INTRADEPARTMENTAL CORRESPONDENCE

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TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: OFFICER-INVOLVED SHOOTING, FID NO. 064-21

Honorable Members:

The following is my review, analysis, and findings for an Officer-Involved Shooting (OIS), Force Investigation Division (FID) No. 064-21. On September 12, 2022, this case was presented to the Use of Force Review Board (UOFRB). In this case, the recommended findings were not unanimous, with a minority opinion rendered regarding the Tactics findings for Sergeant [redacted], Serial No. [redacted] Newton Area, Gang Enforcement Detail.

I have carefully weighed each opinion, considered the case in its entirety, and adopted the recommendations of the UOFRB Minority for the Tactics findings for this incident. I hereby submit my findings per Police Commission policy.

SUMMARY[1]

On December 18, 2021, at 1654 hours, Reporting Party 1 called Communications Division (CD) and reported that her brother, Victim [redacted], was suicidal and had walked out of their house, located at Home Address [redacted], armed with a knife.[2] At approximately 1656 hours, an "Ambulance Attempt Suicide" radio call was generated for Newton Patrol Division. According to RP 1, when Victim [redacted] walked away from their residence, he removed the knife from his pocket and held it in his hand. According to witness Reporting Party 2, his son had begun to drink beer and smoke drugs when he turned 18 years old.[3] Reporting Party 2 further stated that his son was a "very hyper boy" and that when drank, he was in an "altered state of mind" because of the beer and the drugs.[4]

Officers Officer 1 Serial No. [redacted], and Officer 2 Serial No. [redacted] Newton Patrol Division, and Sergeant [redacted] Serial No. [redacted] Newton Area Gang Enforcement Detail (GED), responded Code Three to the aforementioned radio call. Officers J. Zavala, Serial No. 40197, and J. Quintanilla, Serial No. 42454, Newton Area GED, responded Code Two to the radio call.

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[1] The summary and the investigation completed by FID for this incident have been provided to the Board of Police Commissioners.
[2] For clarity, RP 1 and Victim [redacted] will be referred to by their first names.
[3] For clarity, Reporting Party 2 will be referred to as Reporting Party 2
[4] A blood analysis identified the presence of Benzodiazepines, Cannabinoids, and Ethanol in Victim [redacted] blood.

At approximately 1654 hours, Witness 1 called CD and reported that Victim had a large knife. According to Witness 1, he was walking near Street 2 and Street 1 when he saw Victim looking at him and walking toward him while holding a knife. Witness 1 stated that Victim looked angry and he was swinging the knife in the air, which caused him to be scared. At approximately 1656 hours, on the CD 911 call recording, RP 1 was heard telling the RTO that Victim tried to hit someone and was going to attack a person with the knife. At 1657 hours, CD broadcast, "additional on your attempt suicide, Home Address the subject is now chasing people with the knife in front of Home Address."

As Sergeant drove on Street 2 a male and a female flagged him down and pointed to Victim. As Sergeant exited his police vehicle, Victim was sitting on the exterior stairs of the apartment building located at Incident Location holding a knife in his right hand with the blade pressed against his neck.[5] Sergeant attempted to communicate with Victim and gain his compliance with negative results. Sergeant subsequently unholstered his service pistol. At 1702:05 hours, Officers Zavala and Quintanilla arrived at the scene taking cover behind their police vehicle's doors and unholstered their service pistols.

While Officer Quintanilla was giving Victim commands to drop the knife, Officer Zavala requested a backup on a "415 man with a knife." Officer Zavala also requested that a Rescue Ambulance (RA) respond to and stage at Street 2 and Street 1.

At 1702:22 hours, Officers 1 and 2 arrived on the scene. Sergeant directed them to retrieve their 40mm Less Lethal-Launcher (LLL). Officer 1 retrieved the 40mm LLL and took a position of cover behind the driver's side door of Sergeant 's police vehicle. According to Sergeant s Body Worn Video (BWV), at 1702:24 hours, Victim held the knife in front of himself at shoulder level, repeatedly rotating the blade back and forth, from left to right. Sergeant directed Officer 2 to take cover behind the passenger side door of his Sergeant s) police vehicle. Sergeant holstered his service pistol and assigned the role of lethal cover to Officers Quintanilla and Zavala, advising them of Officer 1 's role as the less-lethal officer.

After a Code Four was broadcast for an unrelated backup in Newton Division, Sergeant advised CD that he was Code Six on the 415 man with a knife call and requested additional units to respond for traffic control. According to Officer Zavala's BWV, at 1702:59 hours, Officer Zavala told Officer Quintanilla that he was going to talk to Victim in Spanish. Officer Zavala then took over communications from Officer Quintanilla. At 1703:02 hours, Victim placed the knife's blade against his left palm and again began making a cutting motion. Victim then placed the blade against the side of his throat; multiple officers yelled, "Don't do it!"[6] Sergeant directed Officer 1 to deploy the 40mm LLL. Sergeant abruptly told Officer 1 to "wait, hold on, hold on," as Officer 3 Serial No. , Rampart Patrol Division,

[5] Victim was armed with a meat cleaver type knife with a 6 ½-inch blade and a 5 ¼-inch black plastic handle.
[6] The Coroner's report did not identify any injuries to Victim hands or throat consistent with an edged weapon.

arrived in his police vehicle. Sergeant directed Officer 3 to join Officer 2 and assigned them to be an arrest team.

Victim stood up holding the knife to his throat and gestured the sign of the crucifix across his chest with his left hand. Sergeant directed Officer 1 to fire the 40mm LLL and announced, "Forty stand by!" At 1704:06 hours, Officer 1 discharged one 40mm round at Victim from approximately 30 feet. The 40mm round struck Victim in the abdomen area but did not appear to affect him. Victim walked down the steps while holding the knife to his throat and took a seat at the bottom step.

At 1704:35 hours, Sergeant retrieved a ballistic shield from his police vehicle and assigned it to Officer 3 if they needed to approach Victim. Sergeant yelled to Officers Quintanilla and Zavala, "You still got lethal coverage right here." Sergeant walked back to the driver's door of his vehicle and stood next to Officer 1. For the next several minutes, Officers Zavala, Quintanilla, and Sergeant alternated communicating with Victim. At 1705:36 hours, officers can be heard warning that someone was coming out of the building, as a person attempted to walk out of the entry door of the apartment building. Sergeant yelled the command, "Hey stay right there, do not come out." Additional officers can be heard warning the person to stay inside and move away from the windows.

During the incident, Officers E. Meraz, Serial No. 41215, and Officer 4, Serial No. [redacted], Newton Area GED, arrived on the scene. Officer Meraz deployed the shotgun and positioned himself as a lethal cover officer alongside Officer 1. Officer 4 deployed the Beanbag Shotgun and was ultimately directed by Sergeant to move to the west side of the containment with Officer Zavala to provide less-lethal cover at that position. Sergeant and Officer Zavala continued to alternate giving commands to Victim. Sergeant used the police vehicle's Public Address (PA) system to communicate. Sergeant directed Officer 3 to reposition his (Officer 3) police vehicle to the southeast corner of Street 2 [redacted] and Street 1 to block pedestrian traffic.

Sergeant directed Officer 2 to reposition his (Officer 2's) police vehicle between his (Sergeant's) and Officer Zavala's police vehicles. At 1709:44 hours, Officer 2 returned to his police vehicle and Sergeant continued to use the PA system to communicate with Victim. As Officer 2 parked his police vehicle between Sergeant [redacted] and Officer Zavala's police vehicles, Victim stood up holding the knife in front of himself at head level. Victim looked toward his family members gathered in their front yard approximately 35 feet east of his location in front of the apartment building. Sergeant announced, "Get ready!" as he simultaneously ran around the back of his police vehicle toward Officer 1's position and announced, "Forty, forty up."

At 1710:17 hours, Victim was sitting on the bottom step with the knife positioned between his legs and his head down. Suddenly, Victim used his left hand to knock his hat off his head and stood up holding the knife in front of himself at head level. At 1710:19 hours, Victim took four steps forward in a northerly direction toward Officer 1, then turned to his left in a westerly direction. At that moment, Officer 1 announced, "Forty, standby" as Sergeant

directed him to fire the 40mm LLL. Officer 1 fired one 40mm round from approximately 22 feet impacting the lower right side of Victim s torso. Approximately .382 seconds later, Officer Zavala discharged his first of three rounds from his service pistol from approximately 25 feet, striking Victim [7] Approximately .322 seconds after Officer Zavala discharged his third round, Officer Quintanilla discharged one round from his service pistol at Victim from approximately 28 feet. Victim fell to the ground, onto his back, and the knife fell from his hand coming to rest on the sidewalk.

Sergeant broadcast a "shots fired, officer needs help" call and began organizing an arrest team assigning Officers O-2 and Quintanilla as the "hands-on" officers. Officers approached Victim handcuffed him, and placed him in a recovery position. Officer Quintanilla then directed Officer 2 to retrieve a medical kit from his police vehicle. While Officer 2 was searching for the medical kit, Los Angeles Fire Department (LAFD) RA No. 1, staffed by Firefighter/Paramedics (FF/PM) C. Shubsda and M. Farris, arrived on the scene. They began treatment and ultimately transported Victim to Los Angeles County University of Southern California Medical Center (LAC+USCMC).

Sergeant separated Officers Quintanilla and Zavala and directed them to sit in separate police vehicles until the arrival of additional supervisors. Due to an ongoing tactical situation involving a hostile crowd, Sergeant directed Officers Quintanilla and Zavala to keep their BWV cameras activated. According to Officer 1 a male Hispanic spat on his face and uniform, as he attempted to block the family's approach. After the tactical incident became manageable, Sergeant G. Gaxiola, Serial No. 35056, Newton Area Gang Enforcement Detail, initiated the monitoring of Sergeant Burke. Sergeant V. Cruz, Serial No. 38632, Newton Patrol Division assisted in monitoring Officers Quintanilla and Zavala. Sergeant P. Scallon, Serial No. 35240, 77th Street Patrol Division, monitored Officers 1 and 2 and O-3

FINDINGS

Tactics – Tactical Debrief, Officers Zavala, Quintanilla, and O-1. Administrative Disapproval, Sergeant .

Drawing/Exhibiting – In Policy, No Further Action, Sergeant Officers Zavala, Quintanilla, and O-2.

Less-Lethal Use of Force – In Policy, No Further Action, Officer 1

Lethal Use of Force – Out of Policy, Administrative Disapproval, Officers Zavala and Quintanilla.

[7] Per FID, Officer Zavala discharged his second round .381 seconds after his first round and his third round .514 seconds after his second round.

ANALYSIS[8]

Detention

Officers responded to a radio call of "attempt suicide" involving Victim The comments of the call indicated that Victim was armed with a knife. While responding to the scene, officers were advised that Victim was chasing people with the knife. Arriving at the scene, Sergeant located Victim sitting on the front steps of Incident Location a multi-unit apartment building. Victim was armed with a meat cleaver type knife. Sergeant and responding officers attempted to communicate with Victim to gain his compliance; however, he refused to drop the knife. At various points during the encounter, Victim placed the knife against his neck and palm, ostensibly self-mutilating. Based on the totality of the circumstances, officers had reasonable suspicion to detain Victim

Tactics

Department policy relative to a Tactical Debrief is: "The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance."

Department policy relative to Administrative Disapproval is: "A finding, supported by a preponderance of the evidence that the tactics employed during a CUOF incident unjustifiably and substantially deviated from approved Department tactical training" (Los Angeles Police Department Manual, Volume 3, Section 792.05).

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Tactical De-Escalation[9]

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.

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[8] The analysis reflects my recommendations as supported by the preponderance of the evidence established by the investigation.

[9] Los Angeles Police Department, Use of Force Tactics Directive No. 16, Tactical De-Escalation Techniques, October 2016.

*Tactical De-Escalation Techniques: **P**lanning, **A**ssessment: **T**ime; **R**edeployment and/or Containment; **O**ther Resources; and, **L**ines of Communication.*

Planning – Officers Zavala, Quintanilla, and Sergeant were assigned to the Newton Gang Enforcement Detail. According to Sergeant earlier that day during roll call, he discussed tactics regarding men with knives with the officers assigned to GED. Sergeant further stated that he and the officers assigned to GED regularly discuss tactics and how to handle different scenarios. Officers Zavala and Quintanilla have worked on and off as partners in GED for approximately one and half years and advised they have had tactical discussions before and during their shifts. Before the OIS, Sergeant developed and communicated a plan to contain and communicate with Victim in an attempt to de-escalate the situation and take him into custody. Sergeant designated two containment teams on each side of Victim consisting of lethal and less-lethal roles, in addition to an arrest team, in case the situation required them to approach Victim At one point, Sergeant retrieved and assigned a ballistic shield to an arrest team member.

Assessment – Sergeant was aware that the edged-weapon protocol required a sergeant to respond to the ambulance attempt suicide radio. As he was the only supervisor available in the field, Sergeant assessed the need to respond. Hearing the updated information that Victim was chasing people with a knife, Sergeant knew the situation was "serious." Arriving at the scene, Sergeant and Officers Zavala and Quintanilla continually assessed the situation as Victim failed to comply with their orders to drop the knife. Sergeant and Officers Zavala and Quintanilla coordinated efforts to speak to Victim In case there was a language barrier, officers also spoke to him in Spanish. Sergeant obtained Victim s name from his family and used it to build rapport. Sergeant also used the PA system of his police vehicle to enhance communication. Sergeant assessed his resources and requested additional units to respond to control vehicle and pedestrian traffic. Sergeant assessed Victim s actions of gesturing the sign of the crucifix and opined he could attempt "suicide by cop." During the incident, Officer 1 assessed Victim s actions and determined he was using the knife to harm himself. Wanting to stop the threat to himself, Officer 1 fired a round from the 40mm LLL.

After the OIS, Sergeant assessed that Victim was on the ground in a semi-conscious state and that the knife was no longer in his possession. Observing that a group of people was gathering who may try to approach Victim Sergeant formed a contact/arrest team and apprehended him.

Time – Sergeant and his officers maintained their distance as they attempted to communicate with Victim Using the police vehicles as cover while maintaining distance allowed Sergeant and the officers time to communicate with Victim to de-escalate the incident and gain his compliance.

Redeployment and/or Containment – Sergeant positioned the police vehicles to contain Victim in front of the apartment building and requested additional units for traffic control. As additional officers arrived, he ensured a containment team was positioned on each side of

Victim and that each team had a lethal and less-lethal officer assigned. Sergeant later directed Officer 3 to reposition his police vehicle to the southeast corner to block pedestrian and vehicle traffic. Furthermore, Sergeant directed Officer 2 to reposition his police vehicle between his and Officer Zavala's police vehicle to provide better containment of the scene.

Other Resources – Sergeant assessed the need for less-lethal options and directed the deployment of a 40mm LLL and a Beanbag Shotgun officer. Sergeant assessed his resources and requested additional units to respond to control vehicle and pedestrian traffic. He retrieved a ballistic shield from his police vehicle and assigned it to an arrest team member. Officer Zavala requested an RA unit to respond and to stage near the radio call location before the OIS.

Lines of Communication – Sergeant was the first unit to arrive and repeatedly asked Victim to drop the knife. Shortly after arriving at the scene, Officer Zavala requested backup units for a man with a knife, providing his location and Victim's description. Sergeant assessed his resources and requested additional units to respond to control vehicle and pedestrian traffic. After Victim failed to comply, Officers Zavala, Quintanilla, and Sergeant alternated communicating with him in English and Spanish, using a PA system to enhance communication and Victim's first name to build rapport. Before and after the OIS, Sergeant communicated his plan and their assignments to the officers at the scene.

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

Debriefing Point No. 1 Code Six

When a unit is conducting a field investigation and no assistance is anticipated, a "Code Six," followed by the location, shall be broadcast. A unit shall not go "Code Six" until it arrives at the scene of a call (Los Angeles Police Department Manual, Volume 4, Section 120.40).

Due to an unrelated backup request in the division, Sergeant did not advise CD that he was Code Six when he arrived at the scene. Sergeant broadcast his Code Six status immediately after the unrelated backup request was declared a Code Four, indicating that no further assistance was needed.

The UOFRB evaluated Sergeant's decision to delay broadcasting his Code Six status. The Board noted that as Sergeant was responding to the ambulance attempt suicide radio call, the unrelated backup request was broadcast by officers who were Code Six on armed robbery suspects. Sergeant was aware that multiple units were responding to the backup request and did not want to "tie up the air." To keep the frequency clear for those officers, Sergeant did not advise CD that he had arrived at the scene until the officers broadcast a Code Four.

The UOFRB Majority noted that Sergeant advised CD that he was responding to the ambulance attempt suicide radio call. The Majority also noted that Sergeant was aware

that two other units were responding with him to the call and that Officers Zavala and Quintanilla arrived at the scene within 30 seconds of his arrival. The Board further noted that within seven seconds of their arrival, Officers Zavala and Quintanilla broadcast a request for backup units which included their location.[10] Immediately after the unrelated backup request was declared a Code Four (approximately one minute and forty seconds after Officers Zavala and Quintanilla's broadcast) Sergeant advised CD that he was at the scene.

The Majority noted that the Code Six policy's intent is to advise CD of an officer's location so that other units will be able to locate them if assistance is needed. Based on the totality of the circumstances, the Majority opined that had Sergeant needed assistance, other units would have located him. Also, due to the nature of the unrelated backup request, the Majority opined that it was reasonable for Sergeant to delay his Code Six broadcast to keep the frequency clear for officers dealing with armed robbery suspects. Therefore, the Majority determined that the tactics employed by Sergeant were a substantial deviation, with justification, from Department-approved tactical training.

The UOFRB Minority was critical of Sergeant 's decision to delay going Code Six. The minority noted that because Sergeant advised CD he was responding to the call, it would have appeared on his Mobile Data Computer (MDC). As such, the Minority opined that he could have shown himself at the scene and kept the frequency clear for officers on the unrelated backup by using his MDC. The Minority also noted that upon arrival, Sergeant was confronted by a suspect armed with a knife; however, he did not request backup units despite the situation meeting the criteria. The Minority opined that by delaying the backup request, Sergeant further exposed himself to unnecessary risk.

The Minority opined that placing himself Code Six upon arrival, and before engaging an armed suspect was crucial to Sergeant 's safety, and in not doing so, he exposed himself to unnecessary risk. Had Sergeant required assistance or help it could have been substantially delayed due to CD being unaware of his current location. Therefore, the Minority determined that the tactics employed by Sergeant were a substantial deviation, without justification, from Department-approved tactical training.

Based on the totality of the circumstances, the UOFRB Majority determined, and I concur, that the tactics employed by Sergeant were a substantial deviation, with justification, from Department-approved tactical training. To enhance future performance, I will direct this to be a topic of discussion during the tactical debrief.

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

[10] As it pertains to Officers Zavala and Quintanilla, the UOFRB determined that this broadcast satisfied the Code Six policy's intent.

Additional Tactical Debrief Topics

Crime Scene Preservation – Approaching Victim to apprehend him, Officer Zavala slid the knife away from him. Alternatively, Officers could have moved Victim away from the knife.[11] To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Less-Lethal Use of Force Warning – Officer 1 did not provide a verbal use of force warning and may have mistaken a preemptive command to standby as a warning. Sergeant articulated that it was a tactical decision not to provide a verbal use of force warning; he believed that Victim would flee and escalate the situation if one were given. Alternatively, Sergeant or Officer 1 could have provided a use of force warning before deploying the first 40mm round. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Profanity – Officer Quintanilla yelled at an officer to get out of the "fucking car" to address a citizen that refused to leave the area near the suspect. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Personal Protective Equipment (Gloves) – Officers Quintanilla and O-2 were not wearing protective gloves while apprehending and searching Victim.[12] Alternatively, they could have donned protective gloves before approaching him. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Beanbag Shotgun Manipulations – Officer 4 advised that he disengaged the safety of his Beanbag Shotgun at different times during the tactical portion of the incident; however, it was unclear if this occurred save the one instance where his sights were aligned on his target and he intended to shoot. Officer 4 assessed that the suspect was no longer a threat and decided not to discharge an impact round. As firearms safety is always a worthy discussion, I will direct that this be a topic during the Tactical Debrief.

Non-Medical Face Coverings – Officers Zavala, Quintanilla, O-1 and Sergeant were not wearing non-medical face coverings at the scene, as directed by me in May 2020. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief. Additional personnel at the scene were not wearing non-medical face coverings and will be addressed at the divisional level.

Command and Control

Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create

[11] At the time of this incident, Victim was 4 feet 9 inches tall and weighed approximately 98 pounds.
[12] As Officer 2 was not identified as substantially involved, any issue will be addressed at the divisional level.

conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.

Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (LAPD, Training Bulletin, Volume XLVII Issue 4, July 2018).

Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (Supervisor's Field Operations Guide, Volume 2, LAPD Emergency Operations Guide).

Based on the Department's edged-weapons protocol and the fact that he was the only Newton Division supervisor in the field, Sergeant responded to the ambulance attempt suicide radio call. For the same reason, he continued his response when the unrelated backup was broadcast. According to Sergeant he believed that Victim may be a danger to the community and the public based on the updated information which indicated that he was chasing people with the knife. Sergeant was the first unit and the first supervisor to arrive at the scene. He established contact with Victim and attempted to persuade him to drop the knife. Once additional resources arrived, Sergeant established command and control by assigning lethal and less-lethal roles, an officer with a ballistic shield, and an arrest team. He made updated broadcasts and requested units to assist with vehicular and pedestrian traffic. Throughout the incident, Sergeant ensured that commands were given to Victim to get him to drop the knife. To enhance communication with Victim Sergeant used a police vehicle's PA system. After the OIS, he formed a contact/arrest team and apprehended Victim He implemented crime scene management, established skirmish lines, coordinated traffic control, declared himself as the Incident Commander (IC), and requested additional supervisors to the scene. Sergeant initiated the separation and monitoring protocols of all involved personnel and ensured their continued monitoring by additional responding supervisors.

Sergeants Gaxiola and Cruz responded to the incident after the OIS and were briefed by Sergeant Sergeant Gaxiola took over the management of the tactical incident by monitoring the skirmish line. After the tactical incident became stable, Sergeant Gaxiola initiated the monitoring of Sergeant Sergeant Cruz assumed monitoring of Officers Quintanilla and Zavala and obtained Officer Quintanilla's Public Safety Statement (PSS). Sergeant A. Castellanos, Serial No. 40202, Central Patrol Division, responded to the incident, assumed

monitoring of Officer Zavala, and obtained his PSS. Sergeant Scallon monitored Officers O-1 O-2 and O-3 Sergeant J. Lee, Serial No. 38328, 77th Street Patrol Division, monitored Officers O-4 and Meraz. The overall actions of Sergeants Gaxiola, Cruz, Castellanos, Scallon, and Lee were consistent with Department training and my expectations of supervisors during a critical incident.

As it pertains to Sergeant the UOFRB Minority was critical of his overall command and control. The Minority noted that while he gave orders in a manner that may have indirectly implied he was the IC, he did not declare himself as such. The Minority also noted that Sergeant involved himself in the efforts to communicate with Victim. As Sergeant was the only supervisor at the scene, the minority opined that he should have delegated this role to a subordinate, allowing Sergeant to maintain oversight of the incident and ensure everyone was aware of the potential plan of action. The Minority also opined that Sergeant should have directed an officer to retrieve the ballistic shield instead of doing it himself.

The Minority noted that Sergeant did not request assistance from other supervisors and did not use available resources, such as the Mental Evaluation Unit or the Crisis Negotiation Team. Additionally, the Minority opined that he confused officers by taking on the role of negotiator and formulating a deficient plan to take the suspect into custody. Although Sergeant s direction to use the 40 mm LLL may have been reasonable, the minority opined his plan was deficient because he did not communicate it or his intent to the officers, nor did he direct them to place themselves in a position that would have created a sufficient amount of distance and cover.

The Minority was also critical of Sergeant s decision not to provide a less-lethal warning. The Minority noted that Sergeant stated he did not recall if he issued a use of force warning; however, he also articulated a plan to deploy less-lethal munitions and use the element of surprise to take the suspect into custody. The Minority also noted that Sergeant stated he had time on his side, but opined that his actions of using the element of surprise contradicted this statement. The Minority also opined that yelling "40-millimeter standby" confused Officer 1 as to whether a use of force warning had been given. The UOFRB minority determined that the tactics employed by Sergeant were a substantial deviation, without justification, from Department-approved tactical training.

The UOFRB Majority noted that Sergeant took the initiative to respond to the ambulance attempt suicide call when he recognized the need for a supervisor. Arriving at the scene, Sergeant attempted to de-escalate the situation and convince Victim to drop the knife. As additional units arrived, Sergeant implemented command and control by designating roles and developing a tactical plan using the available resources. While he did not declare himself as the IC before the OIS, he was the only supervisor at the scene and there was no confusion as to his being in command of the incident. Recognizing the need for additional resources, Sergeant obtained a ballistic shield from the trunk of his police vehicle and requested units for traffic control. The Majority opined that Sergeant continuously assessed the situation and made necessary adjustments. Sergeant also ensured that his officers maintained their distance and used cover while attempting to obtain Victim s surrender.

As the only supervisor at the scene, Sergeant was forced to simultaneously perform multiple tasks. While he could have delegated some of his tasks, such as acquiring the ballistic shield, and he could have refrained from communicating with Victim once additional units arrived, the Majority opined that Sergeant was able to oversee and direct the officers at the scene without compromising his supervisory oversight.

As it pertains to Sergeant 's direction to Officer 1 to discharge his first impact round, the Majority noted that Victim had stood up while holding the knife to his throat and made the sign of the crucifix leading Sergeant to believe he may attempt suicide by cop or run toward his family. The Majority also noted that Sergeant was concerned Victim may harm civilians. Per Sergeant , there were crowds of people on Street 2 , west and east of the apartment building, as well as an individual who almost exited the building behind Victim . According to Sergeant , the comments of the radio call had indicated that Victim was chasing people down the street and Sergeant believed "one-hundred percent" that Victim was a threat to the community. Sergeant hoped that officers could use the 40mm LLL to bring the situation to an end. The Board also noted that before directing Officer 1 to discharge the 40mm LLL, he announced "Forty stand by!" to alert officers that less lethal was being used and to prevent the contagious use of lethal force. Sergeant then directed Officer 1 to discharge the 40mm LLL, stating, "Hit 'em!" Based on his articulation, the Majority opined that Sergeant reasonably believed that Victim posed an immediate threat to the safety of others.

Sergeant recalled,

> *"That's the point where I directed Officer 1 to discharge the 40 at him. Reason why I did that was due to the fact that my concern was that at this point he may possibly take off running and go and start, you know, attacking civilians. I was hoping it would end with the one shot to the 40.*[13]
>
> *Again, based off the comments of the call, he's already chased people down the street with a knife. I believed that he was going to attempt to do something like that again. I wanted to stop it before it happened. My concern was for the community out there. I didn't want this guy to start hacking at -- hacking away at people.*[14]
>
> *It hit him. It didn't seem like it phased him. He walked down a few more stairs and then he sat. And at that point I was -- I was good with that, because I think, I believed that that made him change his mind from going to run. He hit it. He felt it. Now he sat down, and I think, you know, it gave us some time for him to, you know, maybe in his mind evaluate what was going on. So, I believed that was successful in that aspect, because he didn't take off running, trying to hurt anybody.*[15]

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[13] Sergeant 's transcript, Page 12, Lines 2-8.
[14] Sergeant 's transcript, Page 29, Lines 11-17.
[15] Sergeant 's transcript, Pages 29-30, Lines 21-6.

Regarding Sergeant s decision to forgo the use of force warning, the Majority noted that per Tactics Directive No. 17.1, a use of force warning is not required if a tactical plan requires the element of surprise to stabilize a situation. While the Majority would have preferred that Sergeant had ensured a warning was provided before directing Officer 1 to discharge the 40mm LLL, they understood he intended to use the element of surprise to prevent Victim from running toward and potentially harming others. Additionally, based on his transcribed statement, the Majority opined there was no conflict in Sergeant 's explanation for forgoing the use of force warning and that his statement regarding time being on his side pertained to not prematurely approaching Victim.

Sergeant recalled,

> *DETECTIVE GOLAN: And I think we can hear it in your body-worn video, but did you provide or did anybody else provide a warning prior to use of force?*
> Sergeant *I believe I said, "40 stand by. 40 stand by," to our officers. I don't know. I don't know if I gave him a warning. I don't believe I did. At that point I believe the situation was -- it was too dangerous with that. I didn't want to -- I didn't want to give him that warning to let him know that we were going to hit him, because that might have had him take off running. So I didn't want -- I didn't want to do that. But I did notify our guys that we were going to fire the 40.*[16]

In reviewing this case, I noted that Sergeant elected to perform several tasks he should have assigned to the officers at the scene, specifically communicating with Victim and retrieving the ballistic shield. As stated above, command and control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. During an incident of this nature, a critical component of command and control is the delegation of duties. If a supervisor feels an officer is having difficulty performing a specific task, he or she should rotate another officer in, not assume the task themselves. While I commend Sergeant for his initiative, I would have preferred he had delegated more of the tasks that he chose to perform. Had he done so, he would have been afforded the ability to focus solely on maintaining supervisory oversight.

For these reasons, I find that the tactics employed by Sergeant were a substantial deviation, without justification, from Department-approved tactical training. To enhance future performance, I will direct this to be a topic of discussion during the tactical debrief.

Tactical Debrief

In conducting an objective assessment of this case, the UOFRB Minority determined, and I concur, that Sergeant 's actions were a substantial deviation, without justification, from Department-approved tactical training. The UOFRB also determined, and I concur, that the actions of Officers Zavala, Quintanilla, and O-1 were not a deviation from Department-approved tactical training.

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[16] Sergeant s transcript, Page 30, Lines 7-19.

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

Although it was determined that Officer 4 would not receive formal findings, the UOFRB determined, and I concur, that he would benefit from attending the Tactical Debrief.

Therefore, to enhance future performance, I will direct Officers Zavala, Quintanilla, O-1 O-4 and Sergeant to attend a Tactical Debrief and that the identified topics be discussed.

General Training Update (GTU)

Officers Zavala, Quintanilla, O-1 and Sergeant attended a GTU on December 28, 2021. All required topics were covered.

Drawing/Exhibiting

Department policy relative to drawing and exhibiting a firearm is: "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 in conformance with this policy on the use of firearms."

During a special meeting on September 29, 1977, the Board of Police Commissioners adopted the following as a valid interpretation of this Section: "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. An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified. 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" (Los Angeles Police Department Manual, Volume No. 1, Section 556.80).

Sergeant

As Sergeant exited his police vehicle, Victim was sitting on the exterior stairs of the apartment building holding a knife in his right hand with the blade pressed against his neck. Sergeant told Victim, "Just drop that, you're going to be good! Drop the knife all right, hey bro, just drop the knife!" Victim did not appear to respond to or acknowledge Sergeant Believing that the situation could escalate to the use of deadly force, Sergeant unholstered his service pistol. Sergeant holstered his service pistol when he was comfortable with the number of officers that had arrived at the scene.

Due to the fact based on the comments of the radio call, based on my observations of him -- seeing him with a meat cleaver, large butcher knife, I believed that the situation may escalate to the use of deadly force. I drew my firearm and to protect myself in the event that he may try to charge at me.[17]

DETECTIVE GOLAN: And why did you decide to holster when you did?
Sergeant *I was comfortable with the resources that arrived with the officers and at that point it's my duty -- you know, now I got to start -- you know, I got to command and control it, you know?*[18]

Officer Quintanilla

According to Officer Quintanilla, he received information that Victim was armed with a knife and chasing people. Believing the situation could escalate to the use of deadly force, Officer Quintanilla unholstered his service pistol upon his arrival.

When I came out the vehicle, I took my firearm out because based on the tactical situation and just by the radio call saying that he had a butcher knife and he was chasing people in an attempt to hurt them. I believe that, you know, it could escalate to the point where deadly force may be justified, so I drew my firearm out.[19]

Officer Zavala

According to Officer Zavala, arriving at the scene, he observed Victim armed with a knife and pedestrians nearby. Sergeant assigned Officer Zavala as the lethal officer role. Believing the situation could escalate to the use of deadly force, Officer Zavala unholstered his service pistol.

At this point I already had my firearm out. Due to the tactical situation, I had reason to believe that the situation may escalate to the point where deadly force may be justified.[20]

Based on the tactical situation, I had reason to believe that it may escalate to the point where deadly force may be justified.[21]

The UOFRB assessed Officers Zavala, Quintanilla, and Sergeant 's drawing and exhibiting of their service pistols. The Board noted that they responded to an ambulance attempt suicide radio call. While they were responding, CD broadcast that the suspect was chasing people with a knife. Arriving at the scene, Officers Zavala, Quintanilla, and Sergeant observed Victim sitting on the front steps of an apartment building armed with a meat cleaver style knife, which he refused to drop. Additionally, Officers Zavala and Quintanilla were designated

[17] Sergeant 's transcript, Page 9, Lines 7-12.
[18] Sergeant 's transcript, Page 26, Lines 12-19.
[19] Officer Quintanilla's transcript, Pages 9-10, Lines 21 2.
[20] Officer Zavala's transcript, Page 12, Lines 11-14.
[21] Officer Zavala's transcript, Page 20, Lines 5-7.

as lethal cover officers. As such, the Board opined that it was reasonable for Officers Zavala and Quintanilla, and Sergeant to believe that they may have to use lethal force.

Based on the totality of the circumstances the UOFRB determined, and I concur, that an officer with similar training and experience as Officers Zavala and Quintanilla, and Sergeant while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, I find Officers Zavala and Quintanilla, and Sergeant s Drawing/Exhibiting to be In-Policy, No Further Action.

Policy on the Use of Force[22]

Use of De-Escalation Techniques

It is the policy of this Department that, whenever feasible, 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 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.

Use of Force–Non-Deadly

It is the policy of this 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,*

[22] Office of the Chief of Police (OCOP), Special Order No. 23, "Policy on the Use of Force – Revised," and LAPD Manual, Volume 1, Section 556.10.

- *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 subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject 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 subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus subjects;*
- *The environmental factors and/or other exigent circumstances; and,*
- *Whether a person is a member of a vulnerable population.*

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, suspects, 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 an officer at the time assistance is needed.*

Requirement to Intercede

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.

Less-Lethal Use of Force

An officer may use the 40mm LLL as a reasonable force option to control a suspect when the suspect poses an immediate threat to the safety of the officer or others.[23]

Officer 1 - 40mm LLL, two rounds

First Round – One eXact iMpact Sponge Round from approximately 30 feet.

Victim stood up, holding the knife to his throat. Victim then gestured the sign of the crucifix across his chest with his left hand.[24] Sergeant directed Officer 1 to fire the 40mm LLL. Officer 1 believed Victim was attempting or was going to attempt to cut himself. In response, Officer 1 discharged one 40mm LLL round at Victim

Officer 1 recalled,

So I go up and -- to Sergeant *s vehicle. He tells me to stay at the driver side door. At this point I can see the subject. He's got a knife to his neck. He's motioning that he's cutting his neck with the knife. At one point he puts the knife on his hand and looks like he's cutting his hand open. He stands up at one point and I'm aiming at his navel area with the 40-millimeter, and* Sergeant *advises me to hit him with the 40-millimeter. I do so, because I'm trying to get him to drop the knife and it's unsafe for us to approach him at this time.*[25]

So I was behind the driver side door of Sergeant *s shop, approximately 20 to 25 feet away from the subject, and he stood up and he still had the knife in his hands. That's when I fired at his navel area in hopes to get him to drop the knife, so he stops cutting himself or potentially cutting himself.*[26]

He didn't make any, like pain gestures, like grabbing his navel area. He just sat back down. He continued to put the knife back up to his neck.[27]

Second Round – One eXact iMpact Sponge Round from approximately 22 feet.

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[23] LAPD Tactics Directive No. 17.1, October 2021, 40mm Less-Lethal Launcher.
[24] See Page 9 of the FID report.
[25] Officer 1 's transcript, Page 8, Lines 18-22.
[26] Officer 1 's transcript, Page 21, Lines 7-13.
[27] Officer 1 's transcript, Page 22, Lines 19-20.

According to Officer Zavala's BWV, at 1710:17 hours, Victim was sitting on the bottom step with the knife positioned down between his legs as his head is lowered down toward the ground. Suddenly, Victim used his left hand to knock his hat off his head and stood up holding the knife up in front of himself, above his shoulder at head level.[28] According to Officer Meraz' BWV, at 1710:19 hours, Victim took four steps forward in a northerly direction toward Officer 1, and then he turned to his left in a westerly direction.[29] According to Officer 1 he believed Victim was walking toward his partners and feared that he was going to attack "us." In response, Officer 1 discharged one 40mm sponge round at Victim.

Officer 1 recalled,

DETECTIVE GOLAN: Okay. So when did you decide to use the 40 a second time?
Officer 1 *When he started -- began approaching officers.*
DETECTIVE GOLAN: As he's walking down the stairs?
Officer 1 *Yes, sir.*
DETECTIVE GOLAN: Okay. So, again, approximately how far away from him were you?
Officer 1 *Still 20 to 25 feet, sir.*
DETECTIVE GOLAN: Okay. And what were you aiming at?
Officer 1 *His navel area.*[30]

DETECTIVE GOLAN: ...So when the subject is walking down the stairs holding that knife and you decide to deploy the 40-millimeter for the second time, tell us what was going on in your head. What were you thinking?
Officer 1 *I was thinking -- I mean, once he made the praying gesture, I was thinking that he was going to try to do suicide by cop and he was going to try to attack us with the knife and that's when I fired the 40.*[31]

DETECTIVE GOLAN: Just based on where you were and where he was, you said 20 to 25 feet, he has a knife, he's walking toward you, how did you feel about it at that time?
DETECTIVE YOON: Can I clarify something?
DETECTIVE GOLAN: Yeah, go for it.
DETECTIVE YOON: Was he walking towards you or was he walking towards another set of officers?
Officer 1 *I think it was the other officers. It was the other officers, the ones that were to my right.*
DETECTIVE YOON: And were they closer to him?
Officer 1 *Yes. They were closer to him.*

DETECTIVE YOON: Okay. And I'm not putting words in your mouth. What were you thinking? What were you in fear of?

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[28] See Page 15 of the FID report.
[29] See Page 16 of the FID report.
[30] Officer 1's transcript, Page 26, Lines 1-13.
[31] Officer 1's transcript, Pages 27-28, Lines 17-1.

Officer 1 *Him attacking my partners.*[32]

The UOFRB assessed Officer 1's use of less-lethal force. As it pertains to his first round, the Board noted that per Tactics Directive 17.1, officers who encounter an armed self-mutilating or suicidal individual shall not use a 40mm LLL against that person, unless the officers reasonably believe the use of the 40mm LLL would not place the officers in a position which could escalate the situation to the use of lethal force. Per the directive, if officers choose to use a 40mm LLL in these situations, they should utilize distance and cover to avoid placing themselves in a vulnerable position. The Board noted that Officer 1 observed Victim holding the knife against his neck and his palm. Based on Victim's actions, Officer 1 opined that he was attempting or was going to attempt to cut himself with the knife. To prevent Victim from self-mutilating, Officer 1 discharged one round from his 40mm LLL, striking Victim While the impact round did not seem to cause Victim any pain, the Board noted that he sat on the steps allowing officers several more minutes to attempt to de-escalate the situation. As indicated above, the UOFRB Majority opined that all of the officers had sufficient cover and distance when Officer 1 discharged his first impact round. Based on the totality, the Board opined that Officer 1's first use of the 40mm LLL conformed to Department policy.

Regarding Officer 1's second round, the Board noted that Victim had knocked the hat off his head, quickly stood holding the knife in the air, and looked toward his family members gathered in their front yard. According to the BWV footage, Victim took four steps toward Officer 1 and then turned to his left. At that moment, Officer 1 announced, "Forty, standby" as Sergeant announced "Forty, forty up!"[33] In response, Officer 1 fired a second round from the 40mm LLL at Victim to prevent him from attacking officers. According to Officer 1, he believed that Victim was going to attempt suicide by cop and he was going to try to attack officers with the knife. Based on Victim's actions, the UOFRB opined that it was reasonable for Officer 1 to believe he posed an immediate threat to officers' safety when he discharged his second impact round.

In terms of the less-lethal warning, the Board noted that Officer 1 was not sure if one was given; however, he was aware that Sergeant had given the "40 stand by" command. Based on the totality of the circumstances, the Board opined that Officer 1 was confused as to whether a use of force warning had been given and may have mistaken the "40 stand by" command as a warning. The Board also opined that this issue could be addressed during the tactical debrief and that his use of less-lethal force was within policy.

Officer 1 recalled,

DETECTIVE GOLAN: Do you know if any use of force warning was given?
Officer 1 *I'm not sure.*[34]

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[32] Officer 1's transcript, Page 28, Lines 21-24.
[33] Per the FID report, Sergeant directed Officer 1 to fire the 40mm LLL (second round). Based on Sergeant's BWV footage and statement to FID, the Board determined that he did not direct Officer 1's second discharge.
[34] Officer 1's transcript, Pages 20-21, Lines 25-2.

I did not give the 40 stand by, because Sergeant *gave it for me.*[35]

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officer 1 would reasonably believe that the use of less-lethal force was proportional and objectively reasonable.

Therefore, I find Officer 1's Use of Less-Lethal Force, all rounds, to be In Policy, No Further Action.

Lethal Use of Force

It is the policy of this 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 to 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 reasonable 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.*[36]

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.

Officer Zavala –Glock Model 17, 9mm, three rounds in a southeasterly direction from approximately 25 feet.

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[35] Officer 1's transcript, Page 8, Lines 24-25.
[36] Office of the Chief of Police (OCOP), Special Order No. 23, "Policy on the Use of Force – Revised," and LAPD Manual, Volume 1, Section 556.10.

Background – According to Officer Zavala, at the time of the OIS, his background consisted of the front steps of Incident Location. According to Officer Zavala, while there were pedestrians in the area, there was "nobody" in the background when he discharged his service pistol.

According to Officer Zavala's BWV, at 1710:17 hours, Victim was sitting on the bottom step with the knife positioned down between his legs as his head is lowered down toward the ground. Suddenly, Victim used his left hand to knock his hat off his head and stood up holding the knife up in front of himself, above his shoulder at head level.[37] According to Officer Meraz' BWV, at 1710:19 hours, Victim took four steps forward in a northerly direction toward Officer 1, and then he turned to his left in a westerly direction.[38] In fear for his partner's life, his life, and nearby pedestrians, Officer Zavala discharged three rounds at Victim to stop the threat of serious bodily injury or death.

Officer Zavala recalled,

> *The suspect gets up very rapidly with the -- with the large butcher knife in his right hand. He takes a deep breath, like getting courage, looks at me, looks at my fellow officers. At this point I already had my firearm out. Due to the tactical situation, I had reason to believe that the situation may escalate to the point where deadly force may be justified. The suspect then starts advancing towards the officers and turns his body towards myself and my partner. And in fear -- I was afraid, sir. I thought this guy was going to come at me with this butcher knife. He already cut his hand. He cut his throat -- he attempted to cut his throat. He chased pedestrians and civilians around the neighborhood with this large butcher knife. And to protect myself and my partner's life and the citizens nearby from serious bodily injury, imminent threat, I fired approximately two, three rounds to stop the threat, sir.*[39]
>
> *So the second time he rapidly got up, sir, holding the knife in front of him. He took approximately five, six steps towards the office -- towards the officers and myself, sir, turning his torso towards me in a threatening manner and that's when we fired to stop the threat, sir.*[40]
>
> *Oh, sir, I was afraid that the suspect was going to stab me, sir. I was afraid of my life. I was afraid of my partner's life and the other officers that were to the left of me. Not only that, sir, I was afraid of the pedestrians that were nearby.*[41]

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[37] See Page 15 of the FID report.
[38] See Page 16 of the FID report.
[39] Officer Zavala's transcript, Pages 12-13, Lines 8-1.
[40] Officer Zavala's transcript, Page 26, Lines 19-24.
[41] Officer Zavala's transcript, Page 27, Lines 2-7.

His demeanor, his cutting his hand, attempting to cut his throat, standing up, took a deep breath, tensed up, and boom, took these five, six steps towards us. I was afraid of my life, sir.[42]

So when I fired two, three shots, that's when I assess. He was already on the ground.[43]

Sir, I believe it was necessary to stop this deadly threat, so that's why I fired approximately two to three rounds, sir.[44]

Officer Quintanilla – Smith & Wesson Model M&P, 9mm, one round in a southeasterly direction from approximately 28 feet.

Background – According to Officer Quintanilla, at the time of the OIS, his background consisted of the front steps of Incident Location According to Officer Quintanilla, the apartment was elevated from street level, and Margarito was standing on the sidewalk. Officer Quintanilla indicated there was no one directly in his background when he discharged his service pistol.

According to Officer Quintanilla's BWV, Victim stood up and walked in a northerly direction. Members of Victim s family are heard in the background repeatedly yelling "Don't do it!" Officer Quintanilla yelled the commands "Don't walk over here!" as Victim held the knife up above his shoulder at head level. Victim turned to his left, facing Officer Quintanilla when the sound of the 40mm LLL is heard being fired, followed by the sound of Officer Zavala firing three rounds.[45] Officer Quintanilla stated that once Victim reached the sidewalk and turned toward him and his partner, it was necessary to use deadly force. Officer Quintanilla was scared Victim would use the knife against himself, his partners, or a civilian in the area. Officer Quintanilla stated that once Victim turned toward him and made an "advance motion," he discharged his firearm at Victim[46]

Officer Quintanilla recalled,

So when he came down, we kept giving him commands and once he hit the sidewalk, I mean, I was scared and he ended up walking towards us -- towards the officers and myself and that's when I -- I had to use deadly force. It was necessary for me to use it, because I felt that he was going to -- at the time I felt that he was going to either cut me with the knife, cut my partner, or there was -- there was a civilian right there just right next to him, maybe like a few feet away from him on the sidewalk. And I felt that if he would have got to the citizen, he

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[42] Officer Zavala's transcript, Page 27, Lines 10-13.
[43] Officer Zavala's transcript, Pages 28-29, Lines 24-1.
[44] Officer Zavala's transcript, Page 27, Lines 16-18.
[45] See Page 19 of the FID report.
[46] During his FID interview, Officer Quintanilla told investigators that he fired two shots. Investigators' review of BWV and the post OIS magazine count determined that Officer Quintanilla fired a single shot.

probably -- probably would have hurt him too. So I felt that at the time that I had to do it. You know, it was necessary for me to use deadly force on him. [47]

At the time, you know, again, I was just scared the whole time. You know, I really felt that he was going to -- he was going to hurt me.[48]

Once he comes down the sidewalk, he faces towards my partner and I direction and he advances at us. He makes an advance motion at us and I deploy my firearm.[49]

I deployed it because I had -- you know, it was -- I had to use -- I had to stop him. I had to stop the threat. He was coming towards us. He was going to cause myself or my partner serious bodily injury. He was going to cause death. And also there was still civilians just to the right of me, just a few feet away from me. So he could have caused serious bodily injury or death to them if I didn't do that. I had to do it.[50]

We used a 40, which is very effective in most cases, and that didn't work. And it was just necessary for me to do it. I had to do it. If not, one of us probably would have been killed today.[51]

Real time the suspect was facing us and advancing forward with the butcher knife on his hand, and that's when I engaged him to just stop him from -- from killing myself or my partners or people around there.[52]

DETECTIVE BROWN: Okay. And when you fired, can you give us a little more detail on sequence of your fire? Did you -- how many times did you fire? Was there a pause or an assessment?
POLICE OFFICER QUINTANILLA: At the time I thought I fired two rounds.
DETECTIVE BROWN: Okay.
POLICE OFFICER QUINTANILLA: And when he went down, I stopped shooting. I stopped. You know, the threat was down, so I stopped and I assessed and that's when -- that's when Sergeant *came and we went and did the arrest circle -- the arrest approach. when he went down, I stopped shooting. I stopped.*[53]

The UOFRB assessed Officers Zavala's and Quintanilla's use of lethal force. As it pertains to Officer Zavala, the Board was critical of the perceived threat posed by Victim According to Officer Zavala, Victim had advanced toward the officers and then turned toward him and his partner. Based on Victim s actions, Officer Zavalla believed he was going to approach him (Officer Zavala) with the knife. Officer Zavalla feared for his life, his partner's life, and the lives

[47] Officer Quintanilla's transcript, Page 13, Lines 11-25.
[48] Officer Quintanilla's transcript, Page 15, Lines 5-8.
[49] Officer Quintanilla's transcript, Page 29, Lines 22-25.
[50] Officer Quintanilla's transcript, Page 30, Lines 2-10.
[51] Officer Quintanilla's transcript, Page 32, Lines 19-23.
[52] Officer Quintanilla's transcript, Page 47, Lines 13-17.
[53] Officer Quintanilla's transcript, Page 31, Lines 6-17.

of the citizens nearby. While the Board considered Officer Zavala's perception, they noted that the investigation did not support his belief of the imminent deadly threat posed by Victim. Although Officer Zavala may have feared for his life, his partner's life, and the lives of the citizens, the Board opined that his fear was predicated on the likelihood of future harm, not an imminent deadly threat. Based on the BWV footage, the Board opined that Victim did not have the apparent intent to harm Officer Zavala when the OIS occurred. The Board also opined that he did not have the apparent intent or the opportunity to harm the citizens as officers were controlling pedestrian traffic. Based on the totality of the circumstances, the Board opined that Officer Zavala's use of lethal force, all three rounds, was not objectively reasonable, proportional, or necessary.

Regarding Officer Quintanilla, the Board was again critical of the perceived threat posed by Victim and opined that the investigation did not support his assertion of an imminent deadly threat. Although Officer Quintanilla may have feared for his life, his partner's life, and the lives of the citizens, they believed his fear was also predicated on the likelihood of future harm, not an imminent deadly threat. Based on the BWV footage, the Board opined that Victim did not have the apparent intent to harm Officer Quintanilla when the OIS occurred. While the Board considered Officer Quintanilla's statements regarding the imminent threat Victim posed to his family and pedestrians, the Board opined that he did not have the apparent intent or the opportunity to harm them as officers were controlling pedestrian traffic and Victim 's family was east of his location. Based on the totality of the circumstances, the Board opined that Officer Quintanilla's use of lethal force was not objectively reasonable, proportional, or necessary.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers Zavala and Quintanilla would not reasonably believe that the use of lethal force was proportional, objectively reasonable, or necessary.

Therefore, I find Officer Zavala and Quintanilla's Use of Lethal Force, all rounds, to be Out of Policy, Administrative Disapproval.

Medical Treatment/Rendering Aid – At approximately 1711:15 hours, the arrest team approached Victim and took him into custody. At approximately 1711:33 hours, officers handcuffed Victim , placed him on his right side, and checked him for injuries; Sergeant broadcast a Code Four and requested the response of the RA unit. At approximately 1712:15 hours, Officer Quintanilla directed Officer 2 to retrieve his medical kit from the trunk of his vehicle. As Officer 2 attempted to locate the medical kit in the trunk, FF/PM C. Shubsda and M. Farris, arrived at the scene. Officer Quintanilla advised paramedics that Victim had gunshot wounds, directing their attention to his chest. Victim was treated at the scene and transported to LAC+USCMC where he was treated by Doctor B. Knipp for gunshot wounds to the neck, chest, and torso. At 1809 hours, Victim succumbed to his injuries and was pronounced deceased.

Requirement to Intercede

Based on my review of this incident, I determined that the incident unfolded quickly and in a manner that did not afford an officer time to intercede.

Additional/Equipment[54]

Communications Division Protocols – According to the FID investigation, RP 1 advised Radio Telephone Operator (RTO) L. Gates, Serial No. N2995, CD, that Victim "tried to hit someone and was going to attack a person with the knife." Witness 1 had also called CD and reported that Victim was looking and walking toward him while holding a knife. Witness 1 stated that Victim looked angry and he was swinging the knife in the air, which caused him to be scared. In response, CD broadcast an update that Victim was "chasing people" with the knife. The Office of Support Services and CD determined there was no deviation from policy or procedure and I concur.

Body Worn Video				
Sworn Employee	Issue	Inspection Date Range	Inspection Results	Disposition
Officer Zavala	Late Activation	11/19/22 – 12/18/22	8 of 8, 100%	Notice to Correct
Officer Quintanilla	Late Activation	11/19/22 – 12/18/22	7 of 8, 88%	Notice to Correct
Officer 3	Late Activation	8/14/22 - 9/13/22	7 of 8, 88%	Notice to Correct

Digital In-Car Video System		
Sworn Employee	Issue	Disposition
Officer Zavala	Late Activation	Notice to Correct
Officer Quintanilla	Late Activation	Notice to Correct

Required Equipment

Officers O-3 Quintanilla, Zavala, O-1 O-2 and Sergeant did not have a baton on their persons during the incident. Officers O-3 Zavala, and Quintanilla did not have their Hobble Restraint Devices on their persons. Officer 3 was not equipped with a TASER. As these issues were addressed through Formal Training with Office of Operations (OO) and Operations Central Bureau (OCB) concurrence, I deem no further action necessary.

Loading Standards – Officer Zavala was carrying a Glock manufactured 17-round magazine with an attached base plate that increased the magazine capacity to 19 rounds. As this issue was

[54] In determining the disposition for the deviation from Department policy, a review of the severity of the discrepancy in concert with prior discrepancies was taken into consideration.

addressed through a Notice to Correct Deficiencies with OO and OCB concurrence, I deem no further action necessary.

Crime Scene Preservation – After the OIS, Officer Quintanilla picked up Victim's hat from the stairs and the expended sponge from the sidewalk. Sergeant directed Officer Quintanilla to leave the items where they were. As this issue was addressed through Formal Training with OO and OCB concurrence, I deem no further action necessary.

Audio/Video Recordings

Digital In-Car Video System (DICVS) – There were three DICVS videos related to this incident. The DICVS videos captured the officers' response to the scene and post OIS activity. The DICVS of Officers Zavala and Quintanilla's vehicle was not activated during the UOF and did not capture audio or videos of the OIS. Officer Quintanilla activated the DICVS after the OIS, which captured post OIS activity.

Body Worn Video (BWV) – There were 10 BWV recordings related to this incident. Each video was reviewed in its entirety by FID investigators.

- Sergeant's BWV captures his Code Three response, arrival at the scene, drawing and exhibiting, tactical planning, tactics, the OIS, and post OIS activity.
- Officer Zavala's BWV captured the officers' arrival, contact with Victim, drawing and exhibiting, tactics, the OIS, and post OIS activity.
- Officer Quintanilla's BWV captured the officers' arrival, contact with Victim drawing and exhibiting, the OIS and post OIS activity, and handcuffing.
- Officer 1's BWV captured the officers' Code Three response, his arrival at the scene, the contact with Victim, drawing and exhibiting, the OIS, and post OIS activity.
- Officer 2's BWV captured the officers' Code Three response, his arrival at the scene, the contact with Victim drawing and exhibiting, the OIS, and post OIS activity.
- Officer 4's BWV captured the officers' Code Three response, the arrival at the scene, the contact with Victim drawing and exhibiting, the OIS, and post OIS activity.
- Officer Meraz' BWV captured the officers' Code Three response, the arrival at the scene, the contact with Victim drawing and exhibiting, the OIS, and post OIS activity.
- Officer 3's BWV captured his response, his arrival, tactics, the OIS, and post OIS activity.

Social Media – Personnel assigned to FID's Cyber Unit monitored social media sites from the date of the incident until the submission of this investigation. No additional evidence, information, or witnesses were identified via social media.

Other Department Video – None.

Outside Video – Force Investigation Division investigators canvassed Incident Location for security cameras. Cameras were located that provided a view of the exterior of the entry door of the apartment building. The video captured Victim seated on the stairs, the officers' arrival, tactics, and the OIS. Force Investigation Division investigators also recovered

security camera video from Location 1. There were two exterior cameras, which provide a view of the intersection of Street 2 and Street 1, and an east-facing view toward Incident Location. The video captures images of Victim walking north on Street 1 and east on Street 2, the officers' arrival, and post OIS tactics.

Respectfully,

MICHEL R. MOORE
Chief of Police