

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

**OFFICER-INVOLVED ANIMAL SHOOTING – 50-23**

<u>Division</u>	<u>Date</u>	<u>Time</u>	<u>Duty-On (X) Off ( )</u>	<u>Uniform-Yes (X) No ( )</u>
Newton	9/17/23	4:30 p.m.		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Officer C	7 years, 4 months
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**Reason for Police Contact**

Uniformed Newton Area Gang Enforcement Detail (GED) officers responded to an Assault with a Deadly Weapon radio call. As the officers arrived, they exited their police vehicle and encountered a large Pit Bull dog who charged toward an officer, resulting in an Officer-Involved Shooting of an Animal (OIS-A).

<u>Animal(s)</u>	<u>Deceased (X)</u>	<u>Wounded ( )</u>	<u>Non-Hit ( )</u>
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Pit Bull dog			
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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 (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 suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) recommendations, including any Minority Opinions; the report and recommendations of the Chief of Police (Chief); 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 September 3, 2024.

On September 17, 2023, at approximately 1630 hours, Newton Patrol Division uniformed Police Officers A and B responded Code-Three to an "Ambulance Shooting" radio call. The comments of the radio call indicated the suspect was inside a tent and the victim was lying on the ground in front of a liquor store.

Newton Area GED uniformed Police Officers C and D responded as a back-up unit to the radio call.

Officer D parked their police vehicle diagonally across the northbound number one and two lanes of the roadway, facing in a southeast direction. Officer C observed the primary unit walking toward the victim of the shooting on the east sidewalk.

As Officer C exited the passenger door of the police vehicle and began walking toward the east sidewalk, he/she/she heard what he/she/she believed to be a dog running toward him/her from the west side of the street. Officer C turned to the west and observed a Pit Bull dog, in the middle of the street, charging toward him/her. Officer C unholstered his/her pistol and held it in a one handed low ready with his/her trigger finger along the frame.

Officer C yelled at the dog in an attempt to get it to stop, but it continued charging at him/her. In fear for his/her safety, Officer C fired two rounds downward, in a southwest direction. After the first round, Officer C assessed and observed that the Pit Bull continued charging at him/her and was still trying to bite him/her, so he/she/she fired the second round. After the second round, Officer C observed the dog leaping toward him/her and, in fear for his/her safety, he/she/she fired one more round in a downward and southwest direction.

The dog was struck twice, but its momentum kept the dog in motion until it struck a parked vehicle on the east side of the street. The dog managed to partially stand on its front two legs and drag itself back to the west side of the street, where the current owner, Witness A, took possession of it.

Officer C holstered his/her pistol after he/she/she observed that the dog was in the custody of Witness A and he/she/she was approached by responding supervisors. At approximately 1632 hours, Sergeant A directed Officers C and D not to discuss the incident.

Officers C and D were separated and advised not to discuss the OIS-A by Newton Patrol Division uniformed Sergeant B. Sergeant B obtained a Public Safety Statement (PSS) from Officer C and monitored him/her until he/she/she was relieved.

Force Investigation Division Detectives reviewed all documents and circumstances surrounding the separation, monitoring, and the admonition not to discuss the incident prior to being interviewed by FID investigators.

### **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. For every incident, 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 incident, the BOPC made the following findings:

### **A. Tactics**

The BOPC found the tactics of Officer C to warrant a Tactical Debrief.

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

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

### **C. 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 Subject and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

**Verbal Warnings:** Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is already aware of those facts.

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

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

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

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

**Factors Used to Determine Objective Reasonableness:** Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines the reasonableness of any particular force used: a) from the perspective of a

reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

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

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

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

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

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

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

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

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

## 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 subject 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 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.



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

Planning,  
Assessment:  
Time;  
Redeployment and/or Containment;  
Other Resources; and  
Lines of Communication.

**Planning and Assessment** – Officers C and D were not regularly assigned partners; however, they have worked together multiple times throughout their assignment to Newton GED. At the beginning of their shift, they discussed tactical concepts, including contact/cover roles and tactics.

Officer C was initially concerned with locating and rendering aid to the victim of the shooting. Officer C believed the charging pit bull posed a risk to him/herself and the other officers who were tending to the downed victim.

**Time and Redeployment/Containment** – Officer C heard the dog charging from behind him/her and observed the dog exhibiting signs of physical aggression. As he/she unholstered, Officer C attempted to redeploy, using the police vehicle as cover, but was unable due to the rapid approach of the dog.

**Other Resources and Lines of Communications** – The immediacy required to address the threat of the dog's aggression left Officer C with limited options and unable to request additional resources and/or tools. Additionally, no other officers were aware of the potential danger presented by the dog until after the OIS occurred.

Immediately after the OIS, Officer D broadcast the dog shooting over Newton Division base frequency, prompting the response of additional Newton Patrol Division personnel.

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

#### **Debriefing Point No. 1: Dog Encounters**

- Officers responded to a radio call of an Ambulance Shooting with the plan to secure the scene, locate and render aid to the victim, and conduct an investigation. Officer B was first at scene and approached the victim. Officers C and D arrived contemporaneously and, after exiting the police vehicle, Officer C observed a dog charging at him/her from across the street. Officer C yelled at the dog while simultaneously unholstering his/her service pistol. Officer C believed the dog posed an imminent threat of death or serious bodily injury to him/herself and all others present. Officer C fired three rounds from his/her service pistol, striking the dog twice before it fell to the ground and eventually, retreated across the street.

Based on the totality of the circumstances, the Chair of the UOFRB determined, and the BOPC concurred, the tactics employed by Officer C were not a substantial deviation from Department approved tactical training. To enhance future performance, the Chief directed this be a topic of discussion during the Tactical Debrief.

### **Command and Control**

- Sergeant A was the first supervisor on scene and separated Officers C and D. Sergeant B arrived, obtained a Public Safety Statement (PSS) from Officer C and continued to monitor him/her until relieved by FID detectives. Sergeant C Assumed the role of incident commander.

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

### **Tactical Debrief**

- In conducting an objective assessment of this case, the Chair of the UOFRB determined, and the Chief and the BOPC concurred, that the actions of Officer C did not deviate from Department-approved tactical training.

Each tactical incident merits a comprehensive debriefing. In this incident, areas were identified where improvements should be made. A Tactical Debrief is the appropriate forum for the involved officer to discuss individual actions that took place during this incident. Therefore, the Chief directed Officer C to attend a Tactical Debrief and the identified topics be discussed.

### **General Training Update (GTU)**

- Officer C attended a General Training Update (GTU) on November 20, 2023.

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

- **Officer C**

Upon observing the dog aggressively charging at him/her and not responding to voice commands, Officer C unholstered his/her service pistol.

The Chair of the UOFRB evaluated Officer C's drawing and exhibiting of his/her service pistol. The Chair noted Officer C observed the dog aggressively approach and believed he/she/she was in imminent danger. The Chair opined the unholstering of his/her service pistol due to the threat of the dog was objectively reasonable and consistent with Department policy.

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

Therefore, the BOPC found Officer C's Drawing/Exhibiting to be In-Policy, No Further Action.

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

- **Officer C** - 9mm semi-automatic pistol, three rounds from a decreasing distance from three feet to one foot in a downward direction.

**Background** - Investigators from FID analyzed the scene, physical evidence and video evidence to assess Officer C's background when he/she discharged his/her duty pistol. The investigation determined his/her background consisted of the roadway.

Officer C yelled at the dog to get it to stop but it continued charging at him/her. In fear for his/her safety, Officer C discharged one round and assessed and discharged one more as the dog continued to charge at him/her and tried to bite him/her. After the second round, Officer C observed the dog leap toward him/her and discharged his/her third round. Officer C considered the threat of serious injury to him/herself as well as other officers and the victim. Additionally, he/she also considered his/her background before discharging his/her service pistol. Officer C believed the imminent threat of death and serious bodily injury were present based on the dog's aggressive demeanor. Furthermore, the dog was very close in proximity to not only Officer C, but other responding officers and the victim.

The Chair of the UOFRB assessed Officer C's use of deadly force. The Chair noted at the time Officer C discharged his/her pistol at the dog, he/she was constrained by time and severely limited in his/her force options. Other options were either not feasible or unreasonable given the circumstances. As a result, Officer C's decision to use lethal force was a last resort to effectively stop an aggressive dog. The Chair determined the decision to use lethal force to stop the dog's attack was objectively reasonable and necessary to protect him/herself as well as all others present at the scene of the radio call.

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

Therefore, the BOPC found Officer C's Lethal Use of Force to be In Policy, No Further Action.