

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

LAW ENFORCEMENT RELATED INJURY – 039-21

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Hollenbeck	7/21/2021		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	20 years, 6 months
Officer C	3 years, 6 months

Reason for Police Contact

Officers responded to a radio call of an Assault with a Deadly Weapon (ADW) suspect there now. The responding officers made contact with a male who refused to comply with their verbal commands, resulting in a Law Enforcement Related Injury (LERI).

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 36 years of age.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations, including any Minority Opinions; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on June 21, 2022.

Incident Summary

The incident began when an Emergency Board Operator (EBO) received a radio call from a PR, who stated there was a male attacking a female with a knife in the homeless encampment across from his residence.

Police Officers A and B responded with emergency lights and siren (Code Three).

Additionally, Sergeant A responded from the local police station. Police Officers C, D, E, and F notified Communications Division (CD) they would respond Code Three as well.

Officers A and B had worked together for approximately three months. According to Officer B, they had had discussions regarding contact, cover, lethal and less-lethal roles, depending on the type of call and information provided.

While responding, Officer A monitored the radio call and requested Air Support Division to respond. An Air Unit responded overhead and monitored the area for any possible suspects as officers were en route to the location. Officers A and B discussed their less-lethal options and determined Officer A would utilize the bean bag shotgun.

Officer A advised CD as to their status and location (Code Six). As they were looking for the suspect, they were approached by the female victim, Victim A. She directed them to the area where the Subject was located. Victim A, who was captured on their Digital In-Car Video System (DICVS) stated the Subject attacked her with a knife.

Officer A retrieved the Beanbag shotgun from the trunk and loaded the chamber with a Beanbag Super-Sock round. The Beanbag shotgun contained three additional Super-Sock rounds in the magazine tube.

Officers A and B were directed to the Subject's location in the center median by the Air Unit. Officers A and B observed the Subject, parked, and deployed from the vehicle. Officer B unholstered his/her pistol, which he/she held in the low-ready position with his/her finger along the frame. According to Officer B, he/she believed the situation may escalate to the point where deadly force could be used, as he/she knew the Subject was armed with a knife.

Officer B immediately began to give the Subject verbal commands to turn around, in English and Spanish. The Subject raised his hands but refused to comply with any commands.

According to Officer B's BWV, he/she continued to give commands to, "[G]et down on your knees," "turn around," and "listen to me," in both English and Spanish to no avail. Officer B also assured the Subject he would "be fine", which also garnered no compliance from the Subject.

Officers C and D arrived at scene and notified CD via radio they were Code Six. According to Officer C, when the officers arrived, the Subject was approximately 25 feet from Officers A and B and was not complying with their orders. Due to the Subject being an ADW suspect with a knife, Officer C unholstered his/her pistol, and held it in a low-ready position with his/her finger along the frame.

Officer D stated that Officer A had the Beanbag shotgun and he/she assigned Officer C radio communications. According to Officer D, he/she unholstered his/her pistol due to the nature of the radio call. Officer D stated that the Subject had already assaulted one person with a knife, which was readily accessible in plain view. Officer D held his/her pistol in a low-ready position with his/her finger along the frame. Officer D advised Officer A that he/she would be his/her lethal protection and Officer C would be assigned to communications. At that time, Officer C believed he/she holstered his/her pistol and requested an additional unit to stop traffic in the event the Subject ran into oncoming traffic.

The Air Unit broadcast to CD via radio, *"I have the suspect walk, hold the frequency, make it a back-up, I have the suspect walking away from the officers not complying"*.

According to Officer A's BWV, he/she gave a Use of Force warning, advising the Subject, *"Hey, if you don't comply, I will Beanbag you and it will hurt, do you hear me? If you do not get on your knees and comply, I will Beanbag you."*

As the Subject entered the median, Officers E and F, drove east stopping west of the Subject.

According to Officers E and F, as they approached the Subject, they drew their pistols to a low-ready position, due to the Subject being armed with a knife, they felt the tactical situation may escalate to one involving the use of deadly force. Officer F advised to watch for crossfire.

According to Officer F, upon arrival he/she observed the Subject walking away from the other officers. He/she heard orders being given and the Subject refusing to comply with the commands.

According to Officer B's BWV, at he/she holstered his/her pistol and unholstered his/her TASER.

According to Officer A, the area is usually a busy street, containing a park and a library with pedestrian traffic. Officer A was concerned the Subject could inflict injury to people in the area.

According to Officer A's BWV, the Subject walked south onto the street, changed direction, and ran approximately six to nine feet in a east direction. Officer A aimed the Beanbag shotgun at the Subject and deployed one Super-Sock round from an approximate distance of twelve feet, striking the Subject's right inner elbow.

According to Officer B's BWV, the Subject walked east in the street approximately six feet as he turned his head and looked back toward the officers. The Subject raised his left arm, placing his hand near his left ear. The Subject's right hand was near his right hip. Officer A aimed the Beanbag shotgun at the Subject and deployed a second Super-Sock round from an approximate distance of twelve feet, striking the Subject's left shoulder and left jaw.

Officer A described the Subject having his hand near the knife as he/she deployed a second Super-Sock round from the Beanbag shotgun from an approximate distance of twelve feet, aiming at the Subject's mid torso. Review of the BWV determined the Beanbag round appeared to strike the Subject's left shoulder, and then left jaw. This is consistent with photographs taken of the Subject's injuries to his left shoulder and jaw.

According to Officer B's BWV, the Subject turned his back and continued walking east with his left hand behind his neck and right arm down by his right side. Officer A aimed the Beanbag shotgun at the Subject and deployed a third Super-Sock round from an approximate distance of twelve to fifteen feet, striking the Subject's left lower back.

According to Officer A, he/she deployed a third Beanbag round toward the Subject's left flank area from an approximate distance of thirteen to fourteen feet.

According to Officer B's BWV, the Subject placed his left hand on his left hip, turned his head to the left, looked toward the officers, and stopped. Officer A aimed the Beanbag shotgun at the Subject and deployed a fourth Super-Sock round, as the Subject looked away, from an approximate distance of fifteen feet, striking the Subject's left elbow.

Officer A described the Subject as bladed toward him/her with his hand near the knife as he/she deployed the Beanbag toward the Subject's mid-section from an approximate distance of fifteen feet. Review of BWV determined there were no pedestrians seen in the background at the time Officer A deployed the Beanbag shotgun.

According to Officer B, he/she observed Officer A begin to reload the beanbag shotgun after firing the fourth time. The Subject had moved his right hand toward his waist, where the knife was located, several times. He/she did not want the Subject to have the opportunity to get the knife and come toward him/her.

According to Officer B's BWV, Officer B yelled, "*He's still not complying,*" as the Subject moved north, into the median. Officer B pointed his/her TASER toward the Subject and activated the TASER in probe mode. According to Officer B, his/her TASER activation was ineffective.

According to Officer C, he/she observed Officer B's TASER activation. Officer C observed only one dart strike the Subject on his left arm area while the second dart struck the ground, rendering the activation ineffective.

According to Officer C's BWV, Officer C holstered his/her pistol and transitioned to his/her TASER as the Subject faced north with his back to Officer C. The Subject's arms were bent at the elbow and his hands were up. The Subject was looking toward Officer B. Officer C pointed his/her TASER toward the Subject and activated the TASER in probe mode.

According to Officer C's BWV, after Officer C deployed his/her TASER, the Subject immediately fell to the ground and rolled into the street. Officer F approached the Subject and placed his/her left knee on the Subject's lower back; he/she then took the Subject's right arm and placed it behind his back. Officer F handcuffed the Subject's right wrist.

According to Officer F's BWV, once the Subject's right wrist was handcuffed by Officer F, Officer D grabbed the Subject's left wrist and left bicep and pulled his arm out from underneath his body. Officer D moved the Subject's left wrist to his lower back as Officer F completed the handcuffing.

According to Officer D, the Subject was lying in a prone position; his body was tense with his arms underneath his body.

Officer E holstered his/her pistol once the Subject was handcuffed.

Officer C requested the Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) for the Subject.

According to Officer F, he/she observed a pocketknife on the Subject's pants, which he/she removed and gave to Officer E. Officer F noted the Subject was bleeding from the facial area, put his/her gloves on, and conducted a pat down search of the Subject's person, recovering a glass pipe from his pocket. He/she sat the Subject upright and leaned him forward until the RA arrived.

Police Officers G and H responded to the radio call, arriving after the Use of Force occurred. Officer H rode in the RA with the Subject to the hospital.

The Subject was interviewed at the hospital by Force Investigation Division (FID) investigators. According to the Subject, he was in his tent when he became mad during a conversation with God. He exited his tent and was confronted by Victim A, who he stated did not like him and was saying bad words to him. This made him angry and he cut her tent with his knife. The Subject denied threatening her. When the police arrived, the Subject stated he heard commands to turn around, but did not comply with their command. According to the Subject he had used "*crystal*" (methamphetamine) the day prior to the incident.

Officers A and B located Victim A at her tent, conducted an interview, and took photographs of her and the crime scene. According to Victim A, the Subject had previously attacked her with a knife, but she did not call the police.

Sergeant A arrived at scene with Sergeant B. Upon his/her arrival, he/she was briefed by Officer A, who advised him/her that a beanbag shotgun, as well as two TASER's, had been deployed. At that time, Sergeant A began to conduct a Non-Categorical Use of Force investigation, with the assistance of Sergeant B. Sergeants A and B canvassed the area, interviewed witnesses, and took photographs of the scene.

Watch Commander Sergeant C was notified that the Subject was admitted to the hospital for a fractured jaw.

Department Operations Center (DOC) was notified of the Categorical Use of Force by Sergeant C.

BWV and DICVS Policy Compliance

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Officer A	Yes	Yes	Yes	Yes	Yes
Officer B	No	Yes	Yes	Yes	Yes
Officer C	Yes	Yes	Yes	Yes	Yes
Officer D	Yes	Yes	Yes	Yes	Yes
Officer F	No	Yes	Yes	Yes	Yes
Officer E	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 A, B, and C's tactics to warrant Administrative Disapproval, and Officers D, E, and F's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Officers B, C, D, E, and F's drawing and exhibiting of a firearm to be In Policy

C. Less-Lethal Use of Force

The BOPC found Officers A and C's less-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 suspected offense or the reasonably perceived level of actual or threatened resistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Definitions

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

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

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

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

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

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

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

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

- Serious disfigurement.

Totally 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 Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication*
(Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)

Tactical de-escalation does not require that an officer compromise his/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 – Responding to the call, Officers A and B discussed tactics, including the deployment of less-lethal and additional resources, such as backup units and Air Support. Officers also discussed the location, noting that it was a center median, frequented by transients. After arriving at the scene, Officer D assigned roles, designating Officer A as less-lethal, Officer B as contact, Officer C as communications, and him/herself as lethal cover.

Assessment – Because the comments of the call indicated that the Subject was armed with a knife, Officer A chose to deploy a beanbag shotgun. As the incident progressed, officers communicated in both English and Spanish. Concerned that the Subject may enter the roadway, officers requested units to block traffic. Assessing their surroundings, officers noted there was a library nearby; officers were concerned that the Subject could pose a danger to the public. While the BOPC noted the officers' concerns, based on Body Worn Video (BWV) footage, there did not appear to be pedestrians near the Subject. The BOPC would have preferred that the officers had continued to assess the situation before using less-lethal force.

Time – Locating the Subject, Officers A and B maintained distance while attempting to obtain his surrender. Arriving at the scene, Officers C and D joined Officers A and B. All four officers maintained their distance as they continued efforts to obtain the Subject’s surrender. At one point, Officer D adjusted Officer A’s position back, creating greater distance from the Subject. As the incident progressed, the Subject walked into the roadway. At this point, officers closed the distance and the UOF occurred. The BOPC would have preferred that the officers had maintained their distance, allowing additional time for de-escalation.

Redeployment and/or Containment – As previously stated, Officers A, B, C, and D maintained their distance as they continued efforts to obtain the Subject’s surrender. While doing so, the officers used the available foliage as cover/concealment while attempting to contain the Subject in the median separating the roadways. When the Subject walked into the roadway, officers closed the distance. The BOPC would have preferred that the officers had maintained their distance and attempted to contain the Subject.

Other Resources – Based on the nature of this call, CD assigned a supervisor to respond. Responding to the scene, Officer A requested an Air Unit. As the incident progressed, the Air Unit requested backup units. Both the Air Unit and Officer C requested a unit to block traffic. While Officers E and F parked in an eastbound lane in the roadway, the BOPC would have preferred that one of the officers had remained with the police vehicle, blocking eastbound traffic.

Lines of Communication – Responding to the location, Officers A and B communicated with the Air Unit. The Air Unit helped direct Officers A and B to the Subject’s location. Locating the Subject, officers attempted to communicate with him in English and Spanish. As the incident progressed, the Air Unit and Officer C continued to update CD. Observing a knife attached to the Subject’s belt, Officer B advised his/her partners of his/her observations. As opposed to approaching the Subject, the BOPC would have preferred that officers on the ground had coordinated containment with the Air Unit while continuing to communicate with the Subject.

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

1. **Tactical Planning/Communications** – Arriving at the scene, Officers E and F parked and joined Officers A, B, C, and D as they followed the Subject. Having just arrived, Officers E and F did not know what roles had been designated. While a UOF warning had been provided, and he/she had announced, “beanbag ready,” before the Subject walked into the roadway, Officer A did not advise his/her partners he/she was discharging an impact round. However, it was clear when Officers B and C were going to discharge their TASERS. Before approaching and apprehending the Subject, officers did not designate an arrest team, nor did they coordinate their approach.

The BOPC assessed the officers' planning and communication during this incident. The BOPC noted the officers' efforts to control a dynamic and chaotic situation. Officers A and B deployed less-lethal and maintained distance while attempting to communicate with the Subject. The BOPC also noted that soon after arriving, Officer D assumed command and control, designating lethal, less-lethal, contact, and communications officers. As the senior officer at the scene, the BOPC would have preferred that Officer A had taken more of a leadership role, transferring less-lethal duties and assuming command and control when Officers C and D arrived.

The BOPC noted that officers planned to shut down traffic in case the Subject walked into the roadway. The BOPC also noted that officers initially planned to maintain distance. When the Subject walked into the roadway, the BOPC would have preferred greater communication between the officers.

The BOPC discussed Officers E and F's actions as the third unit on the scene. The BOPC noted that when Officers E and F arrived, the Subject had already entered the roadway. Officers E and F were not privy to the discussion that had occurred before their arrival and would not have known what roles had been designated or what plans were developed. While the BOPC would have preferred there was some planning and communication between Officers E, F, and their partners, the BOPC noted that the UOF occurred before they could meet. While the BOPC still would have preferred a coordinated arrest team, the Subject was experiencing neuromuscular incapacitation when the officers approached; had the Subject violently resisted, the TASER could have been reactivated as the probes were attached.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers A, B, D, C, E, and F were not a substantial deviation from approved Department tactical training.

- 2. Approaching an Armed Suspect** – the Subject refused to comply with the officers' commands and entered the roadway. As Officers A, B, C, and D followed the Subject they closed the distance. Arriving on the scene, Officers E and F exited their police vehicle and joined Officers A, B, C, and D as they followed the Subject. Standing approximately 12 feet away, Officer A discharged his/her first beanbag shotgun round at the Subject. Following Officer A's use of the beanbag shotgun, Officers B and C separately approached the Subject and discharged their TASERS.

The BOPC assessed the officers' decision to approach the Subject, knowing/believing he was armed with a knife. In terms of Officer A, the BOPC opined that his/her action caused his/her partners to follow suit. The BOPC noted that before the Subject entered the roadway, Officer D pulled Officer A back. When the Subject entered the roadway, Officer A was the first to follow.

As the Subject continued south, instead of maintaining distance, Officer A approached within 12 feet, discharging four beanbag shotgun rounds from an increasing distance of 12 to 15 feet. The BOPC noted that according to a Subject Matter Expert from Training Division, approaching a suspect with an edged weapon generally is contrary to Department tactical training. The BOPC would have preferred that Officer A had maintained distance and attempted to contain the Subject. The BOPC opined that had he/she maintained distance, Officer A may not have perceived the threat that prompted him to use less-lethal munitions.

In terms of Officer B, the BOPC noted that while he/she initially remained behind Officer A, as he/she was reloading his/her beanbag shotgun, he/she moved forward to use his/her TASER on the Subject. Officer B believed that the beanbag shotgun was ineffective and that the Subject was able to reach his knife. He/she wanted to prevent the Subject from approaching officers or fleeing toward civilians. Like Officer A, the BOPC would have preferred that Officer B maintained distance and attempted to contain the Subject. The BOPC opined that by closing distance, Officer B placed him/herself at a tactical disadvantage, minimizing his/her options and ability to accurately assess the situation.

In terms of Officer C, the BOPC noted that as the incident progressed, he/she walked past Officers A, B, and D, closing distance on the Subject. The BOPC opined this was contrary to Department tactical training involving edged weapons. The BOPC also opined that his/her actions prompted Officers E and F to approach the Subject. Following Officer A's use of the beanbag shotgun, and Officer B's use of the TASER, Officer C approached the Subject, discharging his/her TASER. While the TASER was effective, the BOPC opined that Officer C's use of less-lethal force did not conform to policy. Like Officers A and B, the BOPC would have preferred that Officer C maintained distance and attempted to contain the Subject. The BOPC opined that by closing distance, Officer C placed him/herself at a tactical disadvantage, minimizing his/her options and ability to accurately assess the situation.

Regarding Officer D, the BOPC noted his/her efforts to control the pace of this incident. Officer D had designated roles and at one point pulled Officer A back by his/her duty belt. When the Subject walked into the roadway, Officer D followed behind Officer A, ostensibly attempting to control his/her forward progress. The BOPC opined that Officer D's actions did not cause officers to close the distance; rather he/she followed his/her partners, attempting to maintain command and control.

As it relates to Officers E and F, the BOPC noted they were responding to the initial radio call involving an assault with a knife. As Officers E and F were responding, the Air Unit requested a backup for the units at scene, indicating that the suspect was refusing to comply. Arriving at the scene, Officers E and F observed Officers A, B, and C following the Subject on foot across the street;

Officer F noticed that Officer A had a beanbag shotgun deployed. While Officer F had considered blocking traffic, he/she and his/her partner noticed that the Subject was refusing to surrender. Believing their partners needed help apprehending the Subject, Officers E and F felt compelled to assist. In response, Officers E and F began to follow the group. While the BOPC would have preferred that Officers E and F maintained distance and attempted to contain the Subject, the BOPC opined it was reasonable for them to approach with their partners to assist them if needed.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officer D, E, and F were a substantial deviation, with justification, from approved Department tactical training. The BOPC also determined that the tactics employed by Officers A and C were a substantial deviation, without justification, from approved Department tactical training. Additionally, the BOPC determined that the tactics employed by Officer B were a substantial deviation, without justification, from approved Department tactical training.

- 3. TASER Protocols** – The FID investigation was unable to determine if Officer B's TASER probes contacted the Subject. Per Department Manual, Volume 4, Section 245.05, 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 B's TASER deployment will be assessed solely for tactics.

According to Officer B, the Subject had moved his right hand toward his waist several times. Officer B described the surrounding area as having pedestrian and vehicle traffic. Officer B believed that the beanbag shotgun was ineffective and that the Subject was able to reach his knife. To prevent the Subject from approaching officers or fleeing toward civilians, Officer B discharged his/her TASER in probe mode; however, the probes appeared to miss the Subject and the TASER was ineffective.

The BOPC evaluated Officer B's decision to use the TASER. The BOPC noted that when Officer B discharged his/her TASER, the Subject was stationary, and his hands were down. While Officer B was concerned that the Subject could reach his knife, he had not done so; the knife was still attached to his belt. While Officer B was concerned about citizens, based on the BWV footage, there were no citizens near the Subject when he was tased. The BOPC opined that when Officer B deployed the TASER, the Subject was not violently resisting arrest, nor did he pose an immediate threat of violence or physical harm. The BOPC opined that Officer B's decision to discharge the TASER did not conform to Department protocols.

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

- The BOPC also noted the following:
 - **Transporting a Loaded Beanbag Shotgun** – After speaking to Victim A, Officer A retrieved the beanbag shotgun, loaded a round in the chamber, and re-entered the police vehicle, placing the beanbag shotgun between his/her legs, muzzle down. Officer B then drove a short distance. Alternatively, Officer A could have waited until he/she reached his/her final destination before chambering a round.
 - **Simultaneous Non-Conflicting Commands** – Multiple officers on the scene were heard giving simultaneous non-conflicting commands to the Subject. Officer B should have been allowed to act as the sole contact officer. Alternatively, officers could have switched roles.
 - **Beanbag Protocols** – According to Officer A, he/she aimed for the Subject's upper torso, mid-torso, mid-section, and above the left flank. Per the Department's beanbag protocols, the primary target areas are the navel area or beltline, but officers may target the suspect's arms, hands, or legs when practicable. Per the FID investigation, the Subject was struck on his right elbow, left shoulder (which ricocheted to his left cheek), lower back, and left elbow.
 - **Non-Medical Face Coverings** – Officers A, B, C, D, E, and F were not wearing non-medical face coverings as directed by the Chief in May 2020. Additional personnel not wearing non-medical face coverings will be addressed at the divisional level.

These topics were to be discussed at the Tactical Debrief.

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

In conducting an objective assessment of this case, the BOPC determined that the actions of Officers D, E, and F were a substantial deviation, with justification, from approved Department tactical training. The BOPC also determined that the actions of Officers A and C were a substantial deviation, without justification, from approved Department tactical training. Additionally, the BOPC determined that the actions of Officer B were a substantial deviation, without justification, from approved Department tactical training.

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

Thus, the BOPC found Officers A, B, and C's tactics to warrant Administrative Disapproval, and Officers D, E, and F's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- **Officer B** – While communicating with the Subject, Officer B observed a folding knife attached to the Subject's belt. In response, Officer B unholstered his/her service pistol. Because the Subject was armed with a knife and had allegedly attempted to stab Victim A, Officer B believed the situation could escalate to the use of deadly force.
- **Officer C** – First Occurrence: According to Officer C, the comments of the call indicated that the suspect had attempted to stab the victim with a knife. Based on the comments of the call, Officer C unholstered his/her service pistol.

Officer C – Second Occurrence: Observing the Subject moving around, Officer C believed he/she could lunge at officers with the knife. In response, Officer C unholstered his/her service pistol.

- **Officer D** – According to Officer D, he/she unholstered his/her service pistol because the incident involved an ADW suspect armed with a knife. Because the Subject was armed with a knife, Officer D believed the situation could escalate to one involving the use of deadly force.

Officer E – According to Officer E, he/she was responding to a radio call of an ADW suspect armed with a knife. Based on the nature of the call, Officer E believed the situation might escalate to the use of deadly force. In response, Officer E unholstered his/her service pistol.

- **Officer F** – According to Officer F, he/she responded to a radio call involving an ADW suspect armed with a knife. Observing that officers had less-lethal deployed, Officer F felt he/she was in a position to provide lethal cover. Officer F unholstered his/her service pistol because he/she believed the situation could escalate to one involving the use of deadly force.

The BOPC evaluated Officers B, C, D, E, and F's drawing and exhibiting of their service pistols. The BOPC noted that the officers responded to a radio call alleging that the Subject had attempted to stab Victim A with a knife. In terms of Officers B, C, and D, the BOPC noted that when contacted, the Subject had a knife attached to his belt. While the Subject raised his hands, he refused the officers' commands to surrender. In terms of Officer C's second drawing and exhibiting, the BOPC noted that Officer C believed the Subject could lunge toward officers with the knife. In terms of Officers E and F's drawing and exhibiting, the BOPC noted that when they arrived, the Subject was walking across the roadway, ostensibly evading apprehension while approaching Officers E and F. Based on the nature of the call, Officers E and F believed the situation might escalate to the use of deadly force.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officers B, C, D, E, and F 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 B, C, D, E, and F's drawing and exhibiting to be In Policy.

C. Less-Lethal Force

- **Officer A** – (beanbag shotgun, four Super Sock impact rounds, from an increasing distance of 12 to 15 feet)

First Round: According to Officer A, he/she observed the Subject move back toward the officers while dropping his/her right hand near the knife attached to his belt. Believing that the Subject was going to use the knife against the officers, Officer A discharged one impact round from his/her beanbag shotgun at the Subject's upper torso, from approximately 12 feet, striking his right inner elbow.

Second Round: Following Officer A's first round, the Subject continued east on the roadway approximately six feet, turned his/her head, and looked back toward the officers. The Subject raised his left arm, placing his hand near his left ear. Officer A described the Subject as having his right hand near the knife. Officer A discharged his/her second impact round at the Subject's mid-torso, from approximately 12 feet, striking his left shoulder and the left side of his jaw.

Third Round: Following Officer A's second impact round, the Subject turned his back and continued walking in an easterly direction with his left hand behind his neck and right arm down by his right side. Observing that the Subject's hand was still near the knife, Officer A discharged his/her third impact round at the Subject's left buttocks/flank area, from 12 to 15 feet, striking his left lower back.

Fourth Round: Following Officer A's third impact round, the Subject placed his left hand on his left hip, turned his head to the left, looked toward the officers, and stopped. Officer A described the Subject as being bladed toward him/her and having his right hand near the knife. Officer A discharged his/her fourth impact round at the Subject's mid-section, from approximately 15 feet, striking his left elbow.

The BOPC assessed the proportionality and objective reasonableness of Officer A's use of less-lethal force. The BOPC noted that when Officer A discharged his/her impact rounds, the Subject was failing to comply by attempting to flee from officers. While Officer A was concerned that the Subject's hand was by his knife, it remained attached to his belt throughout the incident. While Officer A was concerned about citizens, based on the BWV footage, there were no citizens near the Subject when

Officer A discharged his/her impact round. The BOPC opined that when Officer A discharged his/her beanbag shotgun rounds, the Subject was not violently resisting arrest, nor did he pose an immediate threat of violence or physical harm. While Officer A perceived that the Subject had moved toward officers before discharging his/her first impact round, the BOPC noted that the Subject moved laterally, past officers. The BOPC opined that by closing the distance on the Subject, Officer A limited his/her options and his/her ability to accurately perceive the Subject's actions.

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 not reasonably believe that the use of less-lethal force was proportional and objectively reasonable.

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

- **Officer C** – (TASER, one TASER activation, in probe mode from an approximate distance of 7 feet)

According to Officer C, he/she observed that Officer B's TASER was ineffective. Officer C holstered his/her service pistol and transitioned to his/her TASER. The Subject was looking toward Officer B and his back was to Officer C. During this incident, Officer C had seen the Subject touching his knife. While the Subject's arms were bent at the elbow and his hands were up, Officer C could not see the Subject's right hand or right hip. To prevent the Subject from advancing toward Officers B, Officer C discharged his/her TASER in probe mode, striking the Subject in the back. The Subject immediately fell to the ground and rolled into the street.

The BOPC assessed the proportionality and objective reasonableness of Officer C's use of less-lethal force. Despite his/her concerns that the Subject would move toward Officer B, the BOPC noted that when Officer C discharged his/her TASER, the Subject was standing still. The Subject's arms were bent at the elbow and his hands were up. While the Subject had not been apprehended, he was not violently resisting, nor was there any indication that he posed an immediate threat of violence or physical harm, at that point. While Officer C had seen the Subject touching his knife during this incident, according to Officer C, the Subject never attempted to remove it from his belt. Additionally, when Officer C discharged his/her TASER, he/she could not see the Subject's right hand or hip. As such, the BOPC opined that Officer C was reacting to what he/she believed could happen, not what was occurring.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer C, in the same situation, would not reasonably believe that the use of less-lethal force was proportional and objectively reasonable.

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

Accordingly, the BOPC found Officers A and C's less-lethal use of force to be Out of Policy.