

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

OFFICER-INVOLVED ANIMAL SHOOTING – 65-23

| <u>Division</u> | <u>Date</u> | <u>Time</u> | <u>Duty-On (X) Off ()</u> | <u>Uniform-Yes (X) No ()</u> |
|-----------------|-------------|-------------|----------------------------|-------------------------------|
| Northeast | 11/21/23 | 11:36 p.m. | | |

| <u>Officer(s) Involved in Use of Force</u> | <u>Length of Service</u> |
|--------------------------------------------|--------------------------|
| Sergeant A | 21 years |

Reason for Police Contact

Los Angeles Police Department (LAPD) Northeast Division uniformed police officers were dispatched to a domestic violence call. Upon arrival officers learned that there was no domestic violence incident, however a subject was being attacked by a pit bull dog to the rear of the residence. Officers attempted to rescue the dog bite victim, resulting in an Officer-Involved Shooting - Animal (OIS-A). The dog was struck by 40mm less lethal rounds and gunfire and succumbed to its injuries.

| <u>Animal(s)</u> | <u>Deceased (X)</u> | <u>Wounded ()</u> | <u>Non-Hit ()</u> |
|------------------|---------------------|--------------------|--------------------|
| Pit Bull dog | | | |

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 November 5, 2024.

On November 21, 2023, at approximately 1600 hours, the Victim engaged in a verbal dispute with his wife, Witness A, and left their property. At approximately 1930 hours, Witness A observed the Victim burning items in the alley behind their property. In

response, Witness A locked the door to the north perimeter wall of the property. Witness A then went to sleep in the Accessory Dwelling Unit (ADU) on the property. At approximately 2300 hours, Witness A woke when she heard the Victim yelling from the alley. Due to the Victim's history of aggressive behavior when intoxicated, Witness A retreated to the primary residence, which was occupied by other family members.

Through a security video system in the primary house, Witness A observed the Victim disable a camera mounted on the north perimeter wall. When the Victim made his way to the semi-covered walkway between the wall and the back of the primary residence, Medina called 911. Witness A took the phone and spoke to Communications Division.

Northeast Patrol Division Police Officers A and B requested the call.

According to Witness B, the Victim began banging on the rear door of the residence. He then tripped down the steps and fell in the semi-covered walkway between the wall and the back of the primary residence. While on the ground, one of the family's dogs, a pit bull named "Mac," licked and nudged him. The Victim eventually stood and approached the rear door. Witness A warned the Victim through the security door not to tamper with the camera mounted above the door. According to Witness B, this exchange began to excite the pit bull, and it began to jump up on and bite at the Victim's sweater, before biting his left arm and hand. In response, Witness B called 911.

For the next 17 minutes, the Victim struggled with the dog as it continued to bite and tug on him. Witness B, and Witness A attempted to stop the attack by spraying the dog with water and offering food, but they were unsuccessful.

While en route, Officers A and B upgraded their response to Code Three. Before they arrived at the call, Communications Division additionally broadcast that the Victim was armed with a gun and was being attacked by a pit bull.

Officers A and B were the first unit to arrive and broadcast that they were Code Six in the area. They parked and walked to the residence. The officers met with Witness B, on the street in front of the residence. Witness A joined approximately one minute later. Within 90 seconds of their arrival, the group relayed to Officers A and B that no Domestic Violence had occurred, the Victim was purportedly not armed, and he was currently being attacked by a pit bull in the back of the residence.

Officers C and D arrived approximately 90 seconds after Officers A and B first contacted the residents and Officer B directed them to retrieve a 40mm Less-Lethal Launcher (40mm LLL) and a fire extinguisher. Officers E and F arrived as Officer D was doing so, and Officer E also retrieved a 40mm LLL. Officers E, F, C, and D then joined Officers B and A in front of the residence.

Approximately five minutes after Officer A and Officer B first contacted the residents, Sergeant A arrived. He/she met with Officer A, who advised him/her that there was no domestic violence, but the residents were requesting that officers shoot their pit bull

because it was currently latched onto the Victim. Sergeant A immediately assigned the officers roles, advising them that if the dog remained latched onto the Victim, they would hit it with the 40mm LLLs to repel it and utilize the fire extinguisher to keep it away. When the officers and Sergeant A heard the Victim screaming, he/she directed them onto the property.

The officers entered the front yard, walked north through the east walkway, and stopped at the northeast junction to the semi-covered walkway. Sergeant A advised the officers that when the dog flees, they would move up and pull the Victim to safety.

Officer B, who was in the lead position, observed the Victim in the semi-covered walkway. The Victim walked to the door of the perimeter wall, which exited into the alley at the rear of the property, with the dog walking next to him. Officer B advised the other officers that the Victim was being bit.

Officer B updated the team of his observations and advised them that the Victim was being attacked by the dog. Officer D moved forward with the 40mm LLL into the lead position and Sergeant A directed him/her to discharge the 40mm LLL at the dog.

The investigation determined that over the next three minutes and nine seconds, Officers D and E each discharged three 40mm rounds from their respective launchers.

As the Victim continued to lay on the ground with the dog biting his left forearm, Officer D discharged one 40mm round at the dog. Officer D estimated that he/she was approximately 15-20 feet from the dog when he/she discharged the 40mm round, causing the dog to let go of the Victim. Officer D rotated positions with Officer E while he/she reloaded his 40mm LLL.

Officer F moved forward and discharged a short burst from the fire extinguisher. According to Officers E and F, the fire extinguisher was ineffective, and the dog continued to bite the Victim's left arm. Officer E then discharged a 40mm round at the pit bull from approximately 25 feet but missed.

Officer F stepped forward and discharged another short burst from the fire extinguisher. Due to the confined space, the powder from the fire extinguisher hindered the officers' visibility, and Sergeant A directed Officer F to cease using the fire extinguisher.

Sergeant A called out to the Victim and requested he come toward the officers if he was able; however, the Victim remained on the ground. According to Officer D, when the dog began to approach the officers, he/she discharged his second 40mm round at the dog from approximately 10-15 feet. On BWV, Sergeant A can be heard advising the team that if the dog came at the Victim again, they would have to shoot it to protect him.

Sergeant A directed Officer E to discharge another 40mm round at the dog, because it was still "*mauling*" the Victim. Officer E moved forward and discharged his/her second

40mm less-lethal round. According to Officer E, he/she discharged the round from approximately 20 feet and believed the round impacted the dog. On the officers' BWV, the dog can be heard yelping immediately after he/she discharged the round.

Officer B advised the team that the dog entered a doghouse adjacent to the Victim.

Officers B and A moved toward the Victim, with Officers F and E following behind. They reached a mattress leaning against shelving along the north interior wall, approximately 10 feet from where the Victim was lying. They discussed using the mattress to trap the dog within the doghouse. Before they could do so, the pit bull exited the doghouse and ran east toward the officers, at which point, Officer E discharged his/her third 40mm round at the dog. The dog yelped and ran up the steps to the rear door of the primary residence.

A review of the officers' BWV determined that while the pit bull was on the steps, and immediately after Officer E discharged his/her third 40mm round, Officer D discharged his/her third 40mm round at the dog. The pit bull ran to the west end of the semi-covered walkway out of view.

With Officers B and E acting as his/her DCO, Officer A grabbed the Victim's arms and pulled him east past the mattress. Simultaneously, Officers C, F, and D created room by redeploying toward the front side of the primary residence.

The pit bull reappeared and ran past Officers B and E toward the Victim, who was still lying on the ground. The pit bull jumped on and ran over the Victim's chest. Officer A delivered a front kick to the pit bull with his right foot as it passed him/her and continued toward Sergeant A.

As the pit bull passed Officer A, Sergeant A unholstered his/her pistol.

While positioned in the northeast corner of the walkway, Sergeant A fired one round down at the dog from an approximate distance of two feet. The bullet entered the top of the pit bull's left shoulder, traveled through the chest, and was retained in the right front leg. The dog collapsed immediately. When Sergeant A fired his pistol, Officer D unholstered his firearm.

Force Investigation Division (FID) investigators analyzed the scene, physical evidence, and video evidence to assess Sergeant A's background at the time of the OIS. The analysis determined that Sergeant A's pistol was angled downward in a southwest direction, away from any of the other officers, and his/her background was the cement walkway.

Post-OIS

Officers carried the Victim to the rear alley. Approximately two minutes and fourteen seconds after the OIS, Sergeant A broadcast a request for the Los Angeles Fire

Department (LAFD), which was staged nearby, to respond to the alley. Firefighter Paramedics responded, assessed the Victim, and transported him to the hospital, where he was treated for multiple puncture wounds to his back, arms, wrists, and hands.

Sergeant B also responded to the incident. Sergeant B stated that he/she observed Sergeant A providing command and control of the officers.

The investigation determined that after the OIS, a help call was not broadcast. Sergeant B stated that this was because they already had sufficient resources.

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

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 Sergeant A to warrant a finding of Administrative Disapproval, and the tactics of Officers A, B, E and F to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Sergeants A'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 – Officers A and B discussed tactical concepts, including their contact/cover roles, while responding to this call. When they met with the family, Officers A and B began devising a plan appropriate to a dog encounter, in addition to requesting additional equipment from officers' present at the scene. Once Sergeant A arrived, he/she began directing officers and continued developing a plan for a dog encounter.

Assessment – Officer A and B initially did not hear sounds consistent with a dog attack. The officers were concerned with a potential ambush given they were initially responding to a battery domestic violence in progress including the possibility of a suspect armed with a firearm. Upon receiving new information of the potential dog attack, they adjusted their response and prepared for a dog encounter. Upon his arrival, Sergeant A assumed the role of Incident Commander (IC) and began assigning roles.

After making their approach behind the residence, officers located the Victim and the pit bull. Officers utilized 40mm LLLs and a fire extinguisher to deter the dog from attacking the Victim. Officers observed an opportunity to extract the

Victim and began to evacuate him; however, the pit bull reappeared and began running towards the Victim. To prevent further attacks from the dog, Officer A delivered a kick. The dog continued running toward Sergeant A and with no room for redeployment and no other intermediate force options available, Sergeant A unholstered and discharged his service pistol.

Time and Redeployment/Containment – Sergeant A and all responding officers responded to the rear of residence with a tactical plan and with roles assigned to each officer. Officers had no room for redeployment as the narrow walkway leading to the rear of the residence produced one avenue of entry and exit. Officers requested Los Angeles Fire Department paramedics stage to the rear alley where the Victim could be immediately treated.

Other Resources – Sergeant A assigned Officers A and B as DCO. Additionally, Officers E and D were assigned to 40mm LLL and Officer F with a fire extinguisher. Other less-lethal options such as the TASER and oleoresin capsicum (OC) spray were not utilized due to the confined space.

Lines of Communication – Upon arriving at scene, Officer A and D communicated with witnesses to gain situational awareness. Given the nature of the radio call, additional units and supervisors responded as well. Upon arrival of additional resources, updated information was disseminated.

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

Debriefing Point No. 1: Dog Encounters

- Arriving at scene, officers met with family members who advised them their dog was attacking a family member. Officers A and D were delayed in addressing the dog attack as they believed they were responding to a domestic violence call involving a firearm as originally broadcasted. Once they determined that no domestic violence had occurred, they began to transition to address a dog encounter. The Victim was located behind the residence and the officers could not immediately hear or observe the attack. When Sergeant A arrived, he/she heard the Victim's screams and quickly formulated a plan and directed officers to the rear of the residence. When confronted with the dog attacking the Victim, officers attempted to use 40mm LLL rounds and a fire extinguisher to intervene and rescue the Victim.

The Chair of the UOFRB (Use of Force Review Board) assessed the tactics by Officers A, B, E, and F as well as Sergeant A. The Chair noted the original call involved a suspect armed with a firearm and Officers A and B's initial delay in responding to the Victim was reasonable as they determined the true nature of the call. Additionally, the Chair noted officers were confronted with a confined space and limited options to rescue the Victim during an ongoing dog attack. The Chair evaluated the plan by Sergeant A and opined that considering the exigency of the incident, the plan and tools selected were reasonable.

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

Debriefing Point No. 2: Body Armor

- The investigation determined Sergeant A was not wearing body armor when he/she responded to the incident. According to Sergeant A, he/she did not wear his body armor because it caused him/her to have headaches and due to back problems, it was uncomfortable to wear.

The Chair of the UOFRB assessed Sergeant A's decision to not wear body armor during this incident. The Chair noted Department policy requires sworn personnel to wear body armor when assigned to the field and opined there was no reasonable excuse or explanation for his deviation. As Sergeant A was assigned to uniformed field duty in a geographic patrol division, the Chair determined he/she was required to wear his ballistic body armor during this incident.

Based on the totality of the circumstances, the Chair of the UOFRB determined, and the Chief and the BOPC concurred, the tactics employed by Sergeant A were a substantial deviation, without justification, of Department-approved tactical training. To enhance future performance, the Chief directed this be a topic of discussion during the Tactical Debrief.

During the review of this incident, the following additional Debriefing Topic was noted:

Additional Tactical Debrief Topic

- **Incident Commander Declaration** – Sergeant A was the first supervisor on the scene at the onset of the incident. Although Sergeant A functioned as the Incident Commander (IC), he/she did not declare him/herself as the IC. To enhance future performance, the Chief directed this be a topic of discussion during the Tactical Debrief.
- **Contacts with the Public** – After arriving at the location, Officers B and A determined the information regarding domestic violence was not accurate and the Victim was being attacked by his dog. Officers B and A initially posed rhetorical questions to the family about the officers' ability to do anything. Officers must recognize how the use of body language and tone of voice can be perceived by community members in need of service. While the Chief recognized their need to clarify the information received in order to formulate a plan and marshal resources to address the problem, Officers B and A' demeanor

did not meet the high level of service expected and demonstrated a lack of empathy during their contact. To enhance future performance, the Chief directed this be a topic of discussion during the Tactical Debrief.

Command and Control

- Upon his arrival, Sergeant A assumed command and control by designating roles to the officers. Sergeant A ensured multiple officers were equipped with 40mm LLL to ensure a loaded 40mm LLL was available during a reload. During the incident, Sergeant A used active communication by directing Officer F to stop the use of the fire extinguisher which was hindering visibility. Additionally, Sergeant A directed the use of the 40mm LLL and a team of officers to rescue the Victim.

Sergeant B arrived and observed Sergeant A providing direction to the officers. Sergeant B recognized the officers were dealing with a dog and remained near the front of the residence due to the confined space. After the tactical portion of this incident had concluded, Sergeant B proceeded to separate and monitor all involved personnel. Sergeant B obtained a Public Safety Statement (PSS) from Sergeant A. Additionally, Sergeant B requested additional supervisors to monitor all officers who were deemed to be percipient witnesses of the OIS. Sergeant B contacted the Northeast Patrol Division Watch Commander, who responded to the scene and ensured the involved personnel were separated and monitored.

At 2345 hours, Sergeant C notified the Northeast Patrol Division Commanding Officer. At approximately 0016 hours, Sergeant C contacted the Department Operations Center (DOC) and notified them of the Categorical Use of Force.

The UOFRB determined, and the Chief concurred, the overall actions of the Watch Commander as well as Sergeants A, B, and C were consistent with Department training and the Chief's expectations of officers and 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, the actions of Officers A, B, D, E and F's actions did not deviate from Department-approved tactical training. The Chair of the UOFRB determined, and the Chief and the BOPC concurred the actions of Sergeant A (failure to wear body armor) were a substantial deviation 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 officers to discuss individual actions that took

place during this incident.

Therefore, the Chief directed Sergeant A and Officers A, B, D, E and F attend a Tactical Debrief and the identified topics be discussed.

General Training Update (GTU)

- Sergeant A and Officers A and B attended a GTU on December 05, 2023. The additional personnel involved will receive the GTU during the Tactical Debrief.

B. Drawing/Exhibiting

- **Sergeant A**

After the discharge of the fifth 40mm round, the dog momentarily retreated. Officers used the opportunity to begin evacuating the Victim. As officers A began moving the Victim, the pit bull returned once more and ran atop of the Victim's chest. Officer A delivered a front kick, but the dog continued to run towards Sergeant A at which point, he/she unholstered his service pistol.

- **Officer A**

Upon arriving at location, Officer A drew his/her service pistol due to the comments of the call indicating the domestic violence suspect was armed with a gun. Shortly after meeting with the residents and receiving clarification, he/she holstered his/her pistol.

- **Officer B (1st occurrence)**

Officer B drew his/her service pistol when he/she first responded because he/she was concerned the suspect was possibly armed with a gun as stated in the comments of the call. Upon meeting residents and receiving clarification, Officer B holstered his pistol.

- **Officer B (2nd occurrence)**

Officer B drew his/her service pistol when he/she was designated as DCO, in the lead position, as officers entered the property. Officer B remained unholstered during the utilization of 40mm LLLs and the fire extinguisher should the situation have escalated to the need for deadly force. After the OIS occurred, Officer B observed Sergeant A with his/her pistol unholstered, and the dog was no longer a threat. Officer B holstered his/her pistol with the intention of evacuating the Victim and rendering aid.

- **Officer D**

Officer D momentarily unholstered his/her service pistol after hearing the OIS, but after observing the pit bull no longer posing a threat, Officer D holstered his/her pistol.

- **Officer E (1st occurrence)**

Officer E discharged his/her last 40mm LLL round before drawing his/her service pistol to prevent the dog from attacking the victim. When he/she observed the dog retreat inside a doghouse, he/she holstered his/her service pistol.

Officer E (2nd occurrence)

Officer E observed the dog exit the doghouse and advance towards his/her partners and his/herself. Officer E drew his/her service pistol believing the dog may attack and he/she may need to use deadly force to protect the victim and his/herself.

The Chair of the UOFRB evaluated Sergeant A's and Officers A, B, D and E's drawing and exhibiting of their service pistols. The Chair opined the unholstering of their service pistols 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, a sergeant with similar training and experience as Sergeant A and an officer with similar training and experience as Officers A, B, D and E would reasonably believe there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Sergeant A's and Officers A, B, D and E's Drawing/Exhibiting to be In-Policy, No Further Action.

Lethal Use of Force

- **Sergeant A** – .9mm semiautomatic pistol, equipped with a Trijicon RMR Pistol Mounted Optic and a Surefire X300 weapon light. One round was fired from an approximate distance of two feet in a downward direction.

Background – Investigators with FID analyzed the scene and determined Sergeant A's pistol was angled downward in a southwest direction with the cement walkway as his background, away from any of the other officers present.

According to Sergeant A, the dog was still aggressive in spite of being struck with multiple 40mm LLL rounds. As the officers were evacuating the victim, the dog advanced towards Sergeant A and he/she believed the dog was going to attack him/her. In fear for his/her safety and believing he/she was going to be seriously injured, Sergeant A discharged one round from his/her service pistol at the dog.

The Chair of the UOFRB assessed Sergeant A's use of deadly force. The Chair noted at the time Sergeant A discharged his/her pistol at the dog, he/she had no other means of redeployment. Less-lethal options had been deployed and had only a temporary effect in deterring the dog and allowing the victim to be rescued. The dog continually returned to bite the victim multiple times and Sergeant A's decision to use lethal force was a last resort on the aggressive dog. The Chair determined the decision to use lethal force to stop the dog was objectively reasonable and necessary to protect him/herself from serious bodily injury.

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 Sergeant A, in the same situation, would reasonably believe the use of lethal force was objectively reasonable, proportional and necessary.

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