

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

LAW ENFORCEMENT RELATED INJURY – 019-18

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Southwest	3/16/18		
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Officer(s) Involved in Use of Force	Length of Service
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Sergeant A	29 years, 9 months
Officer A	2 years, 5 months
Officer B	1 year, 11 months

Reason for Police Contact

Uniformed police officers responded to a Battery Domestic Violence radio call. The comments of the radio call indicated the Subject had battered his ex-girlfriend (Victim A) inside her residence. The Subject refused to comply with the officers' commands. The officers discharged a TASER, fired two beanbag sock rounds, and deployed Oleoresin Capsicum (OC) spray to affect an arrest of the Subject. The Subject was transported to a local hospital and was subsequently admitted.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 48 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 Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because the Department is currently legally prohibited from divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on February 5, 2019.

Incident Summary

Witness A called the Los Angeles Police Department (LAPD) Communications Division (CD) operator and advised that the Subject had battered and threatened his relative, (Victim A). Witness A added that the Subject was under the influence of an unknown drug and had forced his way into his relative's residence.

In the background of the 911 call, the Subject was heard yelling, "You die now."

Officers A and B were assigned the call and worked approximately five times together prior to this incident. During those occasions, they discussed various tactical scenarios, as well as the topic of contact and cover.

Officer B broadcast that the officers had arrived at the scene (Code Six) and both officers heard the Subject yell from inside the front door of the rear house that he was going to kill them. Upon hearing this, Officer B requested an additional unit, and Officer A ordered the Subject to step outside with his hands up. The Subject ignored this command and immediately closed the door to the residence.

Approximately one minute later, Officer B initiated a second broadcast to request that a supervisor respond to his location. Sergeant A advised that he would be responding from the station.

Officer A began interviewing Victim A and learned that she lived in the rear house. Victim A indicated that the Subject had entered as she slept and claimed he was being chased. Victim A noticed that the Subject was bleeding from a laceration near his right eye and asked him what had happened. The Subject told her that someone tried to kill him. When she inquired further, the Subject spoke as if he were talking to an imaginary person and stated, "Do you want me to kill her?" The Subject then punched Victim A twice on top of her head and once on the left side of her jaw. Victim A was able to escape and ran out of the residence through the rear door of her bedroom. Once outside, she called Witness A, who arrived shortly thereafter and subsequently called the police on her behalf.

Victim A complained of pain to her head, but she declined an offer by Officer A to summon a Rescue Ambulance (RA).

Victim A informed Officer A that she and the Subject had a prior dating relationship and used to live together. After their breakup about a year prior, the Subject moved out, but

she did not change the locks to her residence. Victim A believed the Subject used a key to get into her house and was possibly under the influence of methamphetamine.

As Officer A interviewed the victim and witnesses, the Subject could be heard on Officer A's Body Worn Video (BWV) yelling from inside the residence, "You die now," and "Kill me." Officer A attempted to establish a dialog with the Subject by stating that he and his partner were with the police department. Officer A again directed the Subject to step outside; however, he refused.

While waiting for the additional units to arrive, Officers A and B briefly discussed that the situation had the potential to escalate to a use of force, and reaffirmed Officer B's role as the designated cover officer. Officer A asked Victim A if the Subject had any firearms or if there were any firearms inside of her residence. Victim A stated that the Subject did not have any firearms on him when he hit her and that there were no firearms inside of her house. According to Victim A, the only potential weapons in her residence were kitchen knives. Victim A also indicated that the Subject was currently inside her house by himself.

Officers C, D, E, and F arrived at the scene and broadcast accordingly, as to their status and location (Code Six). Officer E, being the senior officer, re-interviewed Victim A and obtained the layout of her residence. Victim A reiterated that the Subject had threatened and battered her and was unarmed.

Sergeant A went Code Six and was briefed by Officers A and E. The officers told him what crime had occurred, that the Subject was unarmed, had no access to firearms inside the residence, and that he was possibly under the influence of methamphetamine. They also explained that the Subject had a history of prior contacts with the police while being under the influence of methamphetamine. According to Victim A, during those prior contacts, the Subject yelled and gesticulated but did not fight with the police.

Based on the information provided by Victim A and her other family members at the scene, Sergeant A and the officers formed a tactical plan to arrest the Subject for Domestic Battery and Criminal Threats. The entry team consisted of Officer B, who had a ballistic shield and was designated as the cover officer. Officer B carried the ballistic shield with his left arm and held his firearm with his right hand with his trigger finger on the slide. Officer B unholstered his service pistol because he believed the incident could escalate to the point where deadly force might be justified.

Officer A was assigned the role of contact officer. Officer A was also designated as "less lethal" and was armed with a TASER. Officer D was the third officer in the entry team. Officer D was also assigned the role of "less lethal" and was equipped with a beanbag shotgun. Officers E and F were assigned as part of the arrest team with the understanding that Sergeant A would assist if needed.

Prior to going forward, Sergeant A determined the officers would enter the residence through an unlocked side door, but he instructed them to try and call the Subject out of

the residence first. Sergeant A also directed them to switch their police radios to “simplex,” a non-recorded frequency. Prior to implementing the tactical plan, Sergeant A ensured that the officers had already obtained a signed crime report.

Sergeant A positioned Officer C in the front yard to watch the front of the residence. Officer C did not unholster his firearm during the incident. Officer F positioned himself behind a vehicle by the rear entrance in order to monitor the rear door. According to Officer C, he and Officer F were positioned no more than 10-15 feet apart and were within sight of each other.

Officer A unholstered his firearm and held it in a two-handed, low-ready position as they approached the rear door. Officer A unholstered because of the tactical situation and his belief that the situation could escalate to the point where deadly force might be warranted. Officer A holstered his firearm and transitioned to his TASER once he observed that the Subject was not armed.

As the officers moved toward the residence, the Subject opened the rear door. Officer F ordered the Subject to show him (Officer F) his hands and then unholstered his weapon to a low-ready position, because he was unsure whether or not the Subject was armed. As the officers approached the rear door, Officer F holstered his firearm to prevent crossfire. Officer F remained holstered for the duration of the incident.

The team of officers remained in front of the rear door as the Subject stood inside the threshold. The Subject began yelling, “It is done, it is done,” and “You are dead. You die now.” Officer A attempted to communicate with the Subject and ordered him to come down to his knees and to turn his back toward the officers. Officer A also told the Subject that they were there to help and were not trying to hurt him. The Subject refused to comply and clenched his fists while yelling that the officers were going to die.

As the officers continued to communicate with the Subject, he reached with his right hand behind his back and stated in Spanish, “I have a gun here, I am going to kill you.” Officers A and B observed that the Subject was not armed. Sergeant A made the same observation and advised Officer B to put down his ballistic shield in preparation for them entering the residence to arrest the Subject.

It was Officer A’s belief that the Subject wanted the police to kill him. The officers observed that the Subject had a preexisting injury over his right eye that they were initially informed of by Victim A prior to their approach. This injury was visible in Officer A’s BWV.

As the officers made entry through the rear door, the Subject retreated into the bedroom and ran in the hallway. The Subject then entered a second bedroom and closed the door behind him. The officers followed the Subject into the residence and entered in the following order – Officer B was the first to enter and transitioned back to his firearm. Officer A followed behind and was armed with a TASER. Officer E unholstered his firearm and was the third officer to step into the residence. Officer E indicated he was

not positive the Subject was unarmed, and consequently unholstered his pistol to a two-handed, low-ready position to protect himself and his fellow officers. Officer E holstered once the house was cleared, which was about a minute or less after the officers entered the residence. Officer D was the fourth to enter and was still armed with a beanbag shotgun. Sergeant A entered last and remained holstered throughout the incident.

Officer B cleared the kitchen and living room and then positioned himself outside the bedroom where the Subject entered. In an effort to create more space to stand, the officers and Sergeant A moved a dresser and various items from the narrow hallway just outside the bedroom where the Subject retreated. Once the items were moved, Officer B stood on the left side of the bedroom door and attempted to push it open. The Subject prevented the door from opening by pushing a dresser against it on the other side. Officer A initially stood in the bathroom to the right of the bedroom door and told the Subject that they were there to help him. To avoid a potential cross-fire situation, Officer A then repositioned himself to the left side of the bedroom door and stood behind his partner. The Subject refused to come out however, and yelled, "Kill me father."

Sergeant A stood in the hallway and attempted to open the bedroom door, but was unable to do so. As Sergeant A tried to establish a dialog with the Subject by calling his name and telling him to come out of the room, the Subject yelled that he had a gun with him and that if the officers opened the door, he was going to shoot them. After several moments, Sergeant A advised the officers that he was going to kick the door open and not to "freak out." Sergeant A kicked the door twice and was able to force it open enough to see the Subject in the room. Sergeant A observed that the Subject was not armed and communicated that to the other officers. The Subject continued to yell, "Kill me," and began throwing glass and plastic cologne bottles at the door from the far corner of the room. One of the bottles thrown by the Subject made it through the opening and struck Officers A and B, but did not cause them injury. Sergeant A told those around him to back up and ordered the officers behind him to retrieve their helmets.

Officers A and B exited the residence to obtain their helmets, while Officers D and E remained in the residence. Sergeant A verbalized with the Subject as that occurred and ordered him to drop the glass he was holding. The Subject continued to yell and told Sergeant A to leave his gun inside the room so that he (the Subject) could kill himself.

As Officers A and B ran past Officers C and F, they advised that they were getting their helmets. Officer F believed the officers inside might need help and consequently redeployed into the residence to assist. Once inside, Officer F was directed by Officer E to also retrieve his helmet. Officer F then ran to his police vehicle and donned his helmet.

The Subject continued to throw glass objects against the interior side of the bedroom door and repeated his demand for the officers to kill him. Sergeant A communicated to Officers D and E that he was going to deploy his TASER once Officers A and B re-

entered the residence. Upon their return, Officers A and B assumed positions on opposite sides of the bedroom door. As that occurred, Sergeant A held the bedroom door slightly ajar and saw that the Subject had broken several vases and was now holding two large shards of glass. The Subject struck the inside of the door several times with the glass as he continued to yell at the officers to kill him. Sergeant A was concerned that if he closed the bedroom door, the Subject would possibly begin cutting himself. Sergeant A was also concerned that the Subject would then be close enough to slash at him or one of the officers.

To prevent that from occurring, Sergeant A fired his TASER at the Subject's upper chest from approximately eight feet. The probes struck the Subject in the upper chest but had no discernable effect. The Subject dropped the shards of glass at that point and pulled the TASER wires toward him and out of the cartridge. Sergeant A asked for another TASER and then pulled the bedroom door closed. Officer B unholstered his TASER and offered it to Sergeant A, who did not take it.

The Subject was not specifically warned that a TASER was going to be utilized, however, the officers can be heard on BWV discussing it among themselves moments before it was deployed.

Sergeant A stated he aimed the TASER at the Subject's front torso, right around the belt line or naval area. Sergeant A stated he did not believe it was "feasible" to give the Subject a warning because they (the officers) were being attacked and Sergeant A believed that the Subject was going to seriously hurt himself. Sergeant A added that because of the close confinements of the room and the fact that the Subject was advancing at them, there was not time to warn the Subject.

Officer F returned with his helmet and entered the residence seconds after Sergeant A deployed his TASER. Officer F positioned himself a few feet behind Officers A and B at the opposite end of the hallway. Officer C, who was standing outside the residence, requested an additional unit to assist in establishing a perimeter in the event the Subject attempted to flee through a window.

After waiting several seconds, Sergeant A kicked the door twice and was able to force it open a few inches. As he did so, a shard of glass came out of the room and fell to the floor in the hallway. Officer A suggested the use of the beanbag shotgun at that point and told Sergeant A he believed it was their best option. Officer B holstered his TASER and was handed a beanbag shotgun from Officer D. Sergeant A kicked the door several more times, causing it to break free from the hinges and fall into the bedroom. As the door opened, Officer B observed the Subject standing approximately five to seven feet away, yelling and picking up items to throw. Sergeant A immediately instructed Officer B to fire the beanbag at the Subject.

Officer B aimed the beanbag shotgun at the Subject's lower torso, just below his naval area, and fired one round.

Officer B indicated that a verbal warning was not given prior to the use of the beanbag shotgun, because the TASER had proven ineffective, the Subject was throwing items at the door, and they wanted the element of surprise.

When Sergeant A was re-interviewed, he was asked why he did not give a verbal warning about the use of the first beanbag shotgun round. Sergeant A again stated that because of the close confinements and the fact that the Subject was advancing toward them and attacking them, there was no time to give a warning.

After the first beanbag round was fired, the Subject picked up the door and stood it upright to block the threshold. Officers A and B and Sergeant A then grabbed the top of the door and pulled it down toward them. The door broke in half and exposed the Subject, who then picked up a white plastic laundry basket over his head and threw it out of the doorway in the officers' direction.

Once the top half of the bedroom door was removed, the Subject picked up a rectangular wood/wicker laundry basket with both hands, held it in front of his body as a shield, and at times threatened to throw it at the officers. Over the span of approximately four minutes, Officer A and Sergeant A told the Subject multiple times to place the basket on the floor. Officer B, who was still armed with a beanbag shotgun, warned the Subject several times that if he did not comply, he would again be shot. Despite those commands, the Subject held onto the basket and yelled several times, "Forgive me father," and told the officers to kill him.

As the situation continued to unfold, Officers D and E requested a RA for the Subject, further advising CD that the Subject had been tased and struck with a beanbag sock round.

As the Subject continued to hold the basket, Sergeant A instructed Officer B to shoot the beanbag at the Subject the next time he raised it over his head.

Moments later, the Subject demanded a Coca Cola. The Subject then slammed the laundry basket down, striking the lower half of the broken door.

According to Officer B, he believed the basket also struck the barrel of his shotgun. In Officer A's BWV, it appeared as if Officer B fired another beanbag round at that point. Sergeant A asked Officer B if he had fired a second round. Officer B immediately conducted a chamber check and advised Sergeant A that he had not.

Officer E obtained a cup of water from the kitchen and gave it to Sergeant A. Sergeant A used the cup of water as a ruse by saying it was Coca Cola to get the Subject to comply. The Subject continued to yell however, and stated, "All of you officers will die now," and "It is done, it is done, amen."

As the Subject continued to yell for the officers to kill him, he raised the laundry basket over his head. Officer B aimed his beanbag shotgun at the Subject's lower torso/navel

area and fired one sock round from an approximate distance of three feet. The Subject momentarily sat on an overturned dresser behind him. The Subject then quickly stood up, holding the basket, and continued to yell for the officers to kill him.

Officer B asked Sergeant A if he wanted him (Officer B) to fire another beanbag round if Subject lifted the basket again. Sergeant A stated, "No, I got it" and then withdrew his OC spray from his equipment belt. Sergeant A told the officers around him to "watch themselves" and then proceeded to spray an approximately one second burst of OC directed at Subject's face. The spray had minimal effect. The Subject closed his eyes and appeared to hold his breath. Sergeant A waited a couple of seconds and sprayed the Subject a second time when he (Subject) opened his eyes. The second spray of OC appeared to be effective and caused the Subject to close his eyes and rub his face. The Subject slammed the laundry basket down against the bottom half of the broken door and then dragged it with him as he retreated into the room.

Sergeant A stated, "slow and steady" and then kicked the bottom portion of the door that was still blocking the threshold. Officer B announced that he was transitioning, handed his beanbag shotgun to Officer D, and then moved past Sergeant A to enter the bedroom. Officer A also handed his TASER to Officer D and followed behind his partner. The Subject moved to the foot of the bed, with his back partially turned toward the officers. Officer B grabbed the Subject in a rear bear hug and forced him onto the bed in a face down position. Officer B used his body weight to hold the Subject down as Officer A handcuffed the Subject's hands behind his back. The Subject offered no resistance and was taken into custody without further incident.

Sergeant A entered the room with the officers and stood next to the bed as the Subject was taken into custody. Sergeant A did not touch the Subject or participate in taking him into custody.

The officers began to feel the effects of the OC spray. In an effort to recover and get fresh air, Officers A, B, and F physically carried the Subject out of the room in a face down position. The Subject was taken to the front of the property and placed on the grass while waiting for the RA.

Los Angeles Fire Department (LAFD) personnel arrived at the scene to attend to the Subject's injuries. The Subject was then transported to a nearby hospital for further medical treatment and admitted.

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 Sergeant A's tactics to warrant a finding of Administrative Disapproval. The BOPC found Officer A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officer A and B's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC found Officer A and B's non-lethal use of force to be in policy.

D. Less-Lethal Use of Force

The BOPC found Sergeant A and Officer B's less-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. It is also recognized 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 value 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 and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Use of Force Policy, Los Angeles Police Department Manual.)

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), 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:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject’s actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer’s decision to draw or exhibit a firearm should be based on the tactical situation and the officer’s reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so. (Tactical De-Escalation Techniques, October 2016.)

A. Tactics

- During its review of this incident, the BOPC considered the following:

1. Utilization of Cover

The utilization of cover, coupled with distance, enables an officer to confront an armed suspect while simultaneously minimizing their exposure. As a result, the

overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options.

The investigation determined that Sergeant A, along with Officers A and B, did not utilize cover when the Subject entered the bedroom and closed the door. In this case, the small confines of the location limited the sergeant and officers' ability to redeploy as sufficient cover was not available at the location. Additionally, it was evident from the investigation that personnel at the scene attempted to position themselves at the best angles possible to minimize their exposure while still engaging the Subject.

Based on the totality of the circumstances, the BOPC determined the sergeant and officers' actions were not a substantial deviation from approved Department tactical training.

2. Contact and Cover

Officer B, assigned as the Designated Contact Officer, (DCO), holstered his service pistol and transitioned to the beanbag shotgun while the Subject was armed with glass shards. In doing so, Officer B left the contact officer, Sergeant A, without lethal cover.

Operational success is based on the ability of officers to effectively establish designated roles and communicate during critical incidents. Officers improve overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, although officers were left without the benefit of a DCO, the limited space inside of the residence and Subject's position hindered the officer's ability to have multiple force options available to them.

Based on the totality of the circumstances, the BOPC determined that Officer B's actions were reasonable and not a substantial deviation from approved Department tactical training.

3. Barricaded Subject (Substantial Deviation – Sergeant A)

Sergeant A failed to recognize that the situation met the criteria for a barricaded Subject and did not request the response of SWAT personnel.

In this case, Sergeant A was aware that the Subject was wanted for a felony crime and was refusing to submit to arrest. Sergeant A had observed the Subject arm himself with shards of glass which were capable of causing serious bodily injury. Additionally, the Subject stated that he was armed with a handgun and was going to shoot the officers. Sergeant A then forced entry into a room where the Subject was located despite knowing the aforementioned facts.

The BOPC determined that although a handgun had not been observed, the situation met the criteria of a barricaded suspect. No exigent circumstances existed that would have warranted a deviation of the protocols when dealing with a barricaded suspect. Personnel from SWAT should have been contacted for advice and guidance prior to making entry into the room. As such, Sergeant A's decision to force entry and make contact with the Subject limited the officers' tactical options and unnecessarily compromised the safety of the officers.

Based upon the totality of the circumstances, the BOPC determined that Sergeant A's failure to identify the situation as one involving a barricaded suspect was a substantial deviation, without justification, from approved Department tactical training.

- The BOPC additionally considered the following:
 - **Designated Cover Officer** – The investigation revealed that Officer B, the DCO, holstered his service pistol and entered the residence with his TASER drawn. Officer B corrected this action and transitioned back to his service pistol. Officer B is reminded of the importance of the role of the DCO to maintain a tactical advantage.
 - **Ballistic Helmets** – The investigation revealed that the officers did not don their ballistic helmets prior to initiating contact with the Subject. Additionally, some personnel did not don their helmets even after the Subject threw shards of glass in their direction. All involved personnel are reminded of the importance of donning their ballistic helmets as soon as feasible while involved in a tactical situation with an armed suspect.
 - **Effective Encounters with Mentally Ill Persons** – The investigation revealed that the Subject's behavior was consistent with a person suffering from mental illness and/or being under the influence of drugs or alcohol. Officers are reminded of the protocols and resources for encountering persons suffering from mental illness, including contacting the Department's Mental Evaluation Unit.
 - **Non-Conflicting Simultaneous Commands** – The investigation revealed that several officers gave simultaneous commands to the Subject during the incident. Although the commands were non-conflicting, the officers are reminded that simultaneous commands can sometimes lead to confusion and non-compliance by the suspects.
 - **Use of Force Warning** – The investigation revealed that Sergeant A and Officer B did not provide a Use of Force Warning prior to deploying less-lethal force options. The BOPC determined that there was adequate time to provide a Use of Force Warning. The BOPC would have preferred that Sergeant A and/or Officer B provided the Subject a verbal warning prior to utilizing less-lethal force

in an effort to gain compliance and afford the Subject the opportunity to submit to an arrest without injury.

- **Beanbag Shotgun Optimal Range** – The investigation revealed that Officer B discharged the second beanbag round from approximately three feet. Officer B was reminded that although there is no minimum distance for deployment, the recommended deployment range for the beanbag shotgun is 5 to 45 feet.
- **Tactical Communication** – The investigation revealed that officers inside the residence did not communicate with the officers assigned to containment roles on the exterior of the residence. The BOPC would have preferred that officers ensure communication was maintained and updated information was effectively relayed to all personnel at the location to provide situational awareness of the incident.
- **Opening Door with Left Hand while Holding Service Pistol in Right Hand** – The investigation revealed that Officer B attempted to open the bedroom door with his left hand while still holding his service pistol in his right hand. It would have been tactically prudent to have another officer open the door to ensure that both of Officer B's hands were on his service pistol to prevent the possibility of a Tactical Unintentional Discharge from occurring.
- **Basic Firearm Safety Rules** – The investigation revealed that Officer B covered himself with the muzzle of his service pistol while attempting to open the bedroom door. Additionally, Officer B allowed the muzzle of his service pistol to cover Sergeant A as he kicked the door. Officer B is to be reminded to not violate the Department's Basic Firearm Safety Rules.

The above topics were to be discussed at the Tactical Debrief.

- **Command and Control**

It is incumbent upon supervisors at the scene of a critical incident, such as this one, to demonstrate and exercise supervision that is consistent with Department supervisory and tactical training.

In this incident, Sergeant A responded and assumed the role of IC. Sergeant A verified that a crime had occurred, formulated an arrest team, and assigned officers to containment roles on the exterior of the residence. Additionally, when the Subject moved into the residence, Sergeant A directed the officers to enter the residence.

Once inside the residence, Sergeant A unnecessarily directly involved himself in the incident by repeatedly kicking the door of the room the Subject was inside. Sergeant A then assumed the role of Contact Officer by continually verbalizing with the Subject and deploying and discharging two less-lethal force options. Although in this case, the less-lethal force options were effective, Sergeant A's actions were not

consistent with his role as an IC. By directly involving himself as a Contact Officer, Sergeant A placed himself and the officers at the scene at risk by limiting his ability to provide oversight of the incident.

The BOPC was critical of Sergeant A's involvement during this incident and concluded that he did not demonstrate the level of control or supervision expected of a field supervisor during a critical incident.

As a result, the BOPC determined that Sergeant A's lack of supervisory oversight substantially, and unjustifiably, deviated from approved Department supervisory training, and thus warranted a Tactics finding of Administrative Disapproval. This topic was to be specifically addressed with Sergeant A during the Tactical Debrief.

- 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.

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

In conclusion, the BOPC found Sergeant A's tactics to warrant a finding of Administrative Disapproval. The BOPC found Officer A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- According to Officer A, believing that the Subject could possibly be armed due to his actions and statements, he drew his service pistol while approaching the residence.

According to Officer B, he was assigned as the DCO, and he observed the Subject open the rear door as the entry team approached the residence. Officer B drew his service pistol believing the situation may escalate to the point where deadly force may be justified. Officer B entered the residence after the Subject fled inside. Due to the Subject being approximately five feet in front of him, Officer B holstered his service pistol and transitioned to his TASER. Officer B immediately transitioned back to his service pistol once Officer A advised that he had a TASER.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, 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, the BOPC found Officer A and B's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

- **Officer A – Firm Grip**

According to Officer A, the OC spray appeared to be effective because the Subject dropped the drawer he was holding. Officer A and his partner then entered the room where Officer B put the Subject in a full mount on the bed. Officer A then grabbed Subject's hands and handcuffed him.

- **Officer B – Physical Force and Bodyweight**

According to Officer B, he gave the beanbag shotgun to another officer and entered the bedroom to detain the Subject. Officer B wrapped his arms around the Subject in a "bearhug" and held the Subject on the bed. Officer B then used his bodyweight, in a rear mount position, to control the Subject's arms while Officer A handcuffed him.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, while faced with similar circumstances, would believe that this same application of non-lethal force would be reasonable to effect the Subject's arrest.

Therefore, the BOPC found Officers A and B's non-lethal use of force to be objectively reasonable and in policy.

D. Less-Lethal Use of Force

- **Sergeant A – (TASER, one five-second cycle)**

According to Sergeant A, the Subject advanced on the doorway armed with two large shards of glass. Sergeant A feared that the Subject was close enough that he could slash him or one of the officers or do substantial damage to himself, so he discharged his TASER, in probe mode, from approximately eight feet, striking the Subject in the upper chest, and causing the Subject to drop the shards of glass.

- **Officer B – (Beanbag Shotgun, two super sock rounds)**

First Round – from an approximate distance of five to seven feet.

According to Officer B, he retrieved a beanbag shotgun from another officer when he observed that the Subject ripped the TASER wires out and it had no effect. The Subject appeared to be very agitated as he continued throwing items. Officer B then fired one round from the beanbag shotgun at the Subject to stop his actions.

Second Round – from an approximate distance of three feet.

According to Officer B, he warned the Subject to put down the basket or the Subject would be shot again with the beanbag shotgun. The Subject lunged forward, trying to hit the officers with the basket and struck the front of the beanbag shotgun. Sergeant A directed Officer B to discharge the beanbag shotgun when the Subject next raised the basket, which would provide a clear shot of the Subject's stomach. The Subject then raised the basket over his head and Officer B discharged one round from the beanbag shotgun, striking the Subject in the abdomen.

- **Sergeant A** – [Oleoresin Capsicum (OC) spray, two applications of one-second bursts]

First Application

According to Sergeant A, the Subject lowered the basket, but did not drop it after being struck with the second beanbag round. Sergeant A believed at that point that the officers were going to have to go into the room and physically take the Subject into custody. Sergeant A then deployed a very brief, less-than-a-second burst of OC to the Subject's face in an attempt to impair his vision and provide officers with an advantage.

Second Application

According to Sergeant A, the Subject had his eyes closed and was holding his breath. When the Subject opened his eyes and inhaled deeply, Sergeant A deployed a one-second burst of OC spray to the Subject's face, causing him to drop the basket and land on the bed.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Sergeant A and Officer B, while faced with similar circumstances, would believe the application of these less-lethal force options to stop Subject's actions were objectively reasonable.

Therefore, the BOPC found Sergeant A and Officer B's less-lethal use of force to be objectively reasonable and in policy.