/her first round, Officer H assessed that the Subject was still standing; Officer H did not know if the Subject had been struck by his/her round. In response, Officer H discharged a second and third round; assessing after each round. After discharging his/her third round, Officer H observed the Subject fall to the ground. Because the Subject no longer posed an immediate threat of death, Officer H ceased firing.

The BOPC assessed the reasonableness, necessity, and proportionality of Officer H’s use of lethal force. The BOPC noted that Officer H had observed the Subject remove a handgun from her waistband, wave it back and forth, then point it toward officers for several seconds. While Officer H was preparing to discharge his/her service pistol, the Subject redirected her handgun. The fact that Officer H did not discharge his/her service pistol at this point indicated to the BOPC that Officer H was continually assessing. Soon after redirecting her handgun, the Subject pointed it at officers and assumed a shooting stance. The BOPC noted that this indicated to Officer H the Subject was about to shoot at him/her and his/her partners. The BOPC also noted that Officer H was cognizant of the people behind him/her as well as the tree’s limited cover. In response, Officer H discharged three rounds from his/her service pistol toward the Subject, assessing after each round. The BOPC noted that Officer H ceased firing once he/she determined that the Subject no longer posed an imminent threat of death.

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 deadly force was proportional, objectively reasonable, and necessary.

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

- **Officer M** – (rifle, two rounds)

Background – The FID investigation determined the background included a concrete walkway, the southeast portion of the MacArthur Park Lake, a small island on the lake, and the north side of the MacArthur Park Lake.

According to Officer M, he/she observed the Subject through his/her optic; Officer M observed a handgun tucked in the Subject's waistband. Despite orders not to reach for her handgun and to get on the ground, Officer M observed the Subject remove her handgun from her waistband and point it in his/her direction. Officer M feared that the Subject was going to shoot at him/her or other officers. Hearing Officer H's first shot, Officer M "pretty much went deaf." Officer M then heard a second shot. While Officer M knew the first shot came from "one of the officers" he/she thought the Subject had fired the second shot. Officer M moved to his/her left, observed the Subject's pink shirt and the bottom portion of her arm through his/her optic. Believing the Subject's handgun was pointed toward him/her, Officer M fired two rounds from his/her patrol rifle, then came to the low-ready position to assess. According to Officer M, he/she was trained to fire two rounds then assess. Because of this, Officer M did not assess between his/her rounds. However, when Officer M fired his/her second round, he/she believed the Subject was still an immediate threat as he/she assumed his/her first round missed. After firing his/her second round, Officer M observed the Subject laying on the ground. Officers M then heard the Air Unit and an officer state that the Subject was no longer armed.

The BOPC assessed the reasonableness, necessity, and proportionality of Officer M's use of lethal force. The BOPC noted that before the OIS, Officer M was using the magnified optics on his/her patrol rifle to observe the Subject. While using the optic, Officer M observed the Subject remove a handgun from her waistband with her left hand and point it in his/her (Officer M's) direction. The BOPC noted that when Officer M moved to his/her left after Officer H discharged his/her service pistol, he/she still observed the Subject's shirt and arm extended outward. While Officer M could no longer see the Subject's handgun, based on the position and direction of her arm, he/she believed that the Subject was pointing her handgun in his/her direction. While Officer M fired his/her first round .89 seconds after Officer H discharged his/her third and final round, the BOPC opined that the lag time in Officer M's perception was reasonable. The BOPC also noted that FID could not determine precisely when the Subject dropped her handgun.

The BOPC was concerned that the magnified optics on Officer M's patrol rifle limited his/her sight picture and his/her ability to observe the gun in the Subject's hands when he/she decided to discharge his/her patrol rifle. However, because Officer M attributed Officer H's second round to the Subject, the BOPC opined that it was reasonable for Officer M to believe she was still in possession of her handgun and firing at officers.

The BOPC was also concerned by Officer M's statement that he/she did not assess between rounds as he/she was taught to shoot in pairs and then assess. The BOPC noted that shooting two rounds and then assessing is not the Department's training standard. While Department firearms training does include firing in pairs, it must be

clear that the second shot is being fired because the threat is still present after the first round was fired. When asked by FID why he/she fired his/her second round, Officer M indicated that he/she believed the Subject still posed an immediate threat of death or serious bodily injury.

The BOPC noted that when asked by FID why he/she discharged his/her first round, Officer M stated that he/she feared the Subject was going to shoot him/her. However, when Officer M discharged his/her patrol rifle, he/she did not see the Subject holding her gun; according to Officer M, all he/she could see was the Subject's pink shirt and her arm. While Officer M opined that the Subject was aiming her handgun in his/her direction, his/her belief was based solely on the angle of her arm at that point. The BOPC also noted that before Officer M discharged his/her rifle, he/she attributed Officer H's second round to the Subject. While the BOPC understood that an OIS can be overwhelming, the BOPC's concern was that Officer M formed the justification for discharging his/her rifle based at least in part on Officer H's actions, not the Subject's. Based on the totality of the circumstances, Officer M did not reasonably assess a deadly force situation before discharging his/her first round.

The BOPC noted that during his/her FID interview, Officer M stated he/she was trained to shoot two rounds then assess. Officer M is incorrect. While Department firearms training does include firing in pairs, it must be clear that the second shot is being fired because the threat is still present after the first round was fired, meaning that officers must assess after every round. When asked what caused him/her to believe the Subject was an "immediate" threat when he/she fired his/her second round, Officer M stated he/she did not know and that it was "instinctive." While the BOPC understood there are areas of police work that are instinctual, officers must be able to articulate a reasonable belief of an imminent threat of death or serious bodily injury when using deadly force. Also, when Officer M discharged his/her second round, he/she did not know if the Subject was still standing. Based on the BWV footage, it appears that the Subject was falling before Officer M discharged his/her first round. Based on his/her statement, Officer M failed to provide reasonable justification for his/her second round.

An officer's decision to utilize deadly force should be based on articulable observations and assessment of the threat posed to the officer or others at the time that decision is made. Based on the totality of the circumstances, it appears that when Officer M discharged his/her patrol rifle, he/she was reacting to what he/she believed could occur and not what was occurring.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer M, in the same situation, would not

reasonably believe that the use of deadly force was proportional, objectively reasonable, and necessary.

Therefore, the BOPC found Officer M's lethal use of force to be Out of Policy.