

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

**OFFICER-INVOLVED SHOOTING – 049-23**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No( )</b>
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Newton	9/15/23		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	5 years, 2 months
Officer B	11 years, 6 months

**Reason for Police Contact**

Officers responded to a radio call of a “Hot Prowl Burglary” at an apartment complex. While officers were at a containment position, they observed one of the four subjects appear on the roof of the five-story complex. The officers issued the subject commands before he disappeared from view. The subject then suddenly jumped off the roof. He bounced off the roof of an adjacent residence and landed in the walkway below. The officers approached and gave the subject commands. The subject produced an object from his waistband area, resulting in the discharge of a 40mm Less-Lethal Launcher and a shotgun. The subject was transported to a local hospital and survived his injuries.

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject 4: Male, 27 years of age.			
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**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; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC. The following incident was adjudicated by the BOPC on March 9, 2024.

## **Incident Summary**

On Friday, September 15, 2023, four male subjects in a vehicle entered the street level parking area of an apartment complex. Subject 2 parked the vehicle and remained in the parking area as Subjects 1, 3, and 4 entered the residential areas of the complex. They entered an apartment via an unlocked front door. While armed with a handgun, the subjects demanded money from Victim A. They duct taped Victim A's hands, feet, and mouth, and covered his head with a blanket, while ransacking his apartment. When the subjects left, Victim A freed himself and fled to the manager's office, where he/she notified Witnesses A and B of what occurred. Witness B called 911 and Communications Division broadcast a radio call.

The subjects moved throughout the complex and Witness B tracked their location via the video security system in the manager's office. Communications Division broadcast the updates, including that the subjects had moved to the building's parking area and later to another apartment inside the building. Numerous Newton Area units, including patrol and detective personnel, responded to the location and began establishing a perimeter.

Sergeant A arrived as officers took Subjects 1 and 2 into custody adjacent to the apartment complex.

Officers, A, B, C, D, E, F, G and H established a containment position in the north-south alley next to the apartment complex.

Sergeant A declared himself/herself the Incident Commander and established a Command Post (CP) as units established containment around the property.

Officers B, C, and D were assigned to Newton Area Detectives and were inside Newton Station when they heard the backup request and responded to the incident. They arrived shortly after Subject 1 was taken into custody and assumed a containment position near a rolling vehicle gate with Officers E, F, and G.

While continuing to monitor the security system from inside the manager's office, Witness B observed one of the remaining subjects on security video with a gun in his waistband. Communications Division broadcast this information to the officers at scene.

Upon seeing that the officers were only equipped with their duty pistols, Officer B walked out of the alley, where he/she encountered Officer A, who was at his vehicle with Subject 1. Officer A indicated he/she had a shotgun available, and Officer B retrieved it from the vehicle. Officer B chambered a round before returning to the alley and positioning himself/herself at the northeast corner where he/she used the metal fence for cover. Officers C and D redeployed to the mouth of the alley. Several minutes later, the officers that remained in the alley were joined by Officers A and H, Officer H was equipped with a 40mm Less-Lethal Launcher (40mmLLL) with him/her.

Officer A drove his police vehicle into the alley and stopped at the southeast corner of the complex adjacent to Officer B's position, to provide additional cover for the officers. Officer B redeployed behind the open driver's door as he/she continued to watch the complex. Officer A took a position behind the open passenger door of the vehicle with Officer H.

As the officers were establishing their containment positions, Sergeant A requested the resources of the Metropolitan Division K-9 Unit. According to Sergeant A, he/she ultimately spoke with Metropolitan Division K-9 Platoon Sergeant B, who confirmed that K-9 units were responding.

Officer D returned to the alley and positioned himself/herself at the rear of the police vehicle. Approximately two minutes later, Officer B and the other officers were monitoring the frequency when Officer F, who was now located on the south side of the complex broadcast that Subject 4 was on the roof. When Subject 4 looked over the south edge of the roofline, Officer B ordered him to show his hands, but Subject 4 disappeared from view. Moments later, Subject 4 jumped from the roof. Subject 4 bounced off the roof of an adjacent single-story residence and landed on the cement walkway north of the residence.

Officer B moved from his/her position at the police vehicle to the right rear bumper of a Jeep Wrangler parked facing west in the driveway area of the adjacent house. Moments later, Officer E directed the officers nearby to assemble an arrest team. Officer A holstered his/her pistol and transitioned back to the 40mm launcher, which he/she had slung when he/she observed Subject 4 appear on the roof.

Upon dropping to the walkway, Subject 4 lay on his left side with his back to the officers and his left arm extended out above his head. Subject 4's head was oriented toward the steps of the residence and his feet were oriented toward the fence that separated the residence from the apartment complex. As the team assembled at the rear of the Jeep, Officer B is heard telling Subject 4 to show him/her his hands.

Seconds later, the team moved forward to take Subject 4 into custody and render aid. Officer B was in the lead with the shotgun. As he/she reached the front right tire of the Jeep, Subject 4 is seen leaning back while still on his left side. Officer B is heard saying, "*Hey, don't move!*" Officer B continued walking forward and as he/she neared the northeast corner of the residence, Subject 4 reached toward the front of his waistband area. Officer B yelled, "*Don't move! Don't reach for your waistband!*" Subject 4 began to tug at his waistband and Officer B is heard saying, "*Hey! Hey! Hey! Don't - - don't do it, don't do it, don't do it!*" As the officers backed up, Officer B yelled, "*Back up. Don't do it!*"

In the ensuing ten seconds, Officers D, E, and H redeployed south between the residence and the front of the Jeep, using the east wall of the house for cover. Officer B positioned himself/herself behind the northeast corner of the house, and Officer A

positioned himself/herself behind and to the right of Officer B. Simultaneously, Officers C and F redeployed behind the Jeep.

When Officer B reached the corner of the house, Subject 4 rolled to his stomach, brought his right arm to his upper chest area, and turned his head toward the officers. As Subject 4 brought his left arm along the top of his head, Officer B yelled, "*Don't move! Don't move! 40! Do not move! Do not move!*" Similarly, Officer A can also be heard ordering Subject 4 not to move and announcing, "*40, 40, 40 standby, 40 standby.*"

As Subject 4 lifted his right shoulder off the ground, Officer B continued issuing commands, saying, "*Don't move, don't do it man! Don't do it! Put it down!*" Using his right hand, Subject 4 removed an item (later determined to be a short-handled hammer) out from under his upper torso and lifted it past his head. At which point, Officer A fired one round from his 40mm launcher, and Officer B fired one round from the shotgun. The officers fired their respective rounds simultaneously and neither were aware that the other had fired.

According to Officer B, he/she was in the lead position of the arrest team with the shotgun. As the team approached Subject 4, Officer B observed Subject 4 reach for the handle of a pistol in his waistband as Officer B commanded him not to reach for it. Officer B then disengaged the safety of the shotgun and put his/her index finger on the frame. Officer B redeployed to the corner of the residence and continued issuing commands, as he/she observed Subject 4 roll onto his stomach and point a pistol at him/her. In response, Officer B used the red dot site, aimed at Subject 4's center mass, and fired the shotgun from a distance which he/she estimated to be approximately seven feet.

A review of BWV determined that approximately 25 seconds after the OIS; Officer B cycled the action of the shotgun and chambered another round. According to Officer B, he/she was delayed in cycling the action by the realization he/she had been involved in an OIS. The investigation was unable to determine via BWV where Officer B placed his/her index finger after the OIS. According to Officer B, he/she did not have his/her finger on the trigger of the shotgun at any point other than the moment he/she fired. Officer B did not recall if he/she manipulated the safety of the shotgun after the OIS. When FID collected the shotgun from the trunk of a police vehicle, the safety was in the off position.

According to Officer A, as they approached along the walkway, other officers were giving commands. He/she observed Subject 4 laying on his left side while moving his right hand to his waistband as if searching for something. Subject 4 rolled away from the officers onto his stomach with his left arm stretched out in front of him. As the officers redeployed, Officer A took a position behind and to the right of Officer B, who was using the northeast corner of the house for cover.

According to Officer A, Subject 4 then produced what Officer A believed was a black semiautomatic pistol. In response, Officer A aimed at Subject 4's stomach area and fired one round from the 40mm launcher from a distance he/she estimated to be 7-8 yards.

Officer A indicated Subject 4 produced the item he/she believed to be a firearm quickly and there was no time to give a warning prior to discharging the 40mm launcher.

Officer A was unsure if his/her 40mm round struck Subject 4 and immediately reloaded the 40mm launcher and redeployed to the right rear tire of the Jeep, where he/she then unholstered his/her pistol.

Immediately after the OIS, Officer F broadcast, "*Shots fired, officers need help.*" Approximately 38 seconds after the OIS, Officer F broadcast a request for a rescue ambulance (RA) to standby. The officers reassembled the arrest team behind Officer B, as Officers C, D and H donned gloves. Police Officer I, responded to the Help Call from the CP and joined the officers in the walkway. The officers then moved forward to take Subject 4 into custody and render aid.

Once the officers reached Subject 4, he was taken into custody without further incident

Sergeant A directed the officers via radio to bring Subject 4 to meet the RA. According to Sergeant A, this was due to an additional potentially armed subject remaining at large within the perimeter. Officers C, D, F, H, and I carried Subject 4 out of the walkway and south to the mouth of the alley.

Officer F was advised by the CP to bring Subject 4 out of the "*hot zone.*" The officers carried Subject 4 out. Officers J and K then immediately began cardiopulmonary resuscitation (CPR) while waiting for the RA.

Approximately one minute later, Los Angeles Fire Department (LAFD) personnel, drove closer toward the officers and stopped in the roadway. The officers then carried Subject 4 an additional 25 yards south to the RA, where LAFD personnel assumed care of Subject 4.

Firefighter Paramedics treated Subject 4 for a gunshot wound to his head and injuries related to his jump from the building and transported him to hospital.

Approximately one hour after the OIS, Subject 3, the final outstanding subject, was taken into custody by Metropolitan Division K-9 officers at the front of the complex without incident.

## **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	N/A	N/A

## **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 Officer A's tactics to warrant a finding of a Tactical Debrief and Officer B's tactics to warrant a finding of Administrative Disapproval.

### **B. Drawing/Exhibiting**

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

### **C. Intermediate Force**

The BOPC found Officer A's Intermediate Force to be In Policy.

### **D. Lethal Use of Force**

The BOPC found, Officer B'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 RA 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 A and H discussed the intermediate force options and resources available to them at their start of watch as well as tactical concepts, such as contact and cover roles, de-escalation techniques and designated cover officer (DCO) responsibilities. When Subject 4 jumped off the roof and fell to the ground, an arrest team was quickly formed to take him into custody and render aid. Within the arrest team, Officers A and B took up their roles as the intermediate force option with the 40mm LLL and DCO with the shotgun, respectively.

**Time and Redeployment and/or Containment** – As soon as the primary officers arrived at scene; a perimeter was formed around the apartment complex to contain the subjects. With containment being established, two of the subjects were immediately taken into custody. Additionally, as the perimeter was being maintained, officers placed Stop Sticks (tire deflation device) at vehicle exit points around the apartment complex to ensure the subjects would be unable to flee using a vehicle.

In observing Subject 4 jumping off the roof and landing on the ground, a sense of urgency developed amongst the officers to render immediate aid to Subject 4, who they believed was either seriously injured or possibly deceased. The officers also took into consideration there was another possibly armed subject still outstanding.

Prior to the OIS, Subject 4 leaned back while on his left side and began to move his hand to his waistband. As a result, Officer B backed up and redeployed behind the corner of the residence while Officer A backed up northeast of Officer B, and slightly

bladed his/her body, to prevent a crossfire situation and to remain close to immediate cover. After the OIS, Officer A reloaded his/her 40mm LLL and walked backward to redeploy behind the parked jeep, which was his/her location just before their initial approach.

Approximately 41 seconds elapsed from when Subject 4 landed on the walkway to when the OIS occurred; with the OIS occurring approximately 15 seconds after the officers initially observed Subject 4 remove what they believed to be a firearm from his waistband, their time to employ de-escalation techniques was limited.

**Other Resources and Lines of Communication** – Air 3 Air Support Division, responded to the scene and assisted with establishing the perimeter. Sergeant A communicated the response of Metropolitan K-9.

Officers at the command post (CP) maintained open lines of communication with the PR, who was providing up-to-date information on the whereabouts of the subjects through live feed video surveillance. The CP then broadcast the information with officers at scene. Observing Subject 4 on the roof of the building, both Air 3 and Officer F communicated his movement to the north side.

After Subject 4 jumped off the roof, the officers in the alley approached Subject 4 and began giving him commands. When Subject 4 began removing an object from his waistband, Officer B gave specific commands to Subject 4, such as, “Don’t reach for your waistband!” “Don’t do it!” and “Put it down!” Officer A announced the preparatory command for the deployment of his/her 40mm LLL.

During the review of the incident, the following Debriefing Topics were noted:

- **Debriefing Point No. 1: Body Armor**

Officer B was assigned to Newton Area Detectives, which is an authorized plainclothes assignment. Although Officer B was wearing a police uniform at the time of the incident, he/she was not wearing his body armor. Officer B reported he/she did not plan on conducting follow-ups that day.

The UOFRB (Use of Force Review Board) evaluated the tactics employed by Officer B as it pertains to the wearing of his ballistic body armor during a tactical incident. In their discussion, the UOFRB noted Officer B kept his/her ballistic body armor in his/her locker. The UOFRB also noted the exigency in Officer B’s response to the scene. The UOFRB further noted Officer B obtained a shotgun from Officer A and assumed the role of DCO.

The UOFRB discussed the Department’s expectation of uniformed officers wearing their ballistic vests when engaged in field activities. In their discussion, the UOFRB opined Officer B had an obligation to don his/her ballistic vest at the moment he/she elected to deploy to the scene. While the UOFRB was complimentary of Officer B’s

willingness to respond and take enforcement action, the UOFRB opined the amount of time it would have taken to don body armor was minimal and could have been done before leaving the station. Another option, the UOFRB opined was, while at scene, Officer B could have relinquished the borrowed shotgun to another officer nearby in the alley who was wearing body armor and go retrieve his/her body armor. By maintaining his/her position upfront during the incident and upon approach as the DCO, without the benefit of his body armor, Officer B jeopardized his/her safety and placed himself/herself at a significant tactical disadvantage. As such, the UOFRB opined Officer B substantially and unjustifiably deviated from Department-approved tactical training.

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

- **Debriefing Point No. 2: Use of Force Warning**

Officers A and B did not give a warning prior to discharging the shotgun and the 40mm LLL, respectively. According to Officer B, he/she believed Subject 4 knew the officers were going to use lethal force in response to him producing a firearm based on the officers' multiple commands to not reach for his waistband and to not "do it." According to Officer A, Subject 4 produced what he/she believed to be a firearm too quickly, not giving him/her time to issue a warning.

The UOFRB evaluated the tactics employed by Officers A and B as it pertains to not giving Subject 4 a use of force warning prior to discharging the shotgun and the 40mm LLL. The UOFRB noted after Subject 4 had landed on the ground, Officers made their approach to take him into custody and render aid. During the officers' initial approach, the UOFRB noted Subject 4 did not appear to be armed, nor was there an indication he was being uncooperative, which the UOFRB opined added to the officers' reasonable belief that Subject 4 was either seriously injured or possibly deceased. However, as there were approximately 15 seconds from the time Subject 4 began reaching for his waistband to the moment Officers A and B discharged their respective force options simultaneously, the UOFRB opined it was not feasible for Officers A and B to give a use of force warning given the short timeframe. The UOFRB also noted Officer B initiated commands for Subject 4 to not reach for his weapon while officers redeployed back to seek cover, which the UOFRB opined further constrained the amount of time the officers had to give a warning to Subject 4. As such, the UOFRB opined the lack of a use of force warning was not a substantial deviation from Department tactical training.

Based on the totality of the circumstances, the UOFRB determined, and the BOPC concurred, the tactics employed by Officers A and B were not a deviation from Department-approved tactical training.

## **Additional Tactical Debrief Topics**

- **Shotgun Protocols** – After discharging a round from his/her shotgun, Officer B placed his/her index finger on the frame as he/she redeployed to the corner of the residence and continued issuing commands. Approximately 25 seconds after the OIS, Officer B cycled the action of the shotgun and chambered another round. According to Officer B, he/she was delayed in cycling the action by the realization he/she had been involved in an OIS. Additionally, Officer B did not recall if he/she reengaged the safety of the shotgun after the OIS. When FID collected the shotgun from the trunk of the police vehicle, the safety was disengaged. Alternatively, Officer B could have cycled the action of his/her shotgun after discharging a round and reengaged the safety following the OIS.
- **Cover and Concealment** – Prior to discharging his 40mm LLL, Officer A backed up, positioned himself/herself northeast of Officer B and slightly bladed his/her body. At the time of the OIS, Officer A was exposed without cover or concealment. The UOFRB noted Officer A had limited time to react from observing Subject 4 motionless to removing a firearm from his waistband. Additionally, redeploying behind Officer B would have resulted in losing visual of Subject 4 and would have created a crossfire situation. The UOFRB further noted Officer A had close proximity to cover/concealment immediately to his/her left. After the OIS, Officer A reloaded and redeployed behind the cover of a parked Jeep. As such, the UOFRB opined there was no deviation from Department-approved tactical training; however, a discussion for redeployment is warranted.
- **Ballistic Helmet** – Officer B did not have his/her ballistic helmet on during the OIS. The BOPC would have preferred if Officer B had taken the time to retrieve his/her ballistic helmet before responding to the scene and donned his/her helmet before assisting with containment.
- **Basic Firearms Safety Rules** – A review of Officers E and H's BWV footage revealed that Officer E, while advancing with the team, utilized his/her service pistol to cover the windows of the apartment building. As Officer B ordered Subject 4 to not reach for his/her waistband, Officer E directed the muzzle of his/her service pistol downward and to the left, which may have crossed Officer B's back. The muzzle of Officer E's service pistol may have briefly covered the rear of Officer A's right leg as he/she is providing cover for the officers evacuating Subject 4. During Officer E's interview, he/she stated he/she did not believe he/she covered officers at the aforementioned points nor any other points during the incident.

## **Command and Control**

- Sergeant A arrived at scene as Officers took Subject 1 into custody. After ensuring Subject 1 was arrested without incident, Sergeant A drove around the apartment complex to ensure a perimeter was established. He/she then broadcast he/she was the Incident Commander (IC) and established the CP. As Sergeant A requested

additional resources, Sergeant C, arrived at scene and was directed by Sergeant A to assist with tactical operations. Sergeant D, joined Sergeant A at the CP, assisting with phone call notifications and scribing. Sergeant A directed Sergeant D to notify the Los Angeles Metropolitan Transportation Authority (MTA) to ensure bus routes accounted for road closures.

Los Angeles School Police Department officers responded to the CP and Sergeant A designated one of them as a liaison, advising them to notify the local schools that the area would not be accessible. While Sergeant A was notifying affected entities, CD broadcast information that the remaining subjects in the apartment complex were seen armed with a firearm. Based on the broadcast, Sergeant A directed officers on the perimeter to don their ballistic helmets. He/she then requested a Tactical Frequency and requested the primary unit respond to the CP to gain more situational awareness. After the primary unit briefed Sergeant A, he/she requested the air unit contact Metropolitan Division K-9 to have them respond.

After the OIS occurred, Sergeant A directed Sergeant D to request five additional supervisors to assist with separation and monitoring. Sergeant A then directed officers at the scene of the OIS to extract Subject 4 to meet the RA as there was one outstanding subject still within the perimeter. Once Sergeant B arrived at the CP, he/she called Lieutenant A, Metropolitan Division Special Weapons and Tactics (SWAT) to discuss the incident. Lieutenant A advised the situation did not yet meet the criteria for SWAT's response because the remaining subject was not in a fixed location within the complex.

The UOFRB evaluated the command and control employed by Sergeant A and commended him/her for his/her role as the IC. The UOFRB noted Sergeant A ensured containment was achieved by driving around the location and directing officers to fill in gaps along the perimeter. The UOFRB also noted Sergeant A established a CP in a timely manner, designated roles to responding officers and supervisors, and ensured the relevant entities were notified of the ongoing situation as well as the street closures that would affect them. The UOFRB opined Sergeant A's quick actions contributed to the arrest of four dangerous subjects.

Based on the totality of the circumstances, the UOFRB determined, and the BOPC concurred, the overall actions of Sergeant A were consistent with Department training and the BOPC's expectations of a supervisor during a critical incident.

## **B. Drawing/Exhibiting**

- **Officer A (1<sup>st</sup> Occurrence)**

While waiting in the alley, Officers A, E and H discussed clearing the recycle bins and dumpsters around the venue to ensure none of the subjects were hiding in them. Officer A knew the subjects were armed and unholstered his/her service



pistol because he/she believed the situation could escalate to where deadly force could be justified.

### **Officer A (2<sup>nd</sup> Occurrence)**

Officer A drove his/her police vehicle into the alley and stopped at the southeast corner of the complex adjacent to Officer B's position to provide additional cover for the officers. Officer A exited the driver's seat and took a position behind the open passenger door of the vehicle, unholstering his/her service pistol because he/she believed the subjects were potentially inside the street-level parking garage due to the car alarms going off and knew they were armed. He/she believed the situation could escalate to where deadly force could be justified.

### **Officer A (3<sup>rd</sup> Occurrence)**

While Officer F was standing on the south side of the street, he/she observed Subject 4 on the roof of the complex and broadcast his/her observations. When Subject 4 looked over the south edge of the roofline, Officer A unholstered his/her service pistol because he/she knew one of the remaining subjects in the complex was seen with a firearm in his waistband. With Subject 4 having a position of advantage, Officer A believed the situation could escalate to where deadly force may be justified.

### **Officer A (4<sup>th</sup> Occurrence)**

After Officer A discharged the 40mm LLL, he/she was unsure if his 40mm round struck Subject 4. Officer A immediately reloaded the 40mm LLL and redeployed to the right rear tire of the Jeep. Officer A then unholstered his/her service pistol because he/she believed Subject 4 had just pointed a firearm at him/her and believed Subject 4 was still capable of shooting at him/her and the other officers, which would cause the situation to escalate to where deadly force may be justified.

- **Officer B (Shotgun)**

Upon seeing the officers were only equipped with their service pistols, Officer B walked out of the alley where he/she encountered Officer A, who was at his/her vehicle with Subject 1. Officer A indicated he/she had a shotgun secured in the rack inside his his/her vehicle. Officer B retrieved the shotgun and chambered a round before returning to the alley and positioning himself/herself at the northeast corner of the venue. Officer B knew there were multiple outstanding robbery subjects who were likely armed and believed the situation could rise to where deadly force may be justified.

The UOFRB evaluated Officer B's drawing and exhibiting of Officer A's shotgun and Officer A's drawing and exhibiting of his/her service pistol. The UOFRB noted Officer B drew and exhibited the shotgun after he/she noticed the other officers at

scene were only armed with their service pistols. The UOFRB opined the subjects inside the apartment complex had a tactically advantageous position, noting the apartment complex is the tallest building in the area and there are numerous rooms the subjects could potentially attack the officers from. The UOFRB opined those same reasons provided justification for Officer A to unholster his/her service pistol when he/she did because the tactical situation was ongoing and the criteria to draw and exhibit was met. The UOFRB opined that the circumstances surrounding the incident clearly created a reasonable belief amongst the officers that the situation may rise to where lethal force could be justified. Based on the totality of the circumstances, the UOFRB determined, and the BOPC concurred, an officer with similar training and experience as Officers A and B would reasonably believe there was a substantial risk the situation could have or had escalated to where deadly force may be justified.

Therefore, the BOPC found Officers A and B's Drawing/Exhibiting, all occurrences, to be In Policy.

### **C. Intermediate Force**

- **Officer A** – 40-millimeter Less-Lethal Launcher, 40mm eXact iMPact round, one round from approximately 29 feet, in a westerly direction.

According to Officer A, he/she observed Subject 4 laying on his/her left side while moving his/her right hand to his/her waistband as if searching for something. Subject 4 then rolled away from the officers onto his stomach with his left arm stretched out in front of him. As the officers redeployed, Officer A took a position behind and to the right of Officer B, who was using the northeast corner of the house for cover. Subject 4 then produced what Officer A believed to be a black semiautomatic pistol. To protect himself/herself and the other officers at scene from the immediate threat of serious body injury or death, Officer A aimed at Subject 4's stomach area and discharged one round from the 40mm LLL.

The UOFRB evaluated the intermediate force employed by Officer A. With regards to Officer A's 40mm round, the UOFRB noted Officer A observed Subject 4 reaching for his waistband and retrieving an object, which he/she perceived to be a firearm. The UOFRB also noted prior to the OIS, Officer A redeployed back toward cover while retaining the 40mm LLL instead of transitioning to his/her service pistol as he/she did not want lethal force to be the only option the officers had. As a result, the UOFRB opined his/her decision was consistent with the Department's guiding principle of reverence for human life.

The UOFRB also noted Officer A observed Subject 4 with what he/she believed to be a firearm in his hand and believed he/she could potentially get Subject 4 to drop the firearm if he/she struck him with the 40mm LLL, preventing the need for lethal force. As such, the UOFRB opined Officer A's observations led him/her to reasonably believe Subject 4 was posing an imminent threat of serious bodily injury

or death and further opined his/her use of intermediate force was objectively reasonable and proportional.

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

Therefore, the BOPC found Officer A's Intermediate Force to be In Policy.

#### **D. Lethal Use of Force**

**B** – Remington Arms Model 870 Police Magnum, 12-gauge "00" buck, nine pellets, one round from approximately 22 feet, in a westerly direction.

- According to Officer B, he/she observed Subject 4 reach for the handle of a handgun in his waistband and directed him not to reach for it. Officer B then disengaged the safety of the shotgun and placed his/her index finger on the frame before redeploying back to the corner of the residence and continuing to issue commands. Officer B observed Subject 4 roll onto his stomach and point a handgun at him/her. To protect himself/herself and the other officers near him/her from the imminent threat of bodily injury and/or death, Officer B used the shotgun's red dot sighting system, aimed at Subject 4's center mass and discharged one round.

The UOFRB evaluated the lethal use of force employed by Officer B. With regards to Officer B's shotgun round, the UOFRB noted Officer B observed Subject 4 reaching for his waistband and retrieving an object, which he/she observed to be a firearm. Based on Officer B's observation of Subject 4 being armed, Officer B redeployed back toward cover to try and create distance while giving commands to Subject 4 to stop reaching for his waistband and to drop the firearm. As Officer B moved to cover, the UOFRB noted Subject 4 pointed the weapon at Officer B, which the UOFRB opined added to the officer's reasonable belief that Subject 4 was posing an imminent threat of serious bodily injury or death. The UOFRB further opined the weapon, which was later determined to be hammer, had a handle that resembled the grip of a firearm and the manner in which Subject 4 held the hammer was similar to how one would hold a firearm. As such, the UOFRB found Officers A and B's belief Subject 4 was armed with a firearm reasonable. The UOFRB found Officer B's use of deadly force was objectively reasonable, proportional and necessary to stop Subject 4's actions.

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

Therefore, the BOPC found Officer B's Lethal Use of Force to be In Policy.