

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

**OFFICER-INVOLVED SHOOTING – 053-21**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Hollywood	10/2/21		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	3 years, 1 month
Officer C	1 years, 10 months

**Reason for Police Contact**

A sergeant was stopped at a traffic signal when he/she was approached by tourists who reported that their friend had just been stabbed. The sergeant exited his/her vehicle, located the Subject, and broadcast a request for backup, which prompted the response of additional officers. The Subject refused to comply with repeated commands to drop the knife. The Subject then advanced on the officers while armed with the knife, resulting in a less-lethal beanbag deployment and an officer-involved shooting (OIS).

<b>Subject</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Male, 27 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 (CUOF) 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 (FID) 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 August 23, 2022.

## **Incident Summary**

On Saturday, October 2, 2021, at approximately 1101 hours, the Victim, Witness A, and Witness B were walking east in the crosswalk of a busy Hollywood area intersection. As they approached the northeast corner of the intersection, the group was approached by the Subject. As the Victim continued east on the sidewalk, the Subject stabbed her in the abdomen and then walked north.

At the time of the incident, Sergeant A was in the area to monitor a protest and had already broadcast his/her status and location (Code Six). Sergeant A, who was stopped at the intersection, did not witness the stabbing, but was quickly approached by Witnesses A and B who told him/her that the Victim had been stabbed. Sergeant A exited his/her vehicle and used his/her police radio to broadcast, "Let me get an additional unit to my location for a 415 man." Witnesses A and B directed Sergeant A to the Victim who was standing on the north sidewalk. According to Sergeant A, he/she observed the Victim clutching her stomach but did not observe any obvious signs of injury.

Witnesses A and B directed Sergeant A to where they last observed the Subject. According to Sergeant A, he/she believed the Subject fled north and proceeded with the intention of visually tracking the Subject. Sergeant A walked north and observed the Subject standing on the east sidewalk, approximately 77 feet north of the stabbing location.

Upon locating the Subject, Sergeant A positioned him/herself on the east sidewalk approximately 35 feet south of the Subject and ordered him, "Get your hands up. Come over here." According to Sergeant A, the Subject held a knife to his neck with his left hand, while flicking his tongue out and making unintelligible noises. Additionally, Sergeant A observed that the Subject was acting irrationally and appeared to have a mental illness. In response, Sergeant A unholstered his/her handgun and broadcast a backup request for a "415 man with a knife."

According to Sergeant A, he/she assessed that there was limited cover available but observed a metal newspaper stand in front of him/her that he/she considered a "barrier of last resort" if the Subject charged at him/her. While waiting for backup officers to arrive, Sergeant A requested a Rescue Ambulance (RA) for the Victim, directed an approaching pedestrian to leave the area, and told the Subject that he/she needed his cooperation.

Approximately 60 seconds later, Officers A and B arrived and positioned their police vehicle on the east side of the roadway facing the Subject. Before these officers were able to exit, the Subject threw a soda can toward their police vehicle with his right hand while maintaining the knife at his neck with his left hand. As the officers exited their vehicle, Sergeant A warned them that the Subject was armed with a knife. Officer B positioned him/herself behind his/her ballistic door and unholstered his/her duty pistol, while Officer A obtained a beanbag shotgun from the trunk of the officers' police vehicle.

Officer A initially positioned him/herself behind his/her ballistic door and unholstered his/her handgun but decided to transition to the beanbag shotgun upon observing other officers with their handguns out. According to Officer A, he/she did so in an effort to “de-escalate” the situation.

Officers C and D arrived approximately 10 seconds after Officers A and B. Officer C parked their police vehicle immediately south of Officer A’s police vehicle in a similar orientation. According to Officer C, he/she unholstered his/her duty pistol and redeployed behind Officer A’s ballistic door because it provided him/her a better view of the Subject. Simultaneously, Officer D unholstered his/her TASER and moved to the metal newspaper stand.

After acquiring the beanbag shotgun, Officer A joined Officer D at the newspaper stand. Upon seeing Officer A equipped with the beanbag shotgun, Officer D holstered his/her TASER and unholstered his/her duty pistol to act as Officer A’s cover officer.

As the Subject continued to hold the knife to his neck, Officer B said, “Hey dude, just do me a favor, drop that. Drop what you have in your hand. Just drop it bro, we’re going to get you some help. We can’t help you until you drop that.” Additionally, Officer C also requested that the Subject drop the knife, saying, “Hey, drop the knife bro...Come on bro, just drop it.” In response, the Subject laughed and displayed his middle finger in the direction of Officer C.

While the officers spoke to the Subject, Sergeant A stepped back, repeated his/her RA request to Communications Division (CD) and assessed the area. According to Sergeant A, he/she was concerned by the amount of pedestrian traffic in the vicinity and identified the need for more officers to secure the area.

While Sergeant A was performing his/her assessment, the Subject turned his focus to the officers near the newspaper stand and counted “One, Two, Three!” before repeatedly bringing his arms down to his thighs and thrusting his hips in the direction of the officers. In response, Sergeant A directed Officer A to give the Subject the less-lethal warning.

As Officer A began to speak, the Subject, who was approximately 21 feet away, advanced toward the officers with the knife in his left hand. Officer A had previously heard the RA request for the Victim and was concerned that the Subject had already been violent and caused injury to others. Additionally, he/she believed the Subject’s counting indicated he was about to attack. Before he/she could provide a warning, the Subject advanced south toward him/her and the other officers, with the knife in his left hand. When later interviewed, Officer A stated, “As soon as I raised my voice to say something, he - - that’s when he was looking at me and his attention was drawn to me and that’s when he started moving towards me.”

In response to the Subject's actions, Officer A fired four beanbag rounds and Officer C fired two pistol rounds, as summarized below:

### **Beanbag Round No. 1**

Upon the Subject moving three steps toward officers, Officer A aimed his/her beanbag shotgun at the Subject's navel area and discharged one round from an approximate distance of 15 feet. The round struck the Subject's abdomen above the navel. When later interviewed, Officer A stated, "He had the - - his knife down in his hand like - - like he was about to use it and he took an aggressive step - - aggressive step towards me. It wasn't necessarily a sprint, but he was walking towards me with a purpose." According to Officer A, the Subject flinched when the beanbag round struck him, but remained "agitated," "aggressive," and armed with the knife.

### **Pistol Rounds Nos. 1 and 2**

When interviewed by FID regarding his/her perspective, Officer C stated, "What I heard was, that there was a victim that was stabbed and that they needed an RA for her. So, at that point, now I'm more aware that this guy is serious that he's going to hurt somebody else if he's not contained because now he's - - he already stabbed somebody and he's still defying the police. And we're telling him, 'Just put the knife down.'" According to Officer C, he/she heard the Subject counting down while focusing on the officers in front of him. He/she then observed the Subject step toward Officers A, D, and Sergeant A, while tightly holding the knife in his left hand with the point of the knife directed at the officers. Officer C noted, "His demeanor changed. He looked a lot more serious and he was ready to do some harm."

Officer C observed the Subject take approximately four large steps towards the officers before Officer A's beanbag round impacted the Subject. According to Officer C, the Subject advanced another step, placing him within five feet of Officers A, D, and Sergeant A. Officer C yelled, "Hey, drop the knife!" before firing two rounds at the Subject's center mass. According to Officer C, he/she determined there was no need to fire additional rounds because he/she observed the Subject had stopped his advance and relocated to a palm tree that was behind the Subject on the sidewalk. When later interviewed, Officer C stated, "I think he took another step after he was bean-bagged. And that's when I figured, oh, he's not stopping. That's when I shot." Officer C explained, "I did it to protect my fellow officers and I - - if I didn't, I believe that an officer would have been hurt if - - if I didn't shoot."

Officer C mistakenly believed that he/she only fired one round during the incident. According to Officer C, he/she realized he/she fired two rounds upon completing the magazine count of his/her handgun with FID investigators. The investigation determined Officer C fired twice when the Subject was approximately 15 feet from Officers A and D.

## **Beanbag Round No. 2**

After the Subject was struck with the first beanbag round, Officer A observed that the Subject was still armed with the knife and acting “aggressive.” In response, Officer A targeted the Subject’s navel area and fired a second beanbag round. When later interviewed, Officer A stated, “At that point that was my only weapon that I had to try to stop him, and I was in fear that he was going to harm myself or other officers.”

Officer A believed his/her second beanbag round struck the left side of the Subject’s torso. The investigation determined that Officer A’s second beanbag round struck the upper portion of the Subject’s left arm as he was turning clockwise.

## **Beanbag Round No. 3**

After the Subject was struck with the second beanbag round, Officer A observed him continuing to turn clockwise while still armed with the knife. Officer A observed that the Subject was turning to the north, in the direction of a pedestrian who was walking south on the sidewalk behind him. According to Officer A, he/she considered the fact that the Subject had already stabbed a community member and became concerned that the Subject would also stab or slash the pedestrian. In response, Officer A fired a third beanbag round, which impacted the Subject on the left side of his torso.

The investigation determined that the female pedestrian was approximately 60 feet from the Subject when Officer A fired his/her third beanbag round.

Two additional community members were north of the Subject at the time of the incident. One was approximately 115 feet north of the Subject, while the second community member was approximately 68 feet north of the Subject.

## **Beanbag Round No. 4**

After the Subject was struck with the third beanbag round, Officer A observed him complete his clockwise turn and begin to run north in the direction of the community members. According to Officer A, he/she considered the fact that the Subject was still non-compliant and moving toward the pedestrian while armed with the knife. In response, Officer A targeted the left side of the Subject’s torso and fired a fourth beanbag round from an approximate distance of 21 feet.

## **Timeframe Analysis**

Force Investigation Division’s Video Technology Unit (VTU) performed a Sound Graph Analysis of the BWV footage. The analysis determined all of the beanbag and pistol rounds were fired in approximately 2.22 seconds. Officer C’s rounds were the second and third rounds fired in the sequence; both were fired in the span of approximately 0.32 seconds.

## **Background Analysis**

Upon inspecting the scene and relevant video evidence, FID investigators determined that Officer C's rounds were fired in the direction of a multi-story abandoned building. This was consistent with Officer C's stated assessment of his/her background.

## **Arrest and Medical Treatment**

After the fourth beanbag round struck the Subject, he maintained control of the knife and continued running north approximately 13 feet. He then briefly paced back and forth on the sidewalk before he ultimately sat on the sidewalk near the curb. Moments later, the Subject placed the knife on the ground next to him and laid down on his left side. As the officers maintained their positions, Sergeant A announced that the Subject had dropped the knife.

Sergeant A announced that the knife was located near the Subject's foot and formed an arrest team to take him into custody. Officer A remained equipped with his/her beanbag shotgun, while Officers D and E provided cover with their handguns. As the team approached, Officer B holstered his/her duty pistol in preparation for handcuffing.

When later asked about his/her decision to approach the Subject and take him into custody, Sergeant A stated, "My primary reason at that point was to secure the knife and to immediately render aid because I believed at that time an OIS did occur and my ability to be able to either, A, possibly save his life or, B, give the necessary medical treatment, was paramount afterwards."

When the officers approached the Subject, he was on his left side with his feet pointing west and his head pointing east. As the team neared the Subject, Officer D instructed him not to reach for the knife and Sergeant A called for the team to stop. Officers A and D and Sergeant A then ordered the Subject to roll onto his stomach and away from the knife; the Subject complied. Officer E then stepped forward and moved the knife away from the Subject to prevent him from rearming himself.

After Officer E moved the knife, Officer B approached and guided the Subject's right forearm behind his back before securing a handcuff to the Subject's right wrist. As he/she did so, Officer A slung his/her beanbag shotgun and moved the Subject's left arm behind his back. Officer B held both of the Subject's arms, while Officer A applied a handcuff to the Subject's left wrist. Officers A and B then joined the two sets of handcuffs behind the Subject's back.

Immediately after the Subject was handcuffed, Officers A and B checked him for injuries. The officers ultimately located gunshot wounds to the Subject's right shoulder and to the upper right portion of his back. Sergeant A requested an RA for the Subject after officers located the first gunshot wound. While waiting for the RA to arrive, the officers applied direct pressure to both wounds. They then placed the Subject in a left lateral recumbent position and monitored him until the arrival of paramedics.

Approximately eight minutes after the OIS, Los Angeles Fire Department (LAFD) personnel arrived and performed an assessment on the Subject before transporting him to a hospital for treatment.

**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	Yes	Yes	Yes	Yes	Yes
Officer C	Yes	Yes	Yes	Yes	Yes
Officer D	Yes	Yes	Yes	Yes	Yes
Sergeant A	Yes	Yes	Yes	No	No

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

The BOPC reviews each Categorical Use of Force (CUOF) 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, C, D, and Sergeant A’s tactics to warrant a finding of Tactical Debrief.

**B. Drawing and Exhibiting**

The BOPC found Officers A, B, C, D, and Sergeant A’s drawing and exhibiting of a firearm to be In Policy.

**C. Less- Lethal Use of Force**

The BOPC found Officer A’s less-lethal use of force to be In Policy.

**D. Lethal Use of Force**

The BOPC found Officer C’s lethal use of force to be In Policy.

**Basis for Findings**

In making its decision in this matter, the Commission is mindful that every “use of force by members of law enforcement is a matter of critical concern both to the public and the

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

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

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

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

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

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

**Verbal Warnings:** Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force



may be used, unless the officer has objectively reasonable grounds to believe that the person is already aware of those facts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Definitions

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

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

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

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

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

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

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

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

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

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

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

## **A. Tactics**

- **Tactical De-Escalation**

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

### **Tactical De-Escalation Techniques**

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

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

**Planning and Assessment** – Officers C and D had been partners for approximately two months. At the start of each shift, they designated who would be the driver/contact officer and who would be the passenger/cover officer. The officers had discussed tactics related to edged weapons, specifically maintaining distance, containing the suspect, verbalizing with them, and using additional resources to de-escalate the situation. As they responded to the scene, Officers C and D noted that a knife was involved.

This was Officers A and B's second shift as partners. During their shifts, Officers A and B had discussed tactics, specifically contact and cover, less-lethal, and how roles can change based on the situation.

Locating the Subject, Sergeant A observed that the Subject was holding a knife to his neck, flicking his tongue, and making unintelligible noises. According to Sergeant A, the Subject was acting irrationally and appeared to have a mental illness. Sergeant A noted numerous pedestrians in the area as well as an ongoing protest. Sergeant A maintained his/her distance and requested backup units. Sergeant A planned to contain the area and form an arrest team to apprehend the Subject. Sergeant A's plan for the arrest team involved lethal as well as less-lethal officers.

**Time** – While maintaining their distance from the Subject, officers used the available time to communicate with the Subject, ordering him to drop the knife. When the Subject disregarded the officers’ commands and advanced on them while armed with the knife, he limited their ability to use time as a de-escalation technique.

**Redeployment and/or Containment** – As stated above, Sergeant A planned to contain the area and form an arrest team to apprehend the Subject. Due to the number of pedestrians and the lack of feasible cover, Sergeant A’s and his/her officers’ ability to redeploy was limited. Sergeant A took note of a nearby metal newspaper stand that he/she could use as a “barrier of last resort.” Officers A and D utilized the same metal newsstand as cover while communicating with the Subject. Officer C was able to utilize Officer A’s police vehicle driver-side door for cover, while Officer B utilized the passenger side for cover.

**Other Resources** – Hailed by Witnesses A and B, Sergeant A requested an additional unit for a 415 man. Locating the Subject, Sergeant A requested backup units. While waiting for backup units, Sergeant A requested an RA for the Victim. Arriving at the scene, Officers A and B unholstered their service pistols. Observing other officers with their service pistols drawn, Officer A holstered his/her service pistol and transitioned to the beanbag shotgun. After the OIS, Sergeant A requested a second RA.

**Lines of Communication** – Locating the Subject, Sergeant A attempted to establish a line of communication with him. The Subject placed the knife to his throat while speaking incoherently and drinking a soda, ostensibly ignoring Sergeant A. When officers arrived, Sergeant A began directing them and designating roles. As additional units arrived, they attempted to establish lines of communication with the Subject, ordering him to drop the knife. The Subject refused to drop the knife, holding it to his throat while gesturing with his middle finger. After the OIS, officers continued to verbalize with the Subject, to prevent the use of additional force.

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

#### **1. Code Six**

Officers A and B were the first unit to arrive after Sergeant A requested a backup unit; however, they did not broadcast they were Code Six (that they had arrived on scene). According to Officer B, he/she attempted but was unable to go Code Six over the radio because the frequency was busy.

The BOPC noted that an essential purpose of the Code Six policy is to inform others of an officer’s location and activity should he/she or she need assistance. Here, the BOPC noted that Officers A and B had advised Communications Division (CD) that they were responding to the scene. When Officers A and B

arrived, they were immediately confronted by the Subject, who threw an aluminum soda can at their police vehicle. The Subject was armed with a knife which he held to his neck. Deploying from their police vehicle, Officers A and B quickly assumed roles as lethal and less-lethal officers. Although Officer B attempted to advise CD that he/she was at the scene, he/she found that the frequency was occupied and did not want to step on someone else's transmission in case they were transmitting pertinent information. The BOPC also noted that Officers C and D arrived approximately 10 seconds after Officers A and B. Additionally, Sergeant A was present when Officers A and B arrived and numerous units were responding. While the BOPC would have preferred that Officers A and B had advised CD that they were Code Six, the BOPC opined that had they needed assistance, other officers would have been aware of their location.

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

## 2. Cover/Concealment

Locating the Subject on the east sidewalk, Sergeant A positioned him/herself approximately 35 feet south of him. According to Sergeant A, he/she assessed that there was limited cover available but observed a metal newspaper stand in front of him/her that he/she considered a "barrier of last resort" if the Subject charged at him/her.

The BOPC considered Sergeant A's positioning relative to the Subject, as well as the lack of feasible cover. As the incident rapidly unfolded, Sergeant A positioned him/herself slightly behind and to the right of the officers as they used the newspaper stand to communicate with the Subject. This allowed Sergeant A to maintain situational awareness while overseeing his/her officers and directing pedestrians to leave the area. The BOPC opined that had Sergeant A redeployed behind the officers, it would have limited his/her view of the Subject's actions and may have compromised public safety.

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

- The BOPC also considered the following:

**Simultaneous Non-Conflicting Commands** – Before the OIS, Officers B, C, and D provided the Subject simultaneous non-conflicting commands. Alternatively, one officer could have been designated as the contact officer, reducing the potential for confusion and increasing the chances of effective communication.

**Preservation of Evidence** – As the arrest team approached the Subject, Officer E moved the Subject’s knife. Based on the Subject’s stature, it was not feasible for officers to move him away from the knife. Although Officer E’s actions were prudent, it is a good reminder to leave evidence undisturbed when practicable.

**Non-Medical Face Coverings** – Officers B and E were not wearing non-medical face coverings as directed by the Chief in May 2020.

- **Command and Control**

Sergeant A was monitoring the crowd at a protest when he/she was flagged down and advised that the Victim was stabbed in the stomach by the Subject. Sergeant A requested additional resources to respond to his/her location, including an RA for the Victim. Sergeant A located the Subject and provided commands to him until resources arrived. Sergeant A attempted to clear the area and background as numerous pedestrians were present. After officers arrived, Sergeant A holstered his/her service pistol and assumed the role of IC. Sergeant A provided direction to the officers at the scene, designated roles, advised officers when the Subject had dropped the knife, and assembled an arrest team to approach and take him into custody. Sergeant A ensured medical aid was rendered to the Subject and requested an RA for him. Sergeant A identified the involved officers and directed additional officers to secure the scene. Although the BOPC would have preferred that Sergeant A had broadcast he/she was the IC, it was apparent to the officers at the scene that he/she assumed the role. While the BOPC would have preferred that he/she had designated one officer to communicate with the Subject, the BOPC noted Sergeant A’s overall effective management of the incident.

At 1109 hours, Sergeant B arrived at the scene and declared him/herself the IC. Sergeant B assisted Sergeant A in identifying the involved officers and obtained additional supervisors for separation and monitoring. At 1126 hours, Sergeant B notified the Department Operations Center (DOC) of the OIS.

Detectives A, B, and C responded to the OIS and began monitoring Officers A, C, and Sergeant A respectively. Detective A obtained Officer A’s Public Safety Statement (PSS), Detective B obtained Sergeant A’s PSS, and Sergeant B obtained Officer C’s PSS.

The overall actions of Detectives A, B, C, and Sergeants A and B were consistent with Department supervisory training and the BOPC’s expectations of field supervisors during a critical incident.

- In conducting an objective assessment of this case, the BOPC determined that the actions of Officers C and D were not a deviation from Department-approved tactical training. The BOPC also determined that the actions of Sergeant A were not a substantial deviation from Department-approved tactical training. The BOPC further determined that the actions of Officers A and B were a substantial deviation, with



justification, from Department-approved tactical training.

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

Although it was determined that Officer E would not receive formal findings, the BOPC determined that he/she would benefit from attending the Tactical Debrief.

Therefore, the BOPC found Officers A, B, C, D, and Sergeant A's tactics to warrant a finding of Tactical Debrief.

## **B. Drawing and Exhibiting**

- **Sergeant A**

According to Sergeant A, the Subject held a knife to his (the Subject's) neck with his left hand, while flicking his tongue out and making unintelligible noises. Additionally, Sergeant A observed the Subject was acting irrationally and appeared to have a mental illness. In response, Sergeant A unholstered his/her handgun and broadcast a backup request for a "415 man with a knife." Sergeant A believed the situation could rise to the level of deadly force. Sergeant A holstered his/her pistol when backup officers arrived.

- **Officers A and B**

Officers A and B arrived and positioned their police vehicle on the east side of the street facing the Subject. Before these officers were able to exit, the Subject threw a soda can toward their police vehicle with his right hand while maintaining the knife at his neck with his left hand. As the officers exited their vehicle, Sergeant A warned them that the Subject was armed with a knife. Officer B positioned him/herself behind his/her ballistic door and unholstered his/her duty pistol, while Officer A obtained a beanbag shotgun from the trunk of their police vehicle. Officer A initially positioned him/herself behind his/her ballistic door and unholstered his/her handgun but decided to transition to the beanbag shotgun upon observing other officers with their handguns out. According to Officer B, he/she believed the situation may escalate to the point where deadly force was necessary. According to Officer A, he/she perceived the Subject to be a deadly threat.

- **Officer C**

Officers C and D arrived approximately 10 seconds after Officers A and B. Officer C parked the officers' police vehicle immediately south of Officer A's police vehicle in a similar orientation. According to Officer C, he/she unholstered his/her duty pistol and redeployed behind Officer A's ballistic door, because it provided him/her a better

view of the Subject. Officer C unholstered his/her service pistol because he/she had observed the Subject holding a knife and believed deadly force may be necessary.

- **Officer D**

After acquiring the beanbag shotgun, Officer A joined Officer D at the newspaper stand. Upon seeing Officer A equipped with the beanbag shotgun, Officer D holstered his/her TASER and unholstered his/her duty pistol to act as Officer A's cover officer. Officer D knew the Subject was armed with a knife and believed he/she was a danger.

The BOPC assessed Officers A, B, C, D, and Sergeant A's drawing and exhibiting of their service pistols. The BOPC noted that as Sergeant A attempted to communicate with the Subject, he spoke incoherently and placed a knife against his neck. Sergeant A observed that the Subject was acting irrationally and appeared to have a mental illness. In response, Sergeant A unholstered his/her service pistol. The BOPC noted that Sergeant A holstered his/her service pistol when backup units arrived. Arriving at the scene, the officers observed the Subject armed with a knife. The Subject held the knife to his neck as he ignored directions to put the knife down. The BOPC noted that while he/she initially unholstered his/her service pistol, Officer A transitioned to the beanbag shotgun when he/she assessed there were sufficient lethal options. While Officer D transitioned from his/her TASER to his/her service pistol, the BOPC noted that he/she was functioning as Officer A's lethal cover, consistent with Department-approved tactical training. Based on the Subject's actions, the BOPC opined that it was reasonable for Officers A, B, C, D, and Sergeant A to believe this incident may escalate to a situation involving 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 A, B, C, D, 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 A, B, C, D, and Sergeant A's drawing and exhibiting of a firearm to be In Policy.

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

- **Officer A** – (beanbag shotgun – four super-sock rounds)
- **First Round** – Upon the Subject moving three steps toward officers, Officer A aimed his/her beanbag shotgun at the Subject's navel area and discharged one round from an approximate distance of 15 feet. The round struck the Subject's abdomen above the navel. According to Officer A, the Subject flinched when the beanbag round struck him, but remained "agitated," "aggressive," and armed with the knife.

According to Officer A, he/she attempted to issue a verbal warning before discharging the beanbag. Before Officer A could provide a warning, the Subject advanced south toward him/her and the other officers with the knife in his left hand. Officer A believed the Subject was going to stab the officers.

- **Second Round** – After the Subject was struck with the first beanbag round, Officer A observed the Subject was still armed with the knife and acting “aggressive.” In response, Officer A targeted the Subject’s navel area and fired a second beanbag round. Officer A believed that his/her second beanbag round struck the left side of the Subject’s torso. The investigation determined that Officer A’s second beanbag round struck the upper portion of the Subject’s left arm as he was turning clockwise.
- **Third Round** – After the Subject was struck with the second beanbag round, Officer A observed him continuing to turn clockwise while still armed with the knife. Officer A observed that the Subject was turning to the north, in the direction of a pedestrian who was walking south on the sidewalk behind him. According to Officer A, he/she considered the fact that the Subject had already stabbed a community member and became concerned that the Subject would also stab or slash the pedestrian. In response, Officer A fired a third beanbag round, which impacted the Subject on the left side of his torso.

According to the FID investigation, the pedestrian was approximately 60 feet north of the Subject when Officer A fired his/her third beanbag round from approximately 16 feet. Two additional community members were north of the Subject at the time of the incident. One was on the sidewalk, approximately 115 feet north of the Subject, while the other was approximately 68 feet north of the Subject, seated on a bench behind the bus kiosk.

- **Fourth Round** – After the Subject was struck with the third beanbag round, Officer A observed him complete his clockwise turn and begin to run north in the direction of the community members.

According to Officer A, he/she considered the fact that the Subject was still non-compliant and now moving toward the pedestrian while armed with the knife. In response, Officer A targeted the left side of the Subject’s torso and fired a fourth beanbag round from an approximate distance of 21 feet. The investigation determined that this beanbag round impacted the Subject’s right buttock.

The BOPC evaluated Officer A’s use of less-lethal force. In terms of Officer A’s first round, the BOPC noted that instead of dropping the knife, the Subject counted up from three and then repeatedly brought his arms down to his side while thrusting his hips in the officers’ direction. He then advanced toward the officers with the blade pointed in their direction. The BOPC noted that Officer A knew the Subject had already stabbed one person and was concerned that he would stab an officer or a citizen. Based on the Subject’s actions, the BOPC opined that it was reasonable for Officer A to believe he posed an immediate threat of violence.

As it pertains to Officer A's second round, the BOPC noted that after the Subject was struck with the first beanbag round, Officer A observed he was still armed with the knife and acting "aggressive." Fearing that the Subject was going to harm him/her or his/her partners, Officer A believed that he/she needed to stop him. In response, Officer A fired a second beanbag round. Based on the Subject's actions, the BOPC opined that it was reasonable for Officer A to believe he posed an immediate threat of physical harm.

With regard to the third and fourth rounds, the BOPC noted that according to Officer A, when he/she discharged his/her third round, the Subject was turning toward a pedestrian approaching from the north. The Subject was still armed with the knife. According to Officer A, based on the Subject having stabbed one person, had he been able to continue north, the Subject could have stabbed the pedestrian. To prevent the Subject from approaching the pedestrian, Officer A discharged his/her third round; however, it failed to stop him. Following his/her third round, Officer A observed the Subject complete his turn and begin to run north toward the pedestrian. In response, Officer A discharged his/her fourth round. Based on the Subject's actions, the BOPC opined that it was reasonable for Officer A to believe he posed an immediate threat of physical harm to the pedestrian.

As it pertains to the use of force warning, the BOPC noted that within 30 seconds of arriving at the scene, Officer A retrieved his/her beanbag shotgun from the police vehicle's trunk. Approximately five seconds after retrieving his/her beanbag shotgun, Officer A deployed to the metal newspaper stand. Approximately 10 seconds later, Officer A asked Sergeant A if he/she wanted the beanbag used against the Subject. Approximately two seconds after that, the Subject rapidly approached as Officer A attempted to issue a use of force warning; Officer A was forced to respond to the Subject's attack. While the BOPC would have preferred that a use of force warning had been given, based on the totality of the circumstances the BOPC opined that it was not feasible for Officer A to provide it.

In terms of Officer A's background, the BOPC noted that per the FID investigation, the pedestrian was approximately 60 feet north of the Subject. The BOPC also noted that the pedestrian turned back north as Officer A discharged his/her third round. While there were two additional pedestrians north of the Subject, one was approximately 115 feet north, while the other was 68 feet north, seated on a bench behind the bus kiosk. The BOPC noted that according to Officer A, he/she was aware of his/her background when he/she discharged the beanbag shotgun.

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

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

## D. Lethal Use of Force

- **Officer C** – (pistol, two rounds)

According to Officer C, he/she heard the Subject counting down while focusing on the officers in front of him. He/she then observed the Subject step toward Officers A, D, and Sergeant A, while tightly holding the knife in his left hand with the point of the knife directed at the officers. Officer C observed the Subject take approximately four large steps toward the officers before Officer A's beanbag round impacted the Subject. According to Officer C, the Subject advanced another step, placing him within five feet of Officers A, D, and Sergeant A. Officer C yelled, "Hey, drop the knife!" before firing two rounds at the Subject's center mass. According to Officer C, he/she determined there was no need to fire additional rounds because he/she observed the Subject had stopped his advance and relocated to a palm tree that was behind the Subject on the sidewalk.

According to the FID investigation, the Subject was approximately 15 feet from Officers A and D when Officer A discharged his/her service pistol. Although Officer C initially believed he/she fired one round during the incident, upon completing the magazine count with FID, he/she realized he/she fired two rounds.

The BOPC evaluated Officer C's use of lethal force. The BOPC noted that Officer C observed the Subject screaming at officers and refusing to drop the knife. The Subject counted to three while focusing on Officers A, D, and Sergeant A, thrust his hips, and then advanced toward them with the knife pointed in their direction. The BOPC noted that based on his/her observations, Officer C believed that the Subject was going to run at and kill Officers A, D, and Sergeant A. The BOPC also noted that Officer C observed the Subject continue to advance toward Officers A, D, and Sergeant A after being struck by the first beanbag round. According to Officer C, he/she did not think the Subject was going to stop advancing. During his/her interview, Officer C mentioned seeing videos in which suspects with edged weapons managed to harm officers, despite being shot numerous times. To protect his/her fellow officers, Officer C discharged his/her service pistol.

As it pertains to Officer C's belief that he/she only discharged one round, the BOPC noted that under the stress of an OIS, officers sometimes lose track of the number of rounds discharged. The BOPC also noted that according to Officer C, he/she ceased firing when he/she perceived that the Subject had stopped advancing on the officers. As such, the BOPC opined that although Officer C did not initially recall the number of rounds he/she fired, he/she assessed as he/she discharged his/her service pistol, ceasing fire when he/she no longer perceived an imminent deadly threat.

Regarding the concurrent deployment of lethal and less-lethal rounds, the BOPC noted that according to the FID investigation, Officer C discharged his/her service pistol approximately 0.33 seconds after Officer A discharged his/her first beanbag

round. While the BOPC noted that it is generally preferable for officers to allow time to see if less-lethal force is effective before using lethal force, the BOPC also noted Officer C's belief that the beanbag round had failed to stop the Subject from advancing toward the officers and that he/she needed to discharge his/her service pistol to stop him inflicting serious bodily injury or death.

In terms of Officer C's background, the BOPC noted that according to Officer C, he/she knew his/her background was the abandoned building. The BOPC also noted that according to Officer C, in the three months that he/she had been assigned to Hollywood Division, he/she had never seen pedestrians entering or exiting the building and it appeared locked. According to Officer C, no pedestrians were behind the Subject when he/she discharged his/her service pistol. Although pedestrians were in the area, based on Officer C's position and the trajectory of his/her rounds, the BOPC opined that the pedestrians were not in his/her background.

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

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