

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

OFFICER-INVOLVED SHOOTING – 011-18

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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77 th Street	2/25/18		
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Officer(s) Involved in Use of Force	Length of Service
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Sergeant A	23 years, 11 months
Officer A	12 year, 4 months

Reason for Police Contact

Officers responded to a radio call of an in-progress commercial burglary. The Subject pointed a gun at officers, resulting in an officer-involved shooting (OIS).

Suspect	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 32 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.

The following incident was adjudicated by the BOPC on January 29, 2019.

Incident Summary

Witness A, an employee of a commercial business, was at his residence when he received a telephone call from the alarm company advising him of activity at the business. Witness A obtained his cellular telephone to monitor the store's camera system and observed someone inside. Witness A then advised the alarm company of his observations and requested they dispatch police to the business. Witness A and Witness B drove to the location and parked their vehicle in the parking lot. While waiting for the police to arrive, Witness A observed that the corner of the iron security gate at the front of the business was pried open and began to monitor the store's video camera system from his cellular telephone, observing the suspect still inside the location.

Communications Division (CD) broadcast a corresponding radio call. A review of the recorded telephone conversation between CD and the alarm company operator established that CD was not advised that Witness A observed a suspect inside the location.

Officers A and B responded to the location. They were equipped with a Digital In-Car Video System (DICVS) and both were also equipped Body Worn Video (BWV). Due to it being a non-coded radio call, the officers did not activate their DICVS.

Officer B used the Mobile Digital Computer (MDC) in his/her police vehicle to place the officers at the location via the police radio (Code-Six). Officers A and B exited their police vehicle, activated their BWV cameras, and walked toward Witnesses A and B, who were seated in their vehicle. Witness A informed Officers A and B that he was the person who reported the incident. Witness A advised the officers that the suspect(s) were still inside the location.

The burglary alarm was located in the corner of an L-shaped strip mall. There was a sidewalk adjacent to the business that continued with access to a trash area that was utilized by each of the establishments in the strip mall.

Officer A indicated that, based on the information he received from Witness A, he/she believed a suspect, or multiple suspects, were still inside the business. Officers A and B then moved to the front of the location. As they made their approach, they unholstered their service pistols and held them in a one-handed, low-ready position. The officers stated that from their training and experience, the officers believed that burglars are known to carry weapons or burglary tools that could be used as a weapon and felt the situation could rise to one involving the use of deadly force.

According to Officer B, he/she placed his/her finger along the frame of his/her service pistol; however, his/her BWV depicted his/her finger along the trigger guard.

Officers A and B continued down the sidewalk and observed that the metal roll down security gate was pulled away from the frame and propped open by a green metal bar that was on the ground. Officer B obtained a position to cover the breached roll down gate and observed broken glass on the ground inside the location. Meanwhile, Officer A observed a set of stairs, at the end of the walkway, adjacent to the business location, that led down to a trash area to the rear of the location

Officer A held his/her pistol as he/she moved forward, walking in front of the gate opening and stopping at the top of the stairs. He/she perceived this area as a potential threat and felt it important not to ignore it. Officer A could be seen in his BWV standing at the top of the stairs overlooking the trash dumpster and appearing to visually inspect the area.

As Officer B held his/her position, he/she observed what he/she believed to be a blanket inside of the opening and believed that squatters may be present inside of the business. At the time neither officer knew what kind of business it was. As Officer A began to walk down the stairs, toward the back of the building where the trash dumpster was located, Officer B heard movement inside of the business, which he/she believed to be six to ten feet inside of the location, and advised Officer A. Officer B then began to communicate with an individual (the Subject) who was inside the location.

Officer A requested a back-up unit. Officer A walked back up the stairs and stood behind Officer B. As Officer B continued to communicate with the Subject, he/she asked Officer A if the rear area was secure, referring to whether the wrought iron gate was locked. Officer A then proceeded down the stairs to check the status of the gate but returned to Officer B's position because he/she heard the Subject escalating his/her behavior as heard on his BWV (the Subject yelling and the sound of broken glass). A review of the officers' BWV established that they could maintain line-of-sight with one another during this movement.

Officer B continued to cover the metal security roll down gate as he/she attempted to communicate with the Subject. Officer A walked back up the stairs, then walked behind Officer B, past the front of the gate, and joined Officer B.

Officer B established verbal communication with the Subject and identified him/herself and his/her partner as Los Angeles Police Department (LAPD) officers, in an attempt to obtain further information from the Subject. Officer B opined that the Subject may be a foreign language speaker and began to communicate with him in that language.

The Subject indicated that he wanted to exit the business. However, Officer B wanted to wait for the arrival of additional personnel resources before initiating contact with the Subject. Officer B was aware that a back-up unit was requested and resources were en route. Officer B directed the Subject to remain inside the location.

Officer B believed the Subject was a squatter and anticipated that he was accompanied by other squatters. It was Officer B's experience that multiple squatters often occupied

the same location. Officer B did not want anyone to exit the location prior to arrival of additional resources.

Officer B indicated that the Subject began to escalate his behavior, becoming more verbally abusive and throwing items inside the location. This influenced Officers A and B to redeploy on the sidewalk, taking cover behind the corner of a pizzeria, located in the strip mall across from the alarm call. Officer B served as lethal cover while Officer A transitioned to a less-lethal option by holstering his/her service pistol and unholstering his/her TASER, which he/she held in his/her right hand.

Numerous other officers arrived and helped secure the scene. Meanwhile, Officer B's BWV captured the continued sound of glass breaking, the Subject yelling, and depicted the metal security gate being pushed outward.

Sergeant A arrived at the scene and broadcast that he/she had done so.

Sergeant A had the impression the officers were already organized in a contact team and were in the process of ordering the Subject out of the location. Sergeant A believed that he/she was one of the first officers at the scene and took a containment position on the side of the location in the rear alley.

Sergeant A parked his/her police vehicle at the opening of the alley. He/she maintained a position outside the police vehicle because he/she wanted to obtain some additional information about the location before walking through the alley. Sergeant A decided to walk rather than drive down the alley.

As Sergeant A proceeded through the alley, he/she observed an area where a trash dumpster and some cardboard boxes were located, which was secured by a gate. Sergeant A also observed an exterior stairway that led up to an open-air doorway. These were the stairs that Officer A had previously negotiated when he/she entered the trash area.

Officer A directed the Subject to exit the location with his hands up; however, the Subject did not comply and began to push on the metal security gate, causing the opening to widen.

Additional officers continued to arrive. Officer B can be heard on his/her BWV directing them to take a containment position to the rear of the location in the alley. None of the officers were aware that Sergeant A was already in the alley because he/she had broadcast he/she was at scene but did not provide information regarding his/her location.

Sergeant A indicated that his/her intent was to have other officers cover the rear alley area, so that he/she could respond to the front of the location to provide supervisory oversight after being relieved by a responding unit.

Sergeant A then proceeded to move along the gated trash area, momentarily stopping at the closed gate. According to Sergeant A, he/she heard the officers giving verbal commands to the Subject. Sergeant A was cognizant that the Subject could enter the trash area and elected to redeploy further in the alley to a position near a cinder block wall at the corner of the gated trash area. Sergeant A believed the wall afforded him/her cover, if needed.

Officer B's BWV captured the Subject exit the alarm location and proceed down the stairs to the trash area. Officers A and B held their positions at the front of the location as other officers ran through the parking lot and then along the sidewalk with the intent to obtain a containment position to establish a perimeter.

Sergeant A's BWV captured him/her holding his/her radio in his/her hand when the Subject was first observed at the top of the steps by Sergeant A. The BWV then captured the Subject run down the stairs and take a position beyond the trash dumpster with both his/her arms extended toward Sergeant A, in a manner consistent with a shooting stance. Sergeant A placed his/her radio in the radio holder and drew his/her service pistol, which Sergeant A held in his/her right hand and moved backward, away from the gated trash area. Sergeant A indicated he/she drew his/her service pistol because he/she observed the Subject holding a "large handgun" in his/her hand at the top of the stairs, causing him/her to believe the incident could escalate to one involving the use of lethal force.

Sergeant A's BWV captured him/her drawing his/her service pistol as the Subject assumed a shooting stance.

Sergeant A redeployed away from his/her initial position of cover at the cinder block wall. It was from this position that additional officers could be seen on Sergeant A's BWV entering the alley. Sergeant A could be heard on BWV yelling, "*He's got a gun! He's got a gun!*" Simultaneously, Sergeant A's BWV captured him/her briefly raise his left arm and make a motion. Sergeant A did not recall this interaction.

Sergeant A's BWV then captured him/her raise his/her service pistol and discharge two rounds (rounds 1 and 2). These two rounds were discharged approximately 8 seconds after Sergeant A redeployed from his/her initial position of cover. Sergeant A's BWV did not capture the Subject's position at the time the rounds were discharged.

Sergeant A stated he/she had no independent recollection as to discharging these two rounds and was unable to provide his/her rationale for discharging them. Sergeant A's BWV depicted a dumpster located close to his/her position, and it revealed some movement near the dumpster at the time Sergeant A fired.

As Sergeant A discharged these two rounds, officers then redeployed to positions along the wall of the pizzeria at the entrance of the alley.

After discharging the two rounds, Sergeant A's BWV captured him/her slightly move to his/her left, toward the middle of the alley, which afforded him/her an expanded field of

vision into the trash area with the doorway at the top of the steps in view. This was established by Sergeant A's BWV.

Officers A and B heard the rounds being discharged. Officer B broadcast that shots had been fired. Officer A stated he/she heard four rounds discharged.

Officer A believed that the Subject may have shot at officers that were to the rear of the location. Officer A holstered his/her TASER and drew his/her service pistol because he/she believed that the Subject was armed and posed a lethal threat.

Sergeant A's BWV captured the Subject behind the trash dumpster, appearing to look in his/her direction. The Subject then ran up the stairs, holding his/her handgun overhead, pointed upward. The Subject can then be seen facing in the direction of Officers A and B, who were still in front of the location and appeared to begin to level his/her handgun in their direction, moving it from overhead to in front of his/her face.

According to Officer A, he/she and Officer B began to re-deploy to the edge of the building. As the officers were redeploying, the Subject suddenly appeared in the doorway at the top of the stairs, facing in the direction of Officers A and B.

According to Officer A, he/she had a clear view of the Subject, through the pizzeria windows and observed that the Subject was holding a handgun in his/her right hand, which was pointed upward. Officer A believed that if he/she could see the Subject, then the Subject could also see Officer A.

Officer A stated that the Subject then began to bring the handgun downward, which influenced him/her to aim his/her service pistol at the Subject's center body mass, while looking through the pizzeria glass door, and discharge one round from an approximate distance of 25 feet.

The round struck the lower left side of the door frame and appeared to have no effect on the Subject. Officers A and B then continued to redeploy to the side of the building.

Sergeant A's BWV captured the Subject holding his/her handgun above his/her head with both hands as he/she ascended the stairs. Sergeant A maintained his/her handgun in this position at the top of the steps before transitioning it to the front of his/her body as he/she descended the stairs. According to Sergeant A, he/she observed that the Subject was armed with what he/she believed to be a silver handgun, which Sergeant A described as being pointed upward at a ninety-degree angle.

As the Subject ran down the stairs, Sergeant A discharged two additional rounds (rounds 3 and 4) at the Subject from an approximate distance of 45 feet.

Sergeant A stated that the Subject came down the stairs still in possession of his handgun, but Sergeant A was uncertain as to the direction it was pointed. He/she described the Subject holding his handgun in front of him at waist level.

Sergeant A stated in his/her second interview that he/she did not recall discharging these two rounds (rounds 3 and 4) and was unable to provide context as to his/her rationale for discharging these rounds.

After Sergeant A discharged these two rounds (rounds 3 and 4), his/her BWV captured the Subject take a position behind the trash dumpster.

According to Sergeant A, he/she began to give commands in Spanish, repeatedly directing the Subject to "Drop the weapon!" The Subject did not comply and then took a position adjacent to the trash dumpster, causing Sergeant A to perceive that the Subject was going to shoot at him/her. Sergeant A aimed his/her service pistol at the Subject's center body mass, chest area, and discharged two rounds (rounds 5 and 6) from an approximate distance of 35 feet.

Sergeant A's BWV depicted the Subject was concealed behind the trash dumpster except for portions of the left side of his body at the time Sergeant A discharged these two rounds (rounds 5 and 6).

According to Sergeant A, the Subject secreted himself behind the trash dumpster, "poking his head up," exposing him from the top of his head to his mouth. Sergeant A's BWV captured the Subject exposing the top of his head from behind the trash dumpster.

According to Sergeant A, the second time the Subject exposed his head, Sergeant A observed what he/she perceived to be a handgun being brought down and pointed in his/her direction. Sergeant A aimed his/her service pistol at the Subject's head and discharged a single round (round 7) from an approximate distance of 35 feet.

When Sergeant A discharged rounds 5 and 6, he/she indicated he/she discharged 2 to 3 rounds, presumably incorporating round 7 into this series of fire because he/she did not recall firing a single round (round 7).

Sergeant A demonstrated that the Subject was holding his handgun in his right hand with it at the side of his head.

Sergeant A attempted to discharge another round at the Subject; however, Sergeant A experienced a weapon malfunction. Sergeant A could be seen on his/her BWV taking a step to his right and pulling the slide to the rear, ejecting a live round.

Sergeant A side-stepped to his/her left and continued to verbalize with the Subject in Spanish, telling him to drop his handgun. Sergeant A's BWV depicted the Subject again exposing his head from over the top of the trash dumpster. Sergeant A perceived the Subject as a deadly threat, assumed a two-handed shooting stance, aimed his/her service pistol at the Subject's head, and discharged a single round (round 8) from an approximate distance of 35 feet.

Sergeant A used his/her left hand to activate his/her BWV, then re-acquired a two-handed grip on his/her service pistol, which he/she continued to point in the direction of the Subject.

According to Sergeant A, he/she perceived the Subject to be a deadly threat because he continued to peer over the trash dumpster. Sergeant A aimed for the Subject's head and discharged a single round (round 9) from an approximate distance of 35 feet.

Sergeant A's BWV captured the Subject appear to move behind the trash dumpster; however, the Subject's movements were not discernible. Sergeant A's BWV captured the Subject's head above the trash dumpster and it appeared the Subject was holding an object in his right hand. According to Sergeant A, the Subject raised his head up from behind the dumpster. Sergeant A feared for his/her life and discharged a single round (round 10) from an approximate distance of 40 feet.

Sergeant A's BWV then captured the Subject extend what appeared to be his right arm above the trash dumpster, holding what appeared to be a shiny object. According to Sergeant A, he/she aimed at the Subject's head and discharged a single round (round 11) from an approximate distance of 40 feet.

Sergeant A was uncertain if his/her last round struck the Subject or if the Subject just took cover behind the trash dumpster. Sergeant A continued to aim his/her service pistol in the direction of the Subject while he/she gave the Subject commands to drop the weapon.

All BWV, physical evidence at scene, ballistic evidence, and analyzed evidence was evaluated and indicated that the Subject did not discharge his firearm.

As Sergeant A held his/her position, additional officers arrived at Sergeant A's location. Sergeant A advised them that the Subject was behind the dumpster and he/she had not seen any further movements from the Subject. Sergeant A further informed them that he/she had not heard any further movement from the Subject and believed he might have been down behind the dumpster.

Los Angeles Fire Department personnel arrived at the location and declared the Subject to be deceased.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

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

B. Drawing and Exhibiting

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

C. Lethal Use of Force

The BOPC found Sergeant A's and Officer A's lethal use of force to be In Policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. 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 noted the following tactical considerations:

1. Cover

Officers A and B did not redeploy to a position of cover after they made verbal contact with the Subject.

In this case, the officers tactically deployed in front of the business. As they began to assess the layout of the building, Officer B heard noise coming from inside the business and began a dialogue with the Subject. During this time, the

Subject became irate, threatened to start a fire with gas, and verbalized that he wanted to exit the business.

2. Tactical Communication

As the officers attempted to contain the location, Sergeant A, who was deployed to the rear of the business, did not communicate with the officers in the front of the business. As a result, the involved personnel were ultimately faced with a rapidly unfolding tactical situation, involving an armed suspect, without the benefit of communication to coordinate actions between the personnel on the two sides of the business.

In this case, Officers A and B effectively communicated with each other as they coordinated their efforts and disseminated information to officers who arrived at the front of the location. However, Officers A and B did not broadcast many of their observations during the unfolding tactical situation and were unaware that a supervisor was positioned to the rear of the business.

When Sergeant A arrived, he/she advised CD he/she was to the rear of the location and requested the next available unit respond to his/her location. However, Sergeant A did not attempt to open a direct line of communication with the officers at the front of the location.

3. Containment (Substantial Deviation – Sergeant A)

Sergeant A parked his/her police vehicle at the mouth of the rear alley of the strip mall. Sergeant A exited his police vehicle and assumed a position of containment behind the business.

In this case, when Sergeant A arrived at the scene, he/she quickly assessed the situation in front of the business and believed the four tenured officers were effectively handling the tactical situation. As such, he/she continued driving and assumed a position of containment at the mouth of the alley, close to the strip mall. At that time, Sergeant A did not observe any officers positioned to the rear of the location, and an Air Unit had not yet arrived to assist with establishing a perimeter.

According to Sergeant A, he/she assumed this position with the intent of temporarily maintaining containment on the side of the building until another unit arrived to take his position. Once relieved, he/she would then respond to the front of the building. Sergeant A considered reassigning officers from the front of the location to the rear; however, he/she decided against it because he/she believed this would lessen the efficiency of the contact team as they attempted to gain compliance from the Subject.

Sergeant A assessed his/her position and decided to walk in the alley to evaluate the rear of the business. After he/she observed the layout of the trash area to

the rear of the business, Sergeant A broadcast a request for the first available unit to respond to his/her location.

4. Protocols Subsequent to a Categorical Use of Force Incident

After the OIS, Sergeant A observed that the Subject disappeared behind the dumpster and never reappeared. Sergeant A did not know if the Subject had been injured from gunfire or if he was still attempting to hide behind the dumpster. Based upon his/her observations, Sergeant A believed the Subject was still a threat and, therefore, held his/her position in the alley and awaited the response of additional resources.

Sergeant A recognized that the tactical situation was still ongoing and assumed the role of the IC. During this time, additional officers arrived at Sergeant A's location. Sergeant A assembled a contact team, briefed them on the situation, and gave them instructions to cover the dumpster area. Additionally, while waiting for the arrival of the ballistic shields, Sergeant A began to coordinate with the airship and attempted to get another supervisor to his/her location.

Approximately two minutes after the OIS, Sergeant A's BWV captured him/her broadcast a request for a supervisor to respond to his/her location. The BWV then captured subsequent attempts by Sergeant A to contact a supervisor, via his/her radio, while he/she actively managed the ongoing tactical situation.

- The BOPC also considered the following:
 1. Tactical Vehicle Deployment – The investigation revealed that Officers A and B parked their police vehicle in the strip mall parking lot.
 2. Public Safety at Critical Incidents – The investigation revealed that after speaking with the witnesses, Officers A and B did not direct them to leave the parking lot.
 3. Body Worn Video Activation – The investigation revealed that Sergeant A activated his BWV late and not until he was actively engaged in the OIS.

Command and Control

- Sergeant A was the first supervisor to arrive on scene and did not take control of the incident at the front of the location.

The BOPC noted that Sergeant A's decision to drive to the rear alley and then walk to the rear of the business was not reasonable and limited his/her ability to effectively assess and manage the ongoing tactical situation.

The BOPC was critical of Sergeant A's lack of command and control at the beginning of this incident and concluded that he/she did not demonstrate the level of control or supervision expected of a field supervisor.

As a result, the BOPC determined Sergeant A's lack of supervisory oversight at the beginning of this incident substantially and unjustifiably deviated from approved Department supervisory training, and thus warranted a Tactics finding of Administrative Disapproval.

Once the tactical situation had stabilized, Sergeant A walked to the front of the location and advised a supervisor of his/her involvement in the OIS. Although it was identified that there was a delay in Sergeant A reporting his/her involvement in the OIS, the BOPC believed this was reasonable considering Sergeant A's immediate responsibilities as the IC of an ongoing tactical situation.

As a result, the BOPC concluded that Sergeant A's actions *after* the OIS were consistent with Department supervisory training.

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

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In conducting an objective assessment of this case, the BOPC found that the tactics utilized by Sergeant A substantially and unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

Additionally, the BOPC found that the tactics of Officers A and B substantially, but justifiably, deviated from approved Department tactical training.

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

B. Drawing and Exhibiting

- According to Officer A, as he/she walked up to the business, he/she observed that the security shutters were rolled down and he/she could not see inside the business. Officer A believed that a felony crime had occurred and that the burglary suspect was still inside the location. Based upon his/her knowledge that burglary suspects

are known to carry weapons or tools that can be used as weapons, he/she drew his/her service pistol.

According to Officer A, he/she heard gunshots coming from the rear of the location. Believing that the Subject had fired upon officers that were in the back of the building, he/she holstered his/her TASER and drew his/her service pistol.

According to Officer B, as he/she approached the location, he/she observed that the bottom left corner of the metal roll down gate had been pried open. Based upon his/her belief that a burglary suspect was inside the business and his/her knowledge that burglary suspects carry tools that can be used as weapons, Officer B drew his/her service pistol.

According to Sergeant A, while positioned in the rear alley, he/she observed that the Subject appear armed with a handgun. In response, he/she drew his/her service pistol.

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

Therefore, the BOPC found Sergeant A, along with Officers A and B's drawing and exhibiting of a firearm to be In Policy.

C. Lethal Use of Force

- **Sergeant A** – (pistol, 11 rounds)

Rounds One and Two

According to Sergeant A, he/she did not recall the Subject's actions and movements and he/she did not recall firing these two rounds.

Sergeant A's BWV captured the Subject appear in the doorway and then run down the stairs into the trash area. The Subject then assumed a position next to a trash dumpster and extended both of his arms in Sergeant A's direction in a manner consistent with a shooting stance. Sergeant A drew his/her service pistol and redeployed near the trash area, while still using the cinder block wall for cover. Sergeant A then fired two rounds from his/her service pistol at the Subject.

Sergeant A's BWV did not capture the Subject's position at the time Sergeant A fired his/her service pistol.

Rounds Three and Four

According to Sergeant A, he/she observed the Subject appear in the doorway holding a large silver handgun in his/her hand. Sergeant A further observed that the barrel of the handgun was pointed up, toward the sky, and that the Subject was facing in the direction of the officers in the front. The Subject then came down the stairs holding the handgun in front of him, parallel to the ground and at waist level.

Sergeant A's BWV reflects that as the Subject ran down the stairs, Sergeant A fired two rounds from his/her service pistol at the Subject. According to Sergeant A, he/she did not recall firing these two rounds as depicted in his/her BWV.

Rounds Five and Six

According to Sergeant A, the Subject then assumed a position by the dumpster. At that point, Sergeant A perceived that the Subject's pistol was beginning to point in his/her direction. Believing the Subject was going to take a shot at Sergeant A, and also believing that he/she was going to get killed, Sergeant A fired two rounds from his/her service pistol at the Subject to stop the threat.

Round Seven

According to Sergeant A, the Subject then moved to his/her right and secreted him/herself behind the metal dumpster. Within seconds, the Subject poked his/her head up above the dumpster, exposing his/her face from the mouth up. When the Subject did it a second time, Sergeant A observed the Subject holding his/her pistol in his/her right hand, beside his/her head, with the barrel pointed up. The Subject then began to transition his/her handgun to a horizontal position and pointed the handgun in Sergeant A's general direction. Believing the Subject was going to shoot him/her, Sergeant A believed he/she fired two to three rounds from his/her service pistol at the Subject to stop the threat.

The investigation revealed that Sergeant A fired one round from his/her service pistol.

Rounds Eight through Eleven

According to Sergeant A, the Subject dropped back down and secreted himself behind the dumpster. The Subject then poked his head up a third time, again exposing his head from the mouth up. Believing the Subject was still armed and having already shown a tendency to display the handgun as though he was going to shoot, Sergeant A believed he/she fired two to three rounds from his/her service pistol at the Subject to stop the threat.

Sergeant A's BWV captured the Subject intermittently raising his head above the trash dumpster, making movements with his hands and then ducking back down. During this time, Sergeant A fired four rounds from his/her service pistol at the Subject. Additionally, the BWV reflects that Sergeant A assessed

between each round and can be heard giving the Subject commands to drop the weapon between rounds.

- **Officer A** – (pistol, one round)

According to Officer A, as he/she walked along the pizzeria storefront, toward the edge of the building, he/she observed the Subject pop up in the doorway. He/she had a clear view of the Subject and observed that the Subject was holding a gun in his/her hand with the muzzle pointed up to the sky. As the Subject reached the top of the stairs, he/she observed the gun coming down in his/her direction. Believing that the Subject was going to shoot him/her through the glass window, he/she fired one round from his/her 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 Sergeant A and Officer A, would reasonably believe 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 Sergeant A and Officer A's lethal use of force to be In Policy.