

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

OFFICER-INVOLVED SHOOTING – 068-23

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No()
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North Hollywood	11/30/23		
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Officer(s) Involved in Use of Force

Officer A	10 years, 4 months
Officer C	16 years, 6 months
Officer D	26 years, 6 months
Officer E	10 years, 11 months
Officer G	6 years, 6 months
Officer I	4 years, 3 months

Reason for Police Contact

Officers responded to an Assault with a Deadly Weapon (ADW) radio call. While at scene, the Subject confronted the officers armed with an axe hammer. Officers gave verbal commands to the Subject to drop the axe hammer, but he refused to comply. Officers deployed intermediate force options that were ineffective. The Subject continued to approach the officers armed with the axe hammer and an Officer-Involved Shooting (OIS) occurred. The Subject was transported to Hospital.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
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Male, 52 years of age.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; 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 November 19, 2024.

Incident Summary

On November 30, 2023, Witness A called 911 and reported that his employee, Victim A was attacked and injured by the Subject who was sitting on the floor across the street from his store. Witness A told Communications Division (CD) that Victim A was injured; however, an ambulance was not needed.

Officers A and B arrived and met with Witness A. Witness A directed the officers' attention to the Subject laying down across the street.

Officer A asked Witness A if the Subject was drunk and Witness A stated the Subject was not drunk. Witness A told officers that the Subject went after Victim A and made threats to kill him, and he [Victim A] was afraid to protect himself. Witness A said the Subject used a stick to break then pull down a plexiglass partition that was located on the counter next to the cash register. Victim A showed officers his left arm displaying a minor injury, consisting of two scratch marks on his forearm.

Officer A advised Witness A and Victim A they could make a Private Persons Arrest (PPA) for battery. Witness A and Victim A declined to make a PPA but requested officers advise the Subject to not return to the store. Officer A informed Witness A and Victim A that he/she would take a report, talk to the Subject and inform him that he was not to return to the store or he would be arrested for trespassing.

The officers were standing outside the store at their vehicle as Officer A worked on the incident report. The Subject crossed the street and approached the officers carrying an axe hammer. The Subject held the axe hammer by the head with the handle protruding down from his hand. According to Officer B, the Subject was not holding the hammer in a threatening manner.

Officer B asked the Subject if he spoke English or Spanish and the Subject replied, that he spoke all languages and that God was perfect, he then gave officers his name.

Officer B spoke to the Subject in Spanish and told him that he could not return to the store at which time the Subject became agitated. Officer B continued to inform the Subject that the store employees did not want him to return to the location. The Subject walked back to the opposite side of the street. According to Officer B, the Subject did not say anything threatening during their initial contact.

Officer A broadcast a request for an additional unit to respond to their location as the Subject had started walking into the street. According to Officer B, their plan was to wait for the additional unit to arrive to approach and inform the Subject he would be charged with trespassing if he returned to the store. Officer A felt it would help to de-escalate the situation if they had more officers present.

Officers C, D, E, F G, H, and Sergeant A responded to the additional unit request and arrived simultaneously. Body Worn Video captured Officer B briefing Sergeant A and the officers on the details of the radio call and the Subject possessing the axe hammer.

Officer B yelled to the Subject in Spanish, requesting he take his belongings and leave the area. The Subject walked into the street holding the axe hammer while yelling at the officers. The Subject stood in the parking lane of the road on the west side of the street as several officers commanded the Subject to stay where he was in both English and Spanish.

Sergeant A directed officers to get intermediate force options and told Officer A he/she was the Designated Cover Officer (DCO). Officer G retrieved a 40mm Less-Lethal Launcher (40mm LLL) while Officers C and E retrieved a Beanbag Shotgun from their vehicles. Officers E and G took a position of cover behind the engine block of a police vehicle, Officer C took a position to the rear of that vehicle.

Sergeant A broadcast a request for a "Back-Up for a 415 man, armed with a hammer." During the broadcast, Sergeant A directed the responding units to block traffic on either side of the Subject.

At that time, Officer C gave Officer D the Beanbag Shotgun and moved his/her vehicle across the traffic lane to block traffic from traveling north in front of the officers.

Officers I and J arrived and parked their vehicle, south of the officers in the traffic lanes to stop traffic from going north onto the street Infront of the Subject. Officer I retrieved a 40mm LLL from his/her vehicle and advised Officer J he/she was going to approach Sergeant A and offer his/her assistance. Officer J remained at their vehicle to maintain traffic control.

Officer H utilized the vehicle's Public Address (PA) loudspeaker to communicate with the Subject. Officer H spoke to the Subject in Spanish directing him to put the axe hammer down and leave the area. The Subject did not comply with the officers' directions and continued to yell at them while holding the axe hammer.

Sergeant A assigned Officers B and F to be the arrest team and advised Officers that they were going to disengage and leave if the Subject drops the axe hammer

According to Officer E, he/she moved away from cover to create distance between him/her and the 40mm LLL, to create a different angle for the intermediate force options and to give himself/herself optimal range for the Beanbag Shotgun. Officer E stated he/she had enough distance from the Subject to redeploy if the Subject closed the distance.

Air-10 arrived overhead and assisted with setting up containment.

Sergeant A and Officer B discussed disengagement. Sergeant A directed Officer H to continue to talk to the Subject while he/she contacted the Watch Commander. Officers E and H continued to talk to the Subject in Spanish, advising him to put the axe hammer down and leave the area.

Sergeant A called North Hollywood Patrol Division Watch Commander, Sergeant B to advise him/her of the incident and his/her intention to tactically disengage from the location. Sergeant B directed Sergeant A to contact the Mental Evaluation Unit (MEU) for any contact history with the Subject and advice prior to disengaging.

Officer A called MEU and spoke with Officer K. Officer A provided Officer K with the Subject's information and briefed him/her on the details of the incident. Officer K determined there were no documented MEU contacts associated with that name and description. Officer K informed Officer A that the Subject could be detained for a mental health evaluation; however, the circumstances were weak for a hold.

The Subject appeared to comply with Officer E's requests and put the axe hammer down on the sidewalk. Officers E and H were standing in the street directly across from the Subject when Officer E directed the Subject to come talk to them.

At this time, Officer A concluded the call with MEU and told Officer B that a hold would be weak, and that the Subject had no prior MEU contacts documented. As Officer A got out of the police vehicle the Subject picked up the axe hammer and began walking across the road towards the officers.

A video from a member of the public, depicted the Subject pick up the axe hammer from the sidewalk and walk toward the officers holding the hammer at chest level. On BWV, officers are heard giving repeated commands to the Subject to stop and put the axe hammer down. The Subject ignored the officers' commands and continued to walk toward them.

The Subject held the axe hammer by the head in his left hand, while extending his right arm out in front of himself, pointing his index finger at the officers and shouting, "Shoot it!"

Sergeant A yelled a command for the officers to hit him with the 40mm LLL. Simultaneously, Officer F directed Officers E and H to move back to cover. Officer H walked backward away from the Subject onto the east sidewalk and Officer E moved to his/her right away from the Subject.

According to Officer E, he/she could not hear what the Subject was saying so he/she waited for Officer G to deploy the 40mm LLL because of the distance and due to it being more effective than the Beanbag Shotgun.

Officer G was standing behind the front of a police vehicle when he/she fired a 40mm LLL round from an approximate distance of 35 feet in a westerly direction. The round

struck the Subject in the abdomen area, which had no effect. Officer G did not give the Subject a use of force warning, stating that it was not feasible once the Subject started moving across the road toward them.

Officer I moved from cover at the passenger door of Officer C's vehicle to the left of Officer D and Officer I yelled the command of "Drop it, Drop it! Officer D yelled the announcement of "Beanbag, beanbag, beanbag!" as he/she took a step forward and fired a Beanbag Super-Sock round from an approximate distance of 25 feet. The round struck the Subject in the abdomen area and was ineffective.

Officer D told investigators he/she targeted the belly button area or navel area as the Subject appeared to acquire himself/herself and Officer C as targets. Officer D was aware of citizens in his/her vicinity that he/she felt were at risk. Officer D did not give the Subject a use of force warning.

Officer D told investigators after he/she fired his/her first shot, he/she assessed with his/her finger on the trigger because the Subject was still actively coming towards him with the axe hammer. Officer D fired a second Beanbag Shotgun round from an approximate distance of 20 feet in a northwesterly direction. The round struck the Subject in the abdomen area and was again ineffective.

Officer E was standing in the north bicycle lane when he/she fired a Beanbag Super-Sock round from an approximate distance of 25 feet in a westerly direction. The round struck the Subject on the left side of the chest area and was ineffective. Officer E did not give a use of force warning stating that he/she did not have time once the Subject began advancing on them.

The Subject transitioned the axe hammer from his left hand to his right and turned to his left as he walked toward Officers D and I.

Officer I moved to the left of Officer D and yelled, "forty stand by, forty stand by!" Officer I fired a 40mm LLL round from an approximate distance of 35 feet. The round struck the Subject in the abdomen area and was ineffective.

According to Officer I, he/she fired the 40mm LLL because the Subject was closing the distance on the officers at a fast pace and he was an immediate threat of serious bodily injury to them.

Officer E fired a second Beanbag Super-Sock round from an approximate distance of 15 feet in a westerly direction. At the time the shot was fired, the Subject had both of his hands raised at chest level and had transitioned the hammer from his left hand to his right hand. According to Officer E, he/she fired the Beanbag Shotgun because he/she believed the Subject was going to hurt him/her or his/her partners.

The Subject changed direction as Officer E's second Super-Sock round was fired. The Subject turned to his right and walked south along the side of a police vehicle.

Officer A moved south from his/her vehicle, unholstered his/her TASER and stood at the rear of a vehicle parked along the east curb and yelled "TASER, TASER!" Officer A was standing on the east sidewalk when he/she fired his/her TASER from an approximate distance of 20 feet. The TASER probes struck the Subject; however, the probes did not penetrate his clothing causing it to be ineffective. Officer A did not give a use of force warning.

After the TASER deployment, the Subject continued walking in a southern direction toward officers, still holding the axe hammer at chest level.

Officer C moved from the open passenger door of his/her vehicle to the left of Officers D and I. According to Officer C, he/she realized that the Intermediate force options were having no effect on the Subject as he/she unholstered his/her firearm. The Subject locked eyes with Officer C as he walked towards him/her yelling and pointing his finger at him/her, still holding the axe hammer.

The Subject had the axe hammer raised in his left hand and pressed against his chest as he walked forward. His right hand was extended forward as he pointed his index finger at the officers.

At that time, Officer D fired a third Super-Sock round from the Beanbag Shotgun, from an approximate distance of 15 feet in a westerly direction. The round struck the Subject in the abdomen area and was ineffective. After the round was fired, Officer D moved back onto the sidewalk and the Subject continued to walk toward Officer D. Officers G and H moved south on the sidewalk toward the rear of a police vehicle. Officer G reloaded the 40mm LLL as he/she changed his/her position.

Following Officer D's third shot, Officer C yelled for the Subject to back up as the Subject walked toward Officer C, pointing his right index finger at him/her.

The Subject transitioned the hammer from his left hand to his right and said, "Shoot it!" as he held the hammer raised at shoulder level with the bladed side facing Officer C.

Officer I was standing next to the east curb in the street when he/she fired a second round from the 40mm LLL, from an approximate distance of 15 feet in a westerly direction. The round struck the Subject in the abdomen area and was ineffective. Officers D and I moved away from the police vehicle onto the east sidewalk.

According to Officer I, he/she fired the second round to stop the Subject, who was aggressively approaching him/her and Officer C with the axe hammer.

Officer G was standing on the east sidewalk when he/she fired a second round from the 40mm LLL, from an approximate distance of 15 feet. The round appeared to be ineffective.

Officer C's BWV depicted the Subject walking toward Officer C holding the axe hammer in his right hand at chest level as he continued to say, "Shoot it!" As the Subject closed the distance, Officer C told the Subject to "Back up," several times.

As Officer C moved backward away from the Subject, he/she held his/her pistol in a two-hand grip as he/she fired four rounds in two seconds from an approximate decreasing distance of ten to four feet. The third round struck the wooden handle of the hammer causing a portion of the handle to break off.

The other rounds struck the Subject in the abdomen and right thigh. The Subject continued to move toward Officer C with the axe hammer as the rounds struck him.

As Officer C stepped backward into a parked car, he/she moved his/her left hand from his/her pistol and placed it on the hood of the vehicle to brace himself/herself. As the Subject continued to move forward, Officer C held his/her pistol in a single hand grip with his/her right hand and fired a fifth round from an approximate distance of four feet.

After the last round was fired, the Subject fell to his/her knees while holding the axe hammer in his right hand, with his arm fully extended above his shoulder pointing the axe hammer at Officer C.

According to Officer C, when he/she placed his/her finger on the trigger, his/her background was the trunk of a black and white police vehicle. He/she stated his/her partner officers had moved away from that vehicle and it was the background for all five shots.

During the OIS, Officer B unholstered his/her pistol and held it in a two-hand grip at a low-ready position as he/she gave the Subject commands in Spanish. According to Officer B, he/she unholstered his/her pistol because he/she believed the situation could possibly escalate to the use of deadly force.

Immediately after the OIS occurred, Sergeant A broadcast, "Shots fired, officer needs help" as the officers moved to a position on the sidewalk southeast of the Subject. Sergeant A began directing the officers to back away from the Subject and move to cover.

Officers gave the Subject additional commands in English and Spanish to drop the axe hammer. The Subject complied and placed the axe hammer on the sidewalk. Officer G holstered his/her pistol and put on latex gloves. He/she again unholstered his/her pistol a second time and held it in a two-hand grip in a low-ready position.

Sergeant A broadcast a request for a Rescue Ambulance (RA) to respond.

Officer B continued to communicate with the Subject in Spanish, telling him not to grab the axe hammer, stay on the ground and not to move. The Subject transitioned to a seated position on the curb with the axe hammer to his left. Moments later, the Subject

moved back onto his knees and moved away from the hammer. Sergeant A directed the officers to approach at that time. The Subject was taken into custody and handcuffed without further incident. Officer A removed a folding knife from the Subject's left front pants pocket.

Sergeant A broadcast, a Code Four and requested the RA come into the scene. Officers A, D and F began removing the Subject's clothing to locate his injuries and render first aid.

Los Angeles Fire Department (LAFD), RA arrived and took over rendering aid to the Subject. The Subject was transported to hospital where he was treated for his injuries.

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	N/a	N/a
Officer C	Yes	Yes	Yes	Yes	Yes
Officer D	Yes	Yes	Yes	Yes	Yes
Officer E	Yes	Yes	Yes	N/a	N/a
Officer G	Yes	Yes	Yes	N/a	N/a
Officer I	Yes	Yes	Yes	N/a	N/a
Sergeant A	Yes	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 Officers A, C, D, E, G, I and Sergeant A's tactics to warrant a finding of a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Intermediate Force Option

The BOPC found Officers A, D, E, G and I's Intermediate Use of Force to be In Policy.

D. Lethal Use of Force

The BOPC found Officer C's Lethal Use of Force to be In Policy.

Basis for Findings

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

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

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

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

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

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

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

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

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

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

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

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

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;

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

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

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

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

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

Note: Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable

officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

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

Rendering Aid: After any use of force, officers shall immediately request a 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 – According to Officer B, he/she and Officer A have worked together numerous times in the past two years. Although they were not regular partners, they have discussed tactics on previous incidents. Officers A and B formulated a plan, which was to wait for an additional unit, then approach and inform the Subject he

would be arrested for trespassing if he returned to the store. While waiting for the arrival of the additional unit, Officers A and B discussed the prior contact Officer B had with the Subject as well as the possibility that deployment of intermediate force could be ineffective on the Subject due to the heavy clothing he was wearing.

Arriving at the location and obtaining situational awareness, Sergeant A directed officers at scene to deploy intermediate force options, assigned Officer A as the DCO and directed Officer H to communicate with the Subject. Sergeant A then communicated a plan for officers to deploy intermediate force option devices if the Subject threw the axe hammer at them. Sergeant A discussed the possibility of tactically disengaging from the Subject with Officer B. In doing so, Sergeant A contacted the watch commander to obtain a further plan of action before tactically disengaging.

After the OIS, Sergeant A designated roles for the arrest team and directed officers to wait until the Subject created space from his axe hammer prior to making their approach.

Assessment and Time – Officers utilized distance by deploying their police vehicles from a distance of approximately 70 feet to afford them more time in developing a rapport, de-escalate and gain compliance from the Subject. As the Subject stood on the west side of the street, officers were continuously assessing the Subject's demeanor and distance. The officers engaged in 23 minutes of verbal de-escalation attempts, including the use of intermediate force options when the Subject walked toward officers while holding the axe hammer in a threatening manner. In deploying intermediate force options at the Subject, Officers D, E, G and I, assessed after each deployment of their respective intermediate force options to determine its effectiveness. Officer C assessed after each round fired from his/her service pistol and stopped firing when the Subject stopped his deadly actions toward him/her.

Redeployment and/or Containment – To contain the Subject, Sergeant A requested units block traffic either side of the Subject. Officers I and J responded and stopped their police vehicle south of the officers in the traffic lanes to stop traffic from going north on the street toward the Subject. Understanding the maximum range limitation of his/her Beanbag Shotgun, Officer E redeployed to be within the approved deployment range. Officer I redeployed from the passenger door of Officer C's vehicle to the left of Officer D to avoid a potential crossfire situation and to obtain a clearer line of sight on the Subject. Prior to discharging his/her TASER at the Subject, Officer A redeployed south from his/her police vehicle to the rear of a vehicle parked along the east curb. When the Subject, armed with an axe hammer, began to approach officers, Officer H redeployed to cover by walking backwards and away from the Subject while Officer E redeployed to his/her right and away from the Subject. As the Subject focused in on and walked toward Officer C, Officer C redeployed by walking backward until he/she bumped into a parked vehicle.

Other Resources – Officers A and B requested an additional unit to assist in approaching and advising the Subject not to return to the store. As the Subject stepped into the street, Sergeant A requested a backup. Air 10 arrived at the scene and assisted in setting up containment of the Subject. Sergeant A contacted the Sergeant B and discussed the possibility of tactically disengaging. Sergeant B directed Sergeant A to contact the Mental Evaluation Unit (MEU) for contact history before tactically disengaging with the Subject. Officer A then contacted MEU and spoke to Officer K regarding the incident. Officer K informed Officer A that the Subject could be detained for a mental health evaluation; however, a hold would be weak given the circumstances.

Lines of Communication – When officers arrived at scene, Officer B briefed Sergeant A and responding units. Officer H used the Public Address (PA) system in the police vehicle to communicate with the Subject in both English and Spanish. Officers ordered the Subject several times during the incident to drop the axe hammer.

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

Cover and Concealment

As the Subject stood on the west sidewalk of the street, Officer E maintained a distance away from him without cover. When the Subject advanced toward officers while armed with an axe hammer, Officers D and I stepped forward and away from cover as they discharged their intermediate force options. Officer C left the cover of his/her police vehicle's door panel as the Subject made his approach towards officers and himself/herself.

The UOFRB assessed Officers C, D, E, and I's tactics as it pertained to cover and concealment. Regarding Officer E, the Board noted the Subject stood approximately 70 feet away from Officer E at the time Officer E had positioned himself/herself in front of a parked vehicle along the east side of the street. Officer E advised he/she moved to a position away from immediate cover to create a different angle of approach and to remain within the approved deployment range for the Beanbag Shotgun. The UOFRB also noted as the Subject advanced toward Officer E, Officer E redeployed backwards and away from the Subject. As Officer E redeployed, the Subject quickly turned to his right and began to advance toward Officer C and away from Officer E. The UOFRB further noted the parked vehicle was directly behind Officer E as well as several other parked police vehicles to the left and right of him/her. As such, the UOFRB opined Officer E maintained enough distance from the Subject and could move to cover if the Subject, who was armed with a weapon other than a firearm, closed the distance between them.

Regarding Officers D and I, the UOFRB noted they positioned themselves to the rear of a parked police vehicle while officers attempted to gain compliance from the Subject. The UOFRB noted when the Subject advanced toward Officer E, Officers D

and I stepped slightly forward and away from cover as they discharged their intermediate force options. Officer I advised when he/she observed the Subject aggressively walking toward Officer E, he/she redeployed forward and away from cover to have a clear line of sight of the Subject and to avoid a potential crossfire situation. Officer D advised he/she considered his/her background as he/she stepped outside of cover to change his/her angle because he/she was unsure if the vehicles stopped in the street were occupied. Officer D further added he/she did not want to get his/her elbow caught up on the police vehicle's rear window should he/she need to rack an additional Beanbag Shotgun round or transition to his/her service pistol. In both instances, the UOFRB noted Officers D and I stood behind cover afforded to them by their police vehicle prior to engaging with the Subject. Therefore, the UOFRB opined it was the Subject's deadly action of advancing toward the officers while armed with an axe hammer, that forced Officers D and I to momentarily redeploy from cover to a better tactical position which afforded them a clear line of sight on the Subject avoiding crossfire issues with other officers.

As it pertains to Officer C, the UOFRB noted he/she initially stood behind the cover of his/her police vehicle's ballistic door panel while Officer H communicated with the Subject. The UOFRB also noted when the Subject started walking toward officers, the Subject's focus shifted toward Officer C, and in turn, the Subject started walking toward him/her. Officer C advised remaining behind the police vehicle door as the Subject advanced toward him/her would have placed him/her in a compromised position and would have hindered his/her ability for further redeployment. The UOFRB also noted Officer C observed the intermediate force options discharged by both Officers D and I were ineffective. The UOFRB opined Officer C redeployed forward and to the left of Officers D and I to better protect them as they discharged intermediate force options at the Subject and to ensure he/she had an unobstructed view of the Subject as he/she maintained his/her role as DCO. As such, the UOFRB opined the Subject's deadly actions of advancing on him/her while armed with an axe hammer forced Officer C to redeploy away from cover.

The UOFRB further noted multiple officers left cover, whether to communicate with the Subject, maintain line of sight and fire, mitigate background issues or to redeploy away from the Subject as he advanced. During all these instances, the UOFRB opined officers were assessing their background, the type and immediacy of the threat, and the positioning of their fellow officers as they worked in concert with one another. They further relied upon the Department's Subject Matter Expert (SME) who indicated Department training and tactical principles do not require officers to maintain cover, especially if doing so places them in an inferior tactical position which places them or the public in jeopardy of greater harm or if by doing so will render their intermediate force options ineffective.

Based on the totality of the circumstances, the UOFRB determined, and the BOPC concurred, Officers C, D, E and I's, actions were not a substantial deviation from Department approved tactical training.

Use of Force Warning

Officers A, D, E, G and I discharged intermediate force options at the Subject without providing a use of force warning. According to Officer G, he/she believed it was not feasible at the time and was unsure if the warning had been given to the Subject in Spanish. Officer E believed it was not feasible to provide the warning when the Subject re-armed himself and began walking toward officers posing a threat. Officer I reported he/she believed he/she heard the announcement made over the PA system in both Spanish and English prior to the Subject advancing on officers. According to Officers A and D, they did not hear a use of force warning and he/she did not give one before deploying the TASER and Beanbag Shotgun respectively.

The UOFRB assessed Officers A, D, E, G and I's adherence to the Department's requirement for providing a use of force warning prior to discharging intermediate force option devices at the Subject. In their assessment, the UOFRB noted officers at scene attempted to gain compliance from the Subject to drop his axe hammer for more than 20 minutes. While de-escalation efforts were being applied, the Subject remained approximately 70 feet across the street and was not posing a threat. The UOFRB also noted the Subject had initially placed the axe hammer on the sidewalk between his feet momentarily before deciding to rearm himself with it again and advance toward officers. The UOFRB further noted once the Subject rearmed himself with the axe hammer, officers had approximately 20 seconds to discharge intermediate force options to stop the Subject's advancement. The UOFRB considered the reasonableness of time to provide a use of force warning in conjunction with Officers A, D, E, G and I's necessity to locate an impact area, acquire a target, align their sights and discharge their respective intermediate force options, which the UOFRB opined lessened the feasibility of providing a warning to the Subject.

In continuing their discussion, the UOFRB cited the Department's Use of Force Policy, as outlined in Use of Force Directive No. 1, which states "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 aware of those facts." The UOFRB noted, while a verbal warning was not given in this incident, the presence of uniformed officers, the closure of six lanes of traffic on a major thoroughfare with marked police vehicles, the posturing of the team across the street from the Subject, the "open air" 70 foot barrier between them, the continuous commands given by officers and the visible display of multiple green, intermediate force options would cause any reasonable person to believe the involved officers were in fact the police and there was a likelihood force would be used if an armed suspect ignored the commands and approached the team of officers.

In discussing the Use of Force Directives on the 40mm LLL, Beanbag Shotgun and TASER, "the verbal warning should include a command and a warning of potential

consequences of the use of force. The command should be similar to “drop the weapon” or “stop what you are doing” followed by a warning similar to “or we may use the Beanbag Shotgun, and that may cause you injury.” The UOFRB noted throughout the course of this incident, the Subject was ordered numerous times to drop the axe hammer. Additionally, the Subject was also told if he returned to their location, he would be subject to arrest. Although not an exact adherence to the recommended command, the UOFRB opined this constituted sufficient warning and it was reasonable to believe the Subject knew he would be Subject to force. The UOFRB further noted when the Subject finally approached, they ordered him to stop and/or back up away from them followed by the Subject yelling “shoot it!” as he approached to a final distance of approximately four feet from Officer C. As such, the UOFRB opined the Subject’s actions clearly demonstrated that his expectation was he would be struck by gunfire and therefore reasonably knew the potential consequence of his actions.

In terms of whether or not it was feasible to give a warning, the UOFRB noted Use of Force Directive No. 1 also states: “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.” Although 21 minutes had passed between the arrival of the additional units and the discharge of intermediate force options, communication with the Subject was continuous and ongoing during this time. The UOFRB relied heavily on the fact that the intention of officers was not to affect the arrest of the Subject, but rather to encourage his willful compliance of disarming himself and leaving the area. It was not until such time that the Subject, in spite of the circumstances described above, intentionally and immediately rearmed himself and attacked officers that the decision to utilize intermediate force options became necessary. As such, a warning was not feasible without increasing the risk of harm to the officers.

In considering all of these factors, the UOFRB opined while the officers spent a considerable amount of time communicating with the Subject, the officers had no intention to effect the arrest the Subject. Additionally, the UOFRB opined a warning was in fact given and the Subject should have reasonably known he would be subject to force if he did not comply and approached the officers while armed. Therefore, the UOFRB opined Officers A, D, E, G and I’s actions were not a substantial deviation from Department approved tactical training.

Based on the totality of the circumstances, the UOFRB determined, and the BOPC concurred, Officers A, D, E, G and I’s actions were not a substantial deviation from Department approved tactical training.

During the review of this incident, the following Additional Tactical Debrief Topics were noted:

Additional Tactical Debrief Topics

Incident Commander Declaration – Although Sergeant A functioned as the IC and it was clear to the officers at scene he/she had command and control, he/she did not declare himself/herself as the IC after gaining situational awareness. Alternatively, Sergeant A could have declared he/she was the IC at any time throughout the incident, after gaining sufficient situational awareness.

Maintaining Control of Equipment – Officer A deployed and discharged the TASER at the Subject, which was ineffective. He/she then discarded his/her TASER by attempting to throw it under a parked car. While his/her actions would likely prevent the Subject from being able to acquire or use this weapon, and even though the street was closed, the surrounding area was not entirely free of pedestrian traffic. The BOPC would have preferred Officer A take the necessary time to re-holster the TASER before assuming any further role in the incident.

Non-Conflicting Simultaneous Commands – Several officers at scene gave non-conflicting simultaneous commands to the Subject while attempting to have him stop approaching them and drop his axe hammer. Although commands were simultaneous and non-conflicting, the officers should have designated a single point of contact with the Subject for clarity.

Command and Control

Sergeant A arrived at scene and met with Officers A and B who provided him/her with information regarding the radio call. Informed of the victim's refusal for a PPA, Sergeant A and Officer B discussed tactically disengaging. After observing the Subject walk into the street, Sergeant A directed officers to deploy intermediate force options, designated roles for an arrest team and assigned Officer A as the DCO. Additionally, Sergeant A requested a backup for a "415 man armed with a hammer." During his/her broadcast, Sergeant A directed the responding units to block north and southbound traffic.

In continuing the process to tactically disengage from the Subject, Sergeant A contacted the Watch Commander and advised him/her of the incident and directed an officer to contact MEU for advice prior to disengagement.

After officers discharged intermediate force options at the Subject, Sergeant A continually assessed the position of the officers and advised them to back up and get cover. After the OIS, Sergeant A broadcast "Shots fired, officer needs help," followed by an RA request to respond and to stand by. Prior to approaching and taking the Subject into custody, Sergeant A directed the officers to communicate with the Subject to get him further away from the axe hammer. As soon as the Subject moved, he/she directed officers to move in and take the Subject into custody. Once the Subject was in custody, Sergeant A broadcast a Code 4 and directed officers to render medical aid to the Subject. Sergeant A directed officers to

monitor evidence and then identified and separated involved officers. Sergeant C obtained a Public Safety Statement from Officer C before monitoring and transporting him/her.

The UOFRB evaluated the command and control employed by Sergeant A. The UOFRB noted Sergeant A ensured adequate resources were requested and containment of the area was achieved. Additionally, the UOFRB noted Sergeant A designated roles to officers at scene as he/she initiated the process to tactically disengage from the Subject. Sergeant A also implemented post-OIS protocols when he/she directed officers to render aid and preserve the crime scene and identified involved officers.

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

B. Drawing/Exhibiting

Officer A

Officer A observed the Subject armed with what he/she believed to be an axe advance toward him/her. Believing the situation could escalate to where lethal force could be justified, Officer A unholstered his/her service pistol.

Officer C

Officer C observed officers utilize several intermediate force options to stop the Subject but noted they were ineffective. When the Subject focused on Officer C and advanced toward him/her and other officers, Officer C unholstered his/her service pistol as he/she believed the Subject was going to either kill or attack him/her or his/her partner officers.

Officer G

First Occurrence- Officer G observed the Subject advancing towards officers while armed with an axe hammer. Officer G feared for his/her and his/her partner's safety. Believing the situation could escalate to the use of deadly force, Officer G unholstered his/her service pistol.

Second Occurrence- After the Subject fell to the ground, he/she dropped the axe hammer; however, the axe hammer remained within arm's reach of the Subject. Officer G holstered his/her service pistol to put gloves on, but unholstered a second time as he/she believed it would be easy for the Subject to regain control of the weapon and use it against officers.

The UOFRB assessed Officers A, C and G's drawing and exhibiting of their respective service pistols. In their assessment, the UOFRB noted Officer G drew his/her service pistol when he/she observed the Subject, who was armed with an axe hammer, advance toward him/her. Regarding his/her second occurrence, the UOFRB noted despite the Subject having fallen to the ground, his axe hammer remained within arm's reach. As the Subject was not in custody, he continued to pose a threat to officers. As such, the UOFRB opined Officer G's second occurrence was a continuation from his/her first as he/she momentarily holstered his/her service pistol to don protective gloves.

Regarding Officers A and C, the UOFRB noted both officers unholstered their service pistols as the Subject continued his advancement toward them and other officers while armed with an axe hammer. Therefore, the UOFRB opined the officers' decision to unholster their service pistols were within Department policy. The UOFRB also opined it was reasonable for them to believe the situation could escalate to the use of deadly force. The UOFRB further opined the circumstances surrounding the incident clearly created a reasonable belief amongst the officers that the situation may rise to where lethal force may 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, C and G would reasonably believe the situation may escalate to where deadly force could be justified.

Therefore, the BOPC found Officers A, C and G's Drawing/Exhibiting to be In Policy.

C. Intermediate Force

- **Officer A** – TASER, discharged Bay 1 stand-off probes for a 4.959 second cycle from approximately 20 feet. The TASER probes struck the Subject; however, the probes did not penetrate his clothing. The deployment of the TASER did not achieve Neuro-Muscular Incapacitation (NMI) and the TASER was ineffective.

After Officer A hung up the phone after talking to MEU, he/she exited his/her police vehicle and observed the Subject moving toward officers. Fearing for the officers' safety, Officer A removed his/her TASER, aimed at the left side of the Subject's body and discharged the TASER at the Subject to protect them from the immediate threat of serious bodily injury.

- **Officer D** – Beanbag Shotgun, three rounds from approximate distances of 25 feet, 20 feet and 15 feet.

First Occurrence

According to Officer D, after Officer G discharged his/her 40mm LLL, the Subject continued to advance toward him/her and other officers. In response, Officer D yelled, "Beanbag, beanbag, beanbag!" as he/she took a step forward and discharged a Super-Sock round at the Subject to protect himself/herself and others from the immediate threat of serious bodily injury. The round struck the Subject in the abdomen area but was ineffective.

Second Occurrence

After Officer D discharged his/her first round, the Subject continued to walk toward officers. Officer D discharged a second Beanbag Super-Sock round at the Subject to protect himself/herself and others from the immediate threat of serious bodily injury. The round struck the Subject in the abdomen area but was ineffective.

Third Occurrence

As the Subject continued to advance toward officers, Officer D heard other officers yelling, "Back up, back up, back up!" According to Officer D, the Subject's face turned away from him/her and focused on his/her partner, Officer C. In response, Officer D discharged his/her third round to protect Officer C from the immediate threat of serious bodily injury posed by the Subject.

- **Officer E** – Beanbag Shotgun, two round rounds from an approximate decreasing distance of 25 to 15.

First Occurrence

Officer E observed the Subject advance toward officers while armed with an axe hammer and feared for the officers' safety. Officer E discharged one Super-Sock round from the Beanbag Shotgun at the Subject to protect them from the immediate threat of serious bodily injury. Officer E struck the Subject on the left chest area; however, the round was ineffective as the Subject continued to advance toward officers.

Second Occurrence

The Subject continued to advance toward officers while armed with his/her axe hammer and, fearing for the officers' safety, Officer E discharged a second Super-Sock round at the Subject to protect them from the immediate threat of serious bodily injury. Force Investigation Division was unable to determine the exact impact location of the second round; however, it was ineffective as the Subject continued his advance on officers.

- **Officer G** – 40mm LLL, two rounds from an approximate decreasing distance of 35 to 15 feet.

First Occurrence

As the Subject started to walk toward the officers armed with an axe hammer, Officer G feared for his/her and his/her partner officers' safety and discharged one round from his/her 40mm LLL at the Subject to protect them from the immediate threat of serious bodily injury. The round struck the Subject in the abdomen; however, it had no effect on the Subject as he continued his advancement on officers.

Second Occurrence

Officer G observed the Subject continue to walk toward officers while holding the axe hammer. Officer G then observed the Subject turn and advance solely toward Officer C. Fearing for Officer C's safety, Officer G discharged a second 40mm LLL at the Subject to stop his immediate threat of serious bodily injury. Officer G aimed for the Subject's left arm that was holding the axe hammer.

- **Officer I** – 40mm LLL, two rounds from approximately decreasing distance of 35 to 15 feet.

First Occurrence

Officer I discharged one round at the Subject from his/her 40mm LLL as he/she observed the Subject moving toward officers at a fast pace while armed with an axe hammer and posed an immediate threat of serious bodily injury to them.

Second Occurrence

The Subject transitioned the axe hammer to his left hand and held it raised at shoulder level with the blade facing Officer C and said, "Shoot it!" Fearing for Officer C's safety, Officer I discharged his/her second Super-Sock round at the Subject to protect Officer C from the immediate threat of serious bodily injury. The round struck the Subject in the abdomen area and was ineffective.

The UOFRB assessed Officers D and E's use of the Beanbag Shotgun, Officers G and I's use of the 40mm LLL and Officer A's use of the TASER. In their discussion, the UOFRB noted prior to the Subject crossing the street and confronting officers while armed with his axe hammer, officers at scene recognized and effectively communicated with one another regarding the Subject's clothing and apparent padding that would serve as makeshift body armor to minimize the effectiveness of the intermediate force options. The UOFRB also noted when the Subject armed himself with the axe hammer for the final time and began walking across the street in the direction of officers, Officers A, D, E, G and I employed intermediate force

options, all of which were, in fact, ineffective in stopping him from advancing, dropping the axe hammer, or complying with officers' commands.

In terms of Officer G, the UOFRB noted the following. As the Subject started walking toward officers while armed with the axe hammer, Officer G discharged his/her first 40mm LLL round. Per Officer G, the Subject was approximately 25 feet away, aiming the blade of his axe hammer toward officers, and perceived this to be an immediate threat to his/her safety and that of the other officers. Regarding his/her second occurrence, the UOFRB noted Officer G reloaded and discharged his/her second and final 40mm LLL round from a distance of approximately 15 feet, while the Subject continued to advance toward Officer C. The UOFRB also noted Officer G aimed the second round at the Subject's arm due to the padding of his clothes. The UOFRB further noted although Officer C was in Officer G's background at the time he/she discharged the second round, Officer G articulated he/she was moving in an attempt to eliminate the potential crossfire. As such, the UOFRB opined both 40mm LLL rounds discharged by Officer G were reasonable as a final attempt to stop the Subject's threat before reaching the point of deadly force.

Regarding Officer E, the UOFRB noted when the Subject began crossing the street, and almost immediately after Officer G's first 40mm LLL round, Officer E fired two Super-Sock rounds from his/her Beanbag Shotgun at the Subject. The UOFRB noted the first round was fired at the Subject's shoulder and the second round was fired at the Subject's hand, due to the Subject's clothing and padding. Per Officer E, the use of his/her Beanbag Shotgun was based upon the Subject arming himself and advancing toward officers, which he/she perceived to be an immediate threat to the safety of himself/herself and others. Based on the available evidence, the UOFRB opined the Subject posed an immediate threat of physical harm and Officer E correctly applied an intermediate force option.

In assessing Officer D, the UOFRB noted, following Officer G's first 40mm LLL round, Officer D shouted "Beanbag, Beanbag, Beanbag," to alert his/her fellow officers of the pending deployment of his/her intermediate force option. From a position behind the rear of the police vehicle, Officer D fired two Beanbag Super-Sock rounds as the Subject continued to advance toward him/her. While redeploying backwards away from the Subject, Officer C discharged his/her third and final round from approximately 15 feet. All three rounds were aimed at the Subject's navel area and were ineffective.

Officer D reported the Subject's movement in his/her direction, while armed with the axe hammer, posed an immediate threat to himself/herself and his/her partner officer. As Officer D knew Officer C was his/her DCO, the UOFRB opined Officer D maintained awareness of his/her partner's location throughout the incident. As such, the UOFRB opined the Subject posed an immediate threat of physical harm during all three Beanbag Shotgun rounds discharged by Officer D and correctly applied an intermediate force option.

The UOFRB noted Officer I arrived in response to Sergeant A's backup and request for traffic control. Believing the officers at scene could use an additional 40mm LLL, and after coordinating with his/her partner who remained to conduct traffic control, Officer I approached the team with his/her 40mm LLL. The UOFRB also noted Officer I redeployed throughout the incident to provide better support to the team and maintain his/her vantage point. As the Subject began approaching officers, Officer I maneuvered away from the police vehicle to maintain an unobstructed view and ability to engage the Subject. Officer I then twice yelled "40 Standby!" before deploying his/her first 40mm LLL round. Officer I reloaded while redeploying backward and away from the Subject. The UOFRB further noted Officer I side stepped to his/her right to minimize Officer C's presence in his/her immediate background and fired his/her second and final 40mm LLL round approximately two seconds before Officer C discharged his/her service pistol at the Subject. In the UOFRB's discussion, they found this to be reasonable based upon Officer I's awareness of Officer C's position and the last and final effort to stop the threat with intermediate force before deadly force became necessary.

Therefore, the UOFRB opined Officer I discharged his/her two 40mm LLL rounds based upon the Subject's aggressive movement toward officers, while armed with the axe hammer, thereby posing an immediate threat to himself/herself and other officers and correctly applied an intermediate force option.

Regarding Officer A, the UOFRB noted after he/she finished notifying MEU, he/she heard a commotion and the deployment of multiple intermediate force option munitions. Per Officer A, he/she assessed the Subject's movement and observed a shiny object causing him/her to believe the Subject was still armed with the axe hammer. The UOFRB also noted Officer A perceived this to be an immediate threat to the safety of his/her fellow officers as the Subject continued approaching. The UOFRB further noted Officer A also observed the intermediate force option munitions were ineffective, at which point he/she unholstered and discharged his/her TASER at the Subject. As such, the UOFRB opined the Subject posed an immediate threat of physical harm and Officer A correctly applied an intermediate force option.

The UOFRB continued their discussion regarding the volume of intermediate force options discharged at the Subject. In their discussion, the UOFRB recognized that five intermediate force option officers and the discharge of each of these weapons is unusual; however, the UOFRB opined each and every application of intermediate force was independently assessed.

Furthermore, based upon the environment and circumstances, the UOFRB opined the deployment of duplicate intermediate force option devices ensured officers the ability to target and engage the Subject from all possible angles, without knowing what the Subject would do or where he would move to. While all intermediate force option operators engaged the Subject in a somewhat simultaneous and ongoing manner, the UOFRB opined the volume of intermediate force was appropriate given

the ineffective results of each deployment and the active effort by all involved officers to continually assess and attempt to prevent the need for deadly force. A total of nine less-lethal munitions and one TASER were used over approximately 15 seconds prior to the OIS.

Based on the totality of the circumstances, the UOFRB determined, and the BOPC concurred, an officer with similar training and experience as Officers A, D, E, G and I in the same situation, would reasonably believe the use of intermediate force, all applications, were proportional and objectively reasonable.

Therefore, the BOPC found Officers A, D, E, G and I's Intermediate Use of Force to be In Policy.

D. Lethal Use of Force

- **Officer C** – .40 caliber, Glock Model 22, semi-automatic pistol, fired five rounds from a decreasing distance of ten to four feet in a northern direction.

First Round - As Officer C continued to redeploy away from the Subject, the Subject transitioned the axe hammer into his right hand and held it up at chest level with the blade extending out toward Officer C. In fear of being struck and killed by the Subject, Officer C discharged his/her first round at the Subject.

Second Round – Observing his/her first round was ineffective in stopping the Subject's deadly threat, Officer C discharged a second round at the Subject.

Third Round – The Subject continued to advance as he locked eyes with Officer C and moved at even faster pace toward him/her. Fearing for his/her safety, Officer C discharged a third round at the Subject.

Fourth Round – As he/she redeployed away from the Subject, Officer C was nearing the east sidewalk. The Subject, still armed with the axe hammer, continued to close the distance on Officer C. In fear of his/her safety, Office C discharged a fourth round at the Subject.

Fifth Round – As Officer C redeployed backward, he/she bumped into a parked car, causing his/her left hand to release his/her grip on his/her service pistol and go onto the hood of the car to brace himself/herself. The Subject continued his advance and furthered an imminent threat to Officer C's safety. In response, Officer C discharged a fifth, and final, round at the Subject.

The UOFRB evaluated Officer C's use of lethal force. In their discussion, the UOFRB noted despite extensive de-escalation efforts and use of intermediate force options, the Subject continued to advance on Officer C, decreasing the distance from ten to four feet. While advancing on Officer C, the Subject focused on Officer C as he switched his axe hammer to what appeared to be his dominant hand in an

upright position, at eye level, with the blade facing Officer C. As the Subject advanced, Officer C continued redeploying backward; however, the Subject advanced at a faster rate, closing the distance between them. By this time, Officer C had witnessed a multitude of ineffective intermediate force options used against the Subject. With no available cover and the Subject posing an imminent threat, Officer C discharged his/her service pistol at the Subject.

The UOFRB also noted following his/her first round, Officer C perceived the Subject's advancement to increase in speed, thereby suggesting even lethal force was ineffective and explaining the rapid succession of four additional rounds. The UOFRB further noted as Officer C continued redeploying backward, he/she lost his/her footing between a parked car and the curb, nearly causing him/her to fall. As a result, when Officer C discharged his/her fifth and final round, he/she was utilizing a one-handed shooting grip as he/she lost balance and used his/her left hand to brace himself/herself against a parked car.

The UOFRB noted Officer C fired a total of five rounds in approximately 2 seconds to protect himself/herself and others from the Subject's imminent threat of serious bodily injury or death. At the time, Officer C's immediate background consisted of unoccupied police vehicles. The UOFRB also noted the Subject's movement and advancement toward Officer C did not cease until the fifth and final round was fired, and he fell to the ground.

The UOFRB opined the Subject, who was armed with an axe hammer, was posing an imminent threat of serious bodily injury or death to Officer C. As a result, the UOFRB found Officer C's use of deadly force was objectively reasonable, proportional and necessary to stop the Subject's deadly actions.

Based on the totality of the circumstances, the UOFRB determined, and the BOPC concurred, an officer with similar training and experience as Officer C, in the same situation, would reasonably believe the use of deadly force was objectively reasonable, proportional and necessary. Therefore, the BOPC found Officer C's Lethal Use of Force, all five rounds, to be In Policy.