

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

**OFFICER-INVOLVED SHOOTING – 082-17**

| <b>Division</b> | <b>Date</b> | <b>Duty-On (X) Off ( )</b> | <b>Uniform-Yes (X) No ( )</b> |
|-----------------|-------------|----------------------------|-------------------------------|
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|---------|----------|--|--|
| Topanga | 12/30/17 |  |  |
|---------|----------|--|--|

| <b>Officer(s) Involved in Use of Force</b> | <b>Length of Service</b> |
|--|--------------------------|
|--|--------------------------|

|           |                    |
|-----------|--------------------|
| Officer B | 11 years, 5 months |
| Officer C | 12 years, 4 months |
| Officer E | 20 years, 2 months |
| Officer L | 7 months           |
| Officer M | 10 years, 4 months |

**Reason for Police Contact**

Officers responded to a radio call of an attempted suicide. Upon arrival, the officers heard shots fired in the residence and subsequently saw the Subject with a handgun. The Subject pointed the handgun in the officers' direction, resulting in an officer-involved shooting (OIS).

| <b>Subject(s)</b> | <b>Deceased (X)</b> | <b>Wounded ( )</b> | <b>Non-Hit ( )</b> |
|-------------------|---------------------|--------------------|--------------------|
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Subject: Male, 39 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 November 20, 2018.

### **Incident Summary**

The incident began when Victim A returned home and found the Subject drunk in her house. The two engaged in an argument. The Subject exited his residence angry and went next door where Witnesses A and B lived. Witnesses A and B unsuccessfully attempted to calm the Subject down.

The Subject pushed Witness B and returned to his residence. Witnesses A and B followed him. The Subject attempted unsuccessfully to enter the locked front door of his residence and became enraged. The Subject then walked to the detached garage in his backyard. Witnesses A and B tried to stop the Subject as he attempted to retrieve a handgun stored inside a vehicle in the garage. During this struggle, the Subject knocked Witness A to the ground.

Victim A heard yelling in the backyard, exited her residence, and went toward the garage. According to Victim A, Witnesses A and B told her not to approach because the Subject had threatened her. Victim A ignored the warning and when she reached the Subject, he punched her in the face causing an injury. Victim A then fled in her vehicle and called 911. Witness B walked to the front of a nearby residence and also called 911. From this area, Witness B observed the Subject fire two shots as the Subject stood in the driveway of his home.

Communications Division (CD) broadcast a call of an attempted suicide and provided information related to the call including the Subject's description, location, and that he was attempting to get a gun from the garage.

Officers A and B requested the call be assigned to them and responded with emergency lights and sirens (Code Three). Officer B asked CD to keep the 911 caller on the line and requested an Air Unit (police helicopter). Officers C and D broadcast they would also respond.

Officers A and B arrived, parking several homes away from the Subject's residence, and broadcast their location (Code Six). According to Officer B, this distance allowed them more time to assess what was going on without the Subject being aware of their presence. Officer B stated he deployed his patrol rifle because it could be used at a farther distance, which would be safer and give them more time to react. CD broadcast further information that they had the 911 caller on the line and that a shooting had just occurred at the Subject's residence. After confirming with CD that there were shots fired, Officer A requested a backup. Per protocol, CD requested a supervisor and police helicopter. Moments after Officer A requested a backup unit, Officers C and D arrived

and parked behind Officer A's vehicle. Officer D then broadcast that they had arrived at the location (Code Six).

Upon Officers C and D's arrival, Officer A noted they had four officers, each of which were equipped with a TASER. Officer A directed Officer C to deploy his patrol rifle and Officer D to deploy a shotgun. Officer C concurred with Officer A, and believed it was the best course of action because they did not have additional resources at that time and they were possibly going to encounter an active shooter.

Officer A inquired from CD as to whether the 911 caller knew if the incident was a suicide or if the Subject was shooting. CD advised that the caller was no longer at the location but had reported hearing two gunshots.

The officers moved towards the Subject's residence. Officer A approached on the sidewalk, while Officers B, C, and D approached on the other side of the roadway, close to vehicles parked along the curb.

Officer A moved across the street and contacted Witness B in a driveway, one residence away from the Subject's residence. Officer A asked Witness B if he heard gunshots and Witness B responded, "Yeah its him," referring to the Subject. Witness B stated that Witness A was with the Subject in the backyard, (referring to the Subject's residence). Officer A asked Witness B if the Subject had a gun and Witness B answered, "Yeah I'm pretty sure." Officer A then broadcast that the Subject was in the backyard with a gun and he had another person with him.

Officers A and B continued moving toward the residence and observed Witness A standing in the driveway of the Subject's residence. Officer B used the light mounted on his rifle to illuminate the driveway, while he moved to the cover of a tree located in the front yard of the residence. Officer A positioned himself on the side of a vehicle that was parked along the curb across from the Subject's residence.

Officer C directed Witness B away from the area, and Officers C and D joined Officer A on the side of the parked vehicle. Officer A directed Witness A to come toward him, at which time the Subject fired the first shot in the officers' presence. Officer A yelled for Witness A to run and Officer C broadcast, "Officer needs help, shots fired." None of the officers observed the Subject's location when the gunshot was heard. Officer C believed, based on the sound, the gunshot was fired from the rear yard of the Subject's residence in their direction.

Officer A unholstered and moved to the cover of a vehicle, which was parked along the curb, close to the Subject's residence. Simultaneously, Witness A moved down the sidewalk. Officer B positioned himself behind the same vehicle, while Officer A repositioned himself approximately three feet behind Officer C on the side of a different vehicle. Witnesses A and B returned to their residence, before being evacuated, and prior to the OIS.

Officer C believed his location behind the vehicle provided good cover and a position of advantage while he attempted to gain more information. During the incident, Officer C relayed his observations and insight on the tactical situation to Officer A, while Officer A broadcast the information to the other units. Officer C told Officer A that he had the front of the residence covered and that the officers needed units to the rear for containment purposes. Officer A broadcast requests for additional units to stop traffic from coming into the area and to assist in setting up containment. As additional officers arrived, Officer A directed them with his voice and over the police radio to maintain cover and to shut their light sources off to avoid revealing their positions.

In response to the radio call and backup request, Officers E and F notified CD via their Mobile Data Computer (MDC) that they were responding.

Officers E and F arrived just as Officer A broadcast that the Subject was in the backyard with another person. As Officers E and F ran, they too heard the first shot fired by the Subject in the officers' presence. Officer F unholstered after the gunshot and stated he did so due to the report of shots being fired and feeling that his life was in danger. Officer F ran with his firearm in a low-ready position. Officer E stated he unholstered his pistol when he reached a vehicle parked along the curb, close to the Subject's residence, because he was responding to a radio call of a man shooting a gun and he heard gunfire. Officers E and F took positions of cover on the side of the vehicle.

Officers G, H, I, and J arrived at the scene and broadcast accordingly (Code Six). Officer H deployed his patrol rifle, while Officers G, I, and J unholstered their pistols. The officers stated they deployed their weapons during the incident because the Subject was armed and had fired rounds. Officers I and J positioned themselves on one side of a vehicle. Officers G and H parked their police vehicle on the corner of an intersection, facing the Subject's residence, and provided containment north of the incident.

Officer A directed the officers who were positioned near the Subject's residence to start evacuating the nearby houses. At this time, a second gunshot was heard and Officer A broadcast that the Subject was continuing to shoot. Approximately 13 seconds later, a third gunshot was heard. Officer A broadcast that they had an active shooter and that they were going to request that the Watch Commander notify Metropolitan Division. The officers did not observe the Subject firing but believed the gunshots emanated from the backyard of the Subject's home.

Officer C advised Officer A that they needed to pull back. Officer A responded that there were citizens in the area; therefore, they needed to hold at their current positions and evacuate the houses.

Officers K and L also responded to the location. Upon their arrival, the officers donned their helmets. Officer L stated he unholstered his pistol when he exited his vehicle because he was responding to a scene where the Subject was armed and shooting. While walking towards the Subject's residence, Officer K broadcast that he had arrived

(Code Six) and was equipped with a patrol rifle. Officer K deployed his rifle because he believed he heard a request for one over the police radio. Officers K and L ultimately took positions of cover on the side of a vehicle with Officers E, I, and J.

Officer E holstered his pistol, prior to evacuating residents on one side of the Subject's residence, while Officer F remained unholstered with his pistol down at his side. Other officers assisted with the evacuation of nearby homes. After the evacuation was complete, Officer E returned to a position of cover behind the vehicle, while remaining holstered. As Officer F ran towards the vehicle, he fell forward into the street and injured his shoulder. Officer F self-evacuated from the scene prior to the OIS.

Officers B and C announced they observed movement in the house at the front window. This information was then broadcast by Officer A. Officer A stated he also observed the Subject at the front window of his residence with a gun in his hand. Officer A did not relay this information to the other officers at that time.

A police helicopter arrived over the incident and assumed the responsibility for establishing the perimeter.

Officer C observed the Subject at the front door of his residence, behind the closed metal security door. The Subject opened the front security door and stepped out onto the porch with a black handgun in his right hand. Officer B described the handgun as being pointed at the ground. Officer C repeatedly announced, "front door, front door, he's got a gun, he's got a gun." Officer A repeatedly ordered the Subject to put his hands up before broadcasting, "Hold up, Subject is at the front door with a gun in his hand."

According to Officer C, when Officer A provided his commands, the Subject looked in the officers' direction. Officer B announced a description of the Subject and his observation that the Subject had a black "semiauto" in his right hand. Officer B then advised that the Subject had returned into the house and he could no longer see him.

A short time later, the Subject reappeared at the front door, raised his right hand and pointed the revolver at the officers. Officers B, C, E, and L fired their weapons in response to the Subject's actions.

**The following is an account of each officer's actions during the OIS. They may not reflect the precise order in which each officer fired. The officers at scene had their BWV activated at the time of the OIS. The officers' cameras captured the audio of the event but based on the angle of their cameras and the cover utilized, they did not provide a view of the Subject's actions immediately prior to or during the OIS.**

Officer B observed the Subject, through the windows of the vehicle, step out of the house a second time and raise the handgun with his right hand. Officer B stated he feared for his life and for the lives of the other officers. Officer B stated he could not tell

if the Subject was pointing it at him or other officers because when he saw the gun coming up, his focus went to his front sight post. Officer B began firing through the driver's side window of the vehicle. When the window shattered and obstructed his view, Officer B stood up, while continuing to fire, and fired over the vehicle's roof toward the Subject. Officer B fired 28 rounds from an approximate distance of 62 feet.

Officer C was crouched behind the engine block of a vehicle, with his rifle over the hood, when he observed the Subject reappear at the front door. Officer C announced that the Subject was back. According to Officer C, the Subject stepped out partially bladed with his right hand down, slightly behind his right leg. Officer A broadcast that the Subject was at the front door with a gun in his hand. Officer C believed the Subject was holding something but could not tell what it was. Officer C observed the Subject raise his arm and heard Officer A declare that the Subject was pointing the gun. Officer C then observed the gun, which was pointed directly at him. Officer C stated that if he did not shoot at that exact moment, he would have been shot. Officer C fired six rounds at the Subject from an approximate distance of 87 feet. Officer C believed his rounds were striking the Subject, but the Subject did not go down. The Subject backed into the house and out of sight. Officer C stopped firing when the Subject disappeared into the residence.

Officer C did not know if the Subject fired back at the officers but believed he may have because he (Officer C) observed sparks from ricochet fly 40 to 50 feet off a car parked directly in front of the house. Officer C stated the Subject remained inside the residence briefly before reappearing and falling forward out of the front door onto the porch.

Officer E was positioned on one side of a vehicle moments prior to the OIS. Officers I, J, and K were positioned close to Officer E. Officer B was positioned on the other side of the vehicle. When the Subject appeared at the front door the second time, and as Officer A broadcast that the Subject was at the front door with a gun in his hand, Officer E stated he unholstered because there was an immediate threat and he was afraid he was going to get killed. While crouched, Officer E moved so he could protect his fellow officers if a threat presented itself. As he passed Officer I, the first shots of the OIS were fired. Officer E continued moving, and when he was parallel to Officer J, he stood and observed the Subject in the doorway with the gun in his right hand, pointed in the officers' direction. Officer E sidestepped and fired one round, from an approximate distance of 68 feet, to protect himself and the people around him. Officer E stated he did not continue firing because there were other officers at the scene with superior firepower who could more effectively deal with the threat. Officer E holstered when Officer K, who was equipped with a rifle, took over his position.

A review of Officer E's BWV indicated that Officer B was partially in Officer E's foreground when Officer E fired his round. Approximately 17-19 rounds were fired before Officer E fired his pistol. Officer E stated that during the OIS he heard the pinging sound of impacting rounds and observed a flash, and it was his impression he was being shot at.

Officer L was positioned to the side of a vehicle. Officer L stated that through the gaps in the shrubbery that separated the property lines of the Subject's residence from another home, he observed the Subject at the front door wearing a white shirt and holding a handgun. Officer L observed the Subject point the gun toward officers who were at the scene. Officer L fired one round from an approximate distance of 80 feet, indicating his belief that his life and the lives of the other officers were in danger. Officer L observed the Subject go down and out of view.

Officer A stated that when the Subject reappeared at the front door the second time, prior to the OIS, he unholstered his pistol and pointed it at the Subject with his right hand. Officer A did so because he believed the situation might escalate to a scenario involving the use of deadly force if the Subject pointed the firearm at officers. Officer A stated that although his life was in danger, he did not fire because he was the Incident Commander and he did not want to startle Officer C who was in front of him. Officer A added that Officer C, who was armed with a patrol rifle, was in a better position to stop the threat. Officer A crouched behind a vehicle as the OIS occurred.

Officer D stated that when the Subject emerged from the front door of the residence the second time, he raised his right hand and observed muzzle flash as the Subject fired one to two rounds at the officers. Officer D stated he did not have a clean line of fire with his shotgun and therefore, he did not shoot. After the OIS, Officer D observed the Subject fall forward onto the ground outside the residence and roll onto his back.

Officer A requested a Rescue Ambulance (RA) for the Subject. The officers observed the Subject lying on his back with his feet in the doorway. The Subject's left arm was at his left side, near his thigh, and his right arm was above his head. The officers could not determine the location of the Subject's handgun and believed it might have been between his left arm and thigh or under his back. The officers observed the Subject moving his right arm and head. Officer A directed the officers at the scene to hold their positions until the location of the gun was determined.

When Sergeant A arrived at the scene, he advised the officers to don their helmets and directed arriving units to stage at his location. Sergeant A met with Officer F and assessed that he was not seriously injured but directed him to go seek medical attention. Sergeant A was approximately three to four houses away from the Subject's residence when the OIS occurred. Sergeant A heard the officers' shots being fired but did not see the OIS. Sergeant A determined he was the first supervisor at scene and declared himself the Incident Commander. Sergeant A consulted with Officer A, who informed him there were no victims inside the residence.

Sergeant A assessed the tactical situation and assigned officers to various roles for an arrest team. Sergeant A observed the Subject lying on his back with his left hand near his thigh. He noted there was a shadow around the Subject's left hand and thigh and he could not determine the location of the Subject's gun. Sergeant A observed the Subject move his right arm multiple times and turn his head to the left. Sergeant A directed Officer A to give the Subject commands. Officer A, and other officers at the

scene, repeatedly ordered the Subject to put his hands up, but the Subject's left arm remained at his side.

Based on the comments of the call, which stated the Subject was suicidal, and the fact that he had potentially shot at responding officers, Sergeant A was concerned that the Subject was lying in wait for the arrest team to approach and would then shoot the officers. Officers in the police helicopter advised the officers on the ground that officers from a specialized unit were en route and recommended they wait for their arrival before they approached the Subject. Sergeant A was advised that responding officers had a 10-minute estimated time of arrival and that they were equipped with bunker shields, which could be used to approach more safely.

Sergeant B arrived and surveyed the scene. Sergeant B met with Sergeant A and left him in charge of the tactical situation. Sergeant B concurred that it was advisable to wait for the additional personnel before approaching the Subject.

The officers from the specialized unit arrived and took over the positions of the involved and percipient officers. Several officers arrived, including Officers M and N, in addition to Sergeant C. The officers were not able to determine the location of the Subject's gun based on the position of his body. Additionally, the Subject did not respond to the verbal commands given by officers. Sergeant C assumed the role of tactical Incident Commander and directed the officers to devise a tactical plan involving less-lethal force to take the Subject into custody.

Officer N broadcast that a beanbag shotgun was going to be deployed. Officer M then fired a beanbag round at the Subject's navel/belt area to elicit a reaction and gauge his level of consciousness. Officer M believed the less-lethal round struck the Subject's left side but there was no movement. Officer N believed the round struck the Subject in the upper left chest, in a glancing blow, and after waiting approximately 30 seconds, advised Officer M to fire a second beanbag round in an attempt to have a more direct impact. Officer M fired the second beanbag round at the Subject's navel/belt area, which struck the Subject's left arm, causing it to extend in the air. The investigation determined that Officer M fired from an approximate distance of 62 feet.

The arrest team approached the Subject. Sergeant C and other officers were equipped with bunker shields. The Subject was taken into custody without incident. Los Angeles Fire Department (LAFD) Firefighter/Paramedics arrived at the scene, and after assessing him, pronounced him as deceased.

The Subject's handgun was later recovered from a table inside the residence.

### **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 Sergeants A and C, along with Officers A, C, L, M, N's tactics to warrant a Tactical Debrief. The BOPC found Officers B and E's tactics to warrant a finding of Administrative Disapproval.

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

The BOPC found Officers A, B, C, E, and L's drawing and exhibiting of a firearm to be in policy.

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

The BOPC found Officer M's less-lethal use of force to be in policy.

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

The BOPC found Officers C and L's lethal use of force to be in policy. The BOPC found Officer B's Rounds 1-6 to be in policy and Rounds 7-28 to be out of policy. The BOPC found Officer E's lethal use of force to be out of 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 the incident, the BOPC considered the following:

### 1. Fire Control/Fire Discipline (Substantial Deviation – Officer B)

The investigation revealed that the Subject pointed a handgun at Officer B and other officers at the scene. In response to the deadly threat, Officer B fired 28 rounds in a less than seven-second sequence from his patrol rifle at the Subject.

Officers who are involved in a rapidly unfolding dynamic incident should assess their application of lethal force and should be encouraged to shoot no faster than their combat accuracy can be maintained.

In this case, Officer B reasonably believed that he was faced with a deadly force situation. When Officer B observed the Subject raise the handgun toward his and other officers' positions, his visual focus went to the front sight of his rifle as he was trained to do. Once his focus was on his front sight, Officer B could not tell if the Subject continued to point the handgun at him or the other officers. Officer B's background image became blurry and it was difficult for him to quickly focus his vision back and forth between the Subject and the front sight of his rifle.

As a result, Officer B fired multiple rounds which struck the vehicle that Officer B was using as cover, as well as the street sign in his foreground and the rooftop of the residence. These rounds indicated that Officer B did not obtain a sight picture after each round and was unable to maintain an alignment of his rifle sights on the Subject, his intended target. It was clear from the evidence that Officer B was firing faster than he was able to achieve combat accuracy.

In addition, Officer B observed that his rounds were not having any effect on the Subject. At that point, it would have been reasonable for Officer B to assess his target, accuracy, and shooting technique so that his subsequent rounds, if necessary, would be more effective in addressing the deadly threat.

Based upon the totality of the circumstances, the BOPC determined that during this specific tactical situation, Officer B's lack of continued assessment, fire control and fire discipline, while firing 28 rounds from his patrol rifle, was not reasonable and was a substantial deviation, without justification, from approved Department tactical training.

### 2. Crossfire/Situational Awareness (Substantial Deviation – Officer E)

Officer E moved from his position of cover, redeployed around two officers, and fired one round with Officer B in his foreground.

In this case, Officer E moved from his established position of cover because he wanted to be in a position to be able to protect and provide cover for his fellow officers. However, Officer E's BWV captured him re-deploying around two other officers, who were already in position to provide lethal cover with their firearms. Officer E did not communicate he was going to re-deploy to a new position of cover to any of the other officers. Officer E then stood up and fired a round while Officer B, who was exhibiting and firing his patrol rifle, was in Officer E's foreground.

Officer E's actions of re-deploying from his position of cover without communicating and firing with Officer B in his foreground, coupled with Officer E's lack of assessment of the situation, unnecessarily placed him and Officer B in danger.

Based upon the totality of the circumstances, the BOPC determined that Officer E's actions were a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:

1. Patrol Rifle Manipulations

The investigation revealed that Officer B chambered a round in his patrol rifle while driving to the radio call. Officer B was reminded that chambering a round in a moving vehicle may lead to an unintentional discharge of the rifle.

2. Beanbag Shotgun Deployment

The investigation revealed that upon arrival, none of the officers deployed a beanbag shotgun. The BOPC would have preferred that a beanbag shotgun had been available in the event the opportunity to use it presented itself.

3. Running with Service Pistol Drawn

The investigation revealed that Officer L ran to cover with his service pistol drawn. Officer L was reminded that there is a heightened concern for an unintentional discharge when running with a drawn service pistol.

4. Shooting Through a Window

The investigation revealed that Officer B fired his rifle through the window of a vehicle he was using for cover. Officer B was reminded that shooting through glass or other intermediate barriers can diminish accuracy, cause deflection of the bullet, and may result in fragmentation or other unintended outcomes.

5. Ballistic Helmets

The investigation revealed that some of the personnel who deployed in front of the residence were not wearing their ballistic helmets. All involved personnel were reminded of the importance of donning their ballistic helmets as soon as tactically feasible while involved in a tactical situation involving an armed suspect.

These topics were to be discussed at the Tactical Debrief.

## **Command and Control**

Sergeant A responded and declared himself the IC. He had responding officers don their ballistic helmets. He then met with Officer A and ensured there were no injured officers. After assessing the situation and determining that the Subject may still be armed, he made the decision to not approach. Sergeant A decided to wait for the arrival of specialized personnel who were equipped with ballistic shields.

Sergeant C responded and established command and control of the tactical operation. He approved the tactical plan to use the beanbag shotgun to ensure the Subject was safe to approach. Additionally, Sergeant C directed the actions of the arrest team that approached and handcuffed the Subject.

The actions of Sergeants A and C, as well as others on scene, were consistent with Department supervisory training and met the BOPC's expectations of field supervisors during a critical incident.

- 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.

In this incident, the BOPC found Sergeants A and C, along with Officers A, C, L, M, N's tactics to warrant a Tactical Debrief. The BOPC found Officers B and E's tactics to warrant a finding of Administrative Disapproval.

## **B. Drawing/Exhibiting**

- According to Officer A, the Subject came out of the residence a second time. As the Subject stepped out on the porch, he drew his service pistol.

According to Officer B, while enroute to the location, he decided to exhibit his patrol rifle so that it would be ready upon their arrival. Officer B then removed his rifle from the rifle rack, chambered one round, and put the barrel down toward the floorboard.

According to Officer C, based upon the information that shots were fired and the possibility of an active shooter, he exited his vehicle and retrieved his patrol rifle.

According to Officer E, as he approached the residence, he heard shots being fired, so he drew his service pistol. When he heard Officer A requesting that officers evacuate the residences, he holstered his service pistol and assisted with evacuations. Officer E then returned to his position of cover behind the truck and drew his service pistol again.

According to Officer L, upon arrival, he exited his vehicle, drew his service pistol, and ran toward the location of the radio call where he also heard gunshots.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, C, E, and L, when faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers A, B, C, E, and L's drawing and exhibiting of a firearm to be in policy.

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

- **Officer M** – (beanbag shotgun, two rounds)

According to Officer M, he was directed by Officer N to fire a beanbag round at the Subject because there was a reasonable belief it was unsafe to approach the Subject, as he possibly had a firearm by his side. Officer M then discharged one beanbag round at the Subject. Officer M observed that the round hit the Subject on his left side and there was no movement. Believing that the Subject was still possibly lying in wait for officers, Officer N directed him to fire another round. Officer M then discharged a second beanbag round at the Subject, which hit him in the left arm.

Based on the totality of the circumstances, BOPC determined that an officer with similar training and experience as Officer M, when faced with similar circumstances, would believe that this same application of less-lethal force would be reasonable to effect his arrest.

Therefore, the BOPC found Officer M's less-lethal use of force to be in policy.

### **D. Lethal Use of Force**

- **Officer B** – (rifle, 28 rounds)

According to Officer B, the Subject came out of the residence the second time and stepped out just past the door frame. The Subject then raised the firearm that was

still in his right hand. In fear for his life and the lives of his fellow officers, Officer B fired 28 rounds from his rifle at the Subject to eliminate the threat.

- **Officer C** – (rifle, six rounds)

According to Officer C, when the Subject stepped out of the residence the second time, Officer A advised him that the Subject had a gun. As Officer C responded to Officer A that he could not see the gun, the Subject turned a little bit more and he was then able to see that the Subject was pointing the barrel of a black handgun in his direction. Believing that it was imminent that the Subject was going to shoot him, Officer C fired six rounds from his patrol rifle at the Subject to stop the threat.

- **Officer E** – (pistol, one round)

According to Officer E, he observed the Subject in the threshold of the doorway of the residence with a black or blue steel gun in his right hand. Officer E then observed the Subject raise the gun up in his and the other officers' direction. Believing that he was going to get killed, Officer E fired one round from his service pistol at the Subject to stop the threat.

- **Officer L** – (pistol, one round)

According to Officer L, he observed the Subject standing at the front door of the residence, pointing a gun towards the officers. In fear for his life, and the lives of his fellow officers, he fired one round from his service pistol at the Subject to stop the threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers B (rounds 1-6), C, and L, would reasonably believe that the Subject's actions presented an imminent threat of death or serious bodily injury and that the lethal use of force would be objectively reasonable.

Therefore, the BOPC found Officers B (rounds 1-6), C, and L's lethal use of force to be in policy.

Additionally, the BOPC determined that an officer with similar training and experience as Officer B, when firing rounds 7-28, would have stopped firing after round six and assessed to determine if the Subject's actions still presented an imminent threat of death or serious bodily injury. As such, Officer B's lethal use of force (rounds 7-28) would not be objectively reasonable.

Therefore, the BOPC found Officer B's lethal use of force (rounds 7-28) to be out of policy.

Finally, the BOPC determined that an officer with similar training and experience as Officer E, when faced with similar circumstances, would have remained in a position of cover, would not have fired with Officer B in his foreground, and would have recognized that there were sufficient officers already in positions to provide lethal cover with their firearms. As such, Officer E's lethal use of force would not be objectively reasonable.

Therefore, the BOPC found Officer E's lethal use of force to be out of policy.