

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

**OFFICER-INVOLVED SHOOTING – 035-18**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Foothill	5/30/18		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer D	3 years, 6 months
Officer E	11 year, 1 month
Officer F	9 years, 8 months
Officer G	6 years, 6 months
Officer H	11 years, 1 month
Officer I	11 months
Officer J	15 years, 5 months

**Reason for Police Contact**

Officers responded to a radio call of a stabbing at a residence. The officers arrived at the location and were confronted by the Subject, who ultimately armed himself with a long-handled pick axe. The Subject charged at the officers with the pick axe, 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, 29 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 BOPC 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 April 9, 2019.

## **Incident Summary**

Witness A returned home to the room he was renting inside a residence. He was greeted by Witness B, the Subject, and Witness C. Witness A, who had never met the Subject or Witness C, was introduced to them and invited to join the three, who were all drinking alcohol. Witness A declined, retired to his bedroom, and went to sleep.

A short time later, Witness A was awakened by the Subject banging on his bedroom door. Before he could get to the door, the Subject forcefully opened it, confronted Witness A and accused him of hurting Witness B. Witness B entered the bedroom behind the Subject and was attempting to stop him from assaulting Witness A. However, she was unsuccessful, as the Subject pushed her into the door jamb where she struck her head against the wall. Although dazed from hitting her head, Witness B continued to intervene and eventually convinced the Subject that Witness A was not the one who had hurt her and ultimately persuaded him to exit the room.

Witness A was uncomfortable with the Subject's aggressive behavior. In an attempt to de-escalate the situation, he decided to leave for the night and stay at his mother's house. However, as he exited the house, the Subject followed him down the driveway and confronted him at the front gate. Witness A made further attempts to get away, but the Subject punched him in the face and stated, "You're going to die. Die mother [expletive deleted]." At that point, the Subject stabbed Witness A in the stomach with a knife. Witness A managed to break free and ran back inside the house with the knife still imbedded in his stomach. He locked the door and called 9-1-1.

Witness A reported to the Emergency Board Operator (EBO) at Communications Division (CD) that he had been stabbed with a knife and that the Subject was still outside. Witness A did not know the address of the residence; however, he relayed the cross-streets. He went on to tell the EBO that he was in the second house from the corner.

CD then broadcast the call and provided a description of the Subject.

Uniformed Sergeant A, and uniformed partners Police Officers A and B, immediately notified CD that they were responding.

At the request of CD, Officer A verified that the officers were beanbag shotgun equipped, and also requested the response of an Air Unit. Several requests for an Air Unit were made throughout this incident; however, due to weather conditions, an Air Unit was unable to respond.

Officer A broadcast that the officers had arrived at the location (Code Six) as Officer B parked at the intersection. As Officer A and his partner exited their vehicle, Officer A unholstered his/her pistol and cleared the vehicles parked along the curb as he/she searched for the exact location of the radio call. Officer A saw a bald, male (the Subject) with two females (Witnesses B and C) in the driveway/carport area in front of

the location. He/she asked CD to verify with Witness A if the Subject could be standing outside with two females. The EBO broadcast to the officers that the Subject was with at least one female. Witness A believed he was still armed.

Officer A then broadcast he/she had one male and two females outside of the location and requested a backup unit. Officers A and B took up positions on either side of the driveway and began giving verbal commands to the trio.

At about this time, Sergeant A arrived and began managing the scene. As depicted in Body Worn Video (BWV), the Subject failed to comply with the officers' commands and stayed at the far end of the driveway. Witnesses B and C complied, moved toward the sidewalk, and were handcuffed without incident. Both were then escorted away from the location and debriefed by other officers.

The Subject remained at the far end of the driveway with his hands in his pockets. Officers issued verbal commands to the Subject to take his hands out of his pockets and to place them over his head. The Subject is seen on BWV ignoring the officers' commands. Instead, he remained at the far end of the driveway near the house and casually moved back and forth in front of the two cars parked under the carport. Sergeant A then broadcast a request for a beanbag shotgun.

Due to the nature of the radio call and the subsequent request for a backup unit, numerous units responded to the scene, including the involved officers. Many of the other responding officers were not involved in any of the force utilized during this incident.

Officer A verified with CD that Witness A was still on the line with them. According to CD, Witness A was inside the residence leaning against the front door and he was keeping pressure on his stab wound.

Sergeant A gathered numerous officers near the mouth of the driveway as others continued their unsuccessful efforts to verbalize with the Subject. Officer A advised the assembled officers of the necessity to get inside the residence because Witness A was inside the house, bleeding, and needed medical treatment (MT). Sergeant A designated Officer C, who was armed with a shotgun, as the lethal force option. Sergeant A designated Officer A as the communications officer and Officers D and E, armed with a beanbag shotgun and a TASER respectively, as the less-lethal force options.

Realizing the urgency of contacting Witness A, Sergeant A planned to move his/her designated contact team up to the left side of the driveway. Additionally, he/she directed several officers, including Officer F, to approach along the right side of the driveway with the primary responsibility of being the arrest team. The remaining officers filled in any gaps created as the teams moved up the driveway and/or provided support such as additional TASERS and beanbag shotguns.

With the assignments and objective clearly identified, Sergeant A directed Officer A to verbally advise the Subject that force could be used to arrest him. Officer A told the Subject that if he failed to comply with the officers' commands, officers may be forced to use a TASER or beanbag shotgun against him and that either could result in serious injury or death. Officer A again ordered the Subject to put his hands up and again the Subject failed to comply.

Shortly after midnight, Sergeant A gave the command for the officers to start their approach up the driveway. Officer C led the approach with his/her shotgun followed by Officer D armed with a beanbag shotgun. Officers A and B, both armed with their unholstered pistols, were next in the group, with Officer E following them, armed with his/her TASER. Concurrently, Officer F and the other officers with him/her, approached via the right side of the driveway.

Officer A continued to verbalize with the Subject as the officers approached. The team stopped approximately 15 feet away from the Subject and used the two cars parked in the carport as cover. Officer A again ordered the Subject to comply and step out from behind the cars with his hands up. Officer A further advised the Subject that if he did so, he would be detained and informed why the officers were there. The BWV depicts the Subject's failure to comply.

According to Sergeant A, he/she determined the Subject to be unsafe to approach. Sergeant A's decision was based on the fact that the Subject had already stabbed Witness A and that the location of the knife was still unknown. In addition, the Subject was refusing to cooperate and failed to comply with any commands given by any of the officers. With that in mind, Sergeant A believed a TASER application to be a sound tactical decision and announced, "TASER standby." He/she then directed Officer E, Sergeant A's designated TASER officer, to move forward and close the distance between the officers and the Subject. At Sergeant A's direction, Officer A issued one more warning to the Subject that if he continued to ignore the officers' orders, he would be Tased, it would hurt, and that it may cause serious injury or death.

The Subject, who had previously been casually leaning against one of the cars, stood and squared his shoulders to face the officers. At the direction of Sergeant A, Officer E fired the first TASER darts at the Subject from an approximate distance of 11 feet. The BWV depicts that the darts struck the Subject in the torso and upper left leg. His body appeared to momentarily convulse with the cycling of the TASER; however, it failed to incapacitate him, and the Subject was able to pull the darts out. According to the TASER report, the TASER cycled for five seconds, paused for one second, and cycled for another five seconds as the trigger was pulled a second time.

Sergeant A immediately called for another TASER deployment. Officer G, from the right side of the driveway fired his/her TASER at the Subject from an approximate distance of 11 feet. Again, BWV depicted that the TASER darts struck the Subject; however, the TASER had little to no effect on him. According to the TASER report, Officer G

activated the TASER a total of five times. The first activation had a four-second cycle while the other four activations cycled for five seconds each.

As the TASERs were being deployed, the Subject moved away from the officers and continued to ignore their repeated commands to put his hands up and to place himself on his knees. In the meantime, Officer D placed him/herself in a geographically advantageous position to deploy the beanbag shotgun and announced, "Beanbag ready." Sergeant A stated, "Beanbag stand by." With that, Officer D immediately fired his first of four beanbag rounds at the Subject from an approximate distance of 15 feet. The first beanbag round struck the Subject in the lower abdomen, the second hit his left buttock, and the third and fourth beanbags struck his left leg. Although all four beanbags struck the Subject, he remained noncompliant. As such, the officers continued their efforts to verbalize with him.

Officer H advised Sergeant A that Officer I had a good angle from which to fire his/her beanbag shotgun at the Subject. At the direction of Sergeant A, Officer I stated, "Beanbag stand by," and fired his/her first beanbag round at the Subject from an approximate distance of 14 feet. The BWV depicted that this round struck the Subject in the lower abdomen and appeared to have somewhat effected the Subject as he flinched, looked directly at Officer I and stated, "Mother [expletive deleted]." He took a fighting stance and began moving toward Officer I as the other officers continued to verbally order the Subject to get down onto the ground.

As the Subject moved toward Officer I, he/she (Officer I) again announced "Beanbag stand by," and fired a second beanbag round at the Subject from an approximate distance of 12 feet. Analysis of the BWV depicted that the Subject flinched at that point, but investigators were unable to determine whether or not Officer I's second beanbag round actually struck the Subject.

Not only did the above-mentioned force options fail to gain the Subject's compliance, according to Sergeant A's BWV, it appeared to enrage him. The Subject grabbed a chair from the front porch of the residence and immediately threw it at Officer I. Officer H was standing next to Officer I and was armed with a TASER. Both officers managed to dodge the chair and Officer H responded by immediately firing his/her TASER at the Subject from an approximate distance of 10 feet. As was the case with the previous TASER activations, the darts connected with the Subject but had little effect on him. According to the TASER report, the TASER cycled for five seconds.

At that point, the Subject cursed at the officers and picked up a large ceramic pot. He immediately threw the pot to the ground at his feet and shattered it. As he picked up large pieces of the broken pot, the officers redeployed, sought better cover and issued additional verbal commands to the Subject. The Subject ignored those commands and began throwing the jagged pieces of the pot over the cars at the officers. One of those pieces struck Officer A in the head and another officer in the lower leg.

As this was occurring, Officer D had reloaded two additional beanbag rounds into his/her shotgun and stated, "Beanbag ready." At the direction of Sergeant A, Officer D used one of the vehicles in the carport as cover, stepped into a firing position and fired one round at the Subject. An analysis of the BWV revealed the beanbag round was fired from an approximate distance of 15 feet and struck the Subject in the left hand.

The Subject continued to ignore commands to surrender and climbed on top of the hood of the Sport Utility Vehicle (SUV) parked in the carport. According to Sergeant A, he/she believed the Subject still possessed pieces of ceramic, was now at an elevated position and, as a result, was a greater threat to the officers. Therefore, Sergeant A directed both Officers D and I to continue firing their beanbag shotguns at the Subject.

With the Subject standing on the hood of the SUV, Officers D, then Officer I, each fired beanbag rounds at the Subject. The analysis of the BWV determined the beanbag rounds were fired from an approximate distance of 17 feet, but investigators were unable to determine if either beanbag round struck the Subject.

The Subject then climbed from the hood of the SUV to the roof of the carport. From there he made his way onto the roof of the residence. At the direction of Sergeant A, the officers moved back toward the street and began dispersing to establish a perimeter around the location.

With the Subject on the roof and the perimeter being secured, Sergeant A assembled a team to rescue Witness A. He/she designated Officers B and C to the role of utilizing lethal force and Officer D as less-lethal with his beanbag shotgun. Meanwhile, Sergeant A and the three officers approached the front door and successfully extricated Witness A from the residence. The Subject was walked to the corner where he received medical treatment from the Firefighter/Paramedics there and was transported to the hospital.

Lieutenant A had arrived at the scene during the initial non-categorical use of force investigation involving the Subject. He/she ultimately declared himself the Incident Commander and contacted Metropolitan Division Special Weapons And Tactics (SWAT) for assistance.

Sergeant A also broadcast a request for an Air Unit and the response of a Metropolitan Division K-9 Unit. He/she was subsequently informed that an Air Unit was unable to respond due to weather and that no K-9 units were deployed.

With the Subject running around on the roof, Sergeant A was designated as the tactical officer and began placing officers in tactical positions to safely secure the perimeter. Sergeant A attempted to deploy a minimum of three officers with lethal and less-lethal options on each side of the residence. In doing so, the front of the house was designated as Side One. The remaining sides, rotating in a clockwise direction, were designated as Sides Two through Four.

From his/her position on Side One of the primary location, Sergeant A supervised the teams designated to secure Sides One and Two. Side two of the residence was secured by several other officers that included Officer G.

Sergeant A coordinated with Sergeant B, who was assigned to supervise the containment on Sides Three and Four of the target location. Side Three was covered by officers that included Officers D and B. Side Four of the location was secured by officers that included Officer F.

Sergeant A broadcast a request for a unit on the perimeter that was rifle equipped. Officer F answered the call and retrieved his/her rifle from the trunk of the police vehicle. Officer F verified that the firing chamber of the rifle was empty, inserted a magazine, and loaded a round into the chamber. Officer F placed the sling around his/her body and responded to Side One of the primary location.

At the direction of Sergeant A, Officer F positioned him/herself in front of the residence with the responsibility to cover the front of the house, specifically the long driveway. Officer F directed Officer E to move a police vehicle to a more advantageous position in front of the house to provide him a clear and unobstructed view down the driveway. With the vehicle in position, Officer F used the engine block as cover and the hood of the vehicle as a stable shooting platform. Officer F advised officers in front of the house to clear the area as he/she was directing the muzzle of his rifle toward the front of the residence.

Another officer joined Officer F and acted as his/her "spotter." In addition, the officer was tasked with manipulating the spotlight on the police vehicle to illuminate the front of the house.

As officers monitored the Subject's movements, it was reported via the radio that the Subject had climbed down from the roof near one of the corners of the house. Officer G, who was stationed on Side Two of the perimeter, monitored the Subject as he climbed down and identified that the Subject was now in possession of a long-handled tool. Officer G broadcast, "FYI, he is armed with a pick or some type of axe."

The Subject, with the pick axe in his possession, climbed over the fence on Side Two of the location and into the rear yard next door. This yard was cluttered with tents that obstructed the officers' view of the yard and of the Subject. As such, Sergeant A and several other officers redeployed and joined the officers already positioned in that yard.

As officers in the yard began giving commands to the Subject, Sergeant A ensured the officers had cover, minimized any possibility of crossfire, and designated responsibilities. He/she placed a shotgun in front of the group of officers with a beanbag shotgun readily available behind the officer armed with lethal force. As officers continued to verbalize with the Subject, he grabbed miscellaneous items from within the tents and threw them at the officers.

The Subject climbed back over the fence into the rear yard of the original residence. With the Subject gone, Sergeant A directed available officers to the front of the residence to evacuate the residents.

Officer K, who was covering Side Three of the location, broadcast that his/her team had a visual of the Subject in the rear yard. Officer K and additional officers ordered the Subject to drop whatever he had in his hands and to surrender. The Subject responded by grabbing bricks, metal objects, wood, and a metal chair and throwing these items over the wall at officers, including Officers B and D. The officers were able to duck and avoid the majority of the items, but the chair struck Officer D on his/her left forearm.

Officer K continued to broadcast the Subject's actions and movement around the yard. He/she then broadcast that the Subject was holding the pick axe. At approximately that same time, Officer K heard a broadcast that a different officer armed with a 40-millimeter launcher had arrived at the scene.

Officer J, armed with the 40-millimeter launcher, and his/her partner, responded to the rear of the location.

Officer K advised Officer J of the Subject's location, that the Subject had been throwing items at the officers, and that he was currently armed with a pick axe. Officer K also advised Officer J that the Subject had been forewarned about the possible use of less-lethal force.

Officer K then directed Officer J to fire the 40-millimeter at the Subject. Officer J fired the first 40-millimeter round, and according to the BWV, it appeared to strike the Subject as he was knocked down below the line of sight of the BWV cameras. Officer K ordered the Subject to drop the pick axe and warned him that if he failed to do so, he would be shot again with the 40-millimeter. The Subject failed to comply and Officer J fired a second 40-millimeter round. The second round struck the fence directly in front of the officers, ricocheted off course, and missed the Subject.

In the meantime, the Subject began striking the rear door of the primary location with the pick axe. Unbeknownst to the officers, that door was the only access to an occupied room at the rear of the structure. The residents inside were awakened by the activity outside and became alarmed as the Subject was now using the pick axe to force his way into their room. As one of the occupants, Witness D, called 911 to report the intruder, her father, Witness E, physically held the door closed, preventing the Subject from making entry.

Officer K, still believing the residence was empty, continued to describe the Subject's activities as he banged on the door with the pick axe and then shattered a window. As the officers monitored his activity at the rear of the residence, they began hearing a female voice from within the residence. Officer K alerted Sergeant A that he/she believed people were inside the residence. However, simultaneously, the Subject left



the rear yard and utilized the yard on Side Two to make his way toward the front of the location.

Officer F, from his/her position of cover, saw the Subject exit the side gate with the pick axe and walk into the front door of the house. He/she yelled his observations to Sergeant A who, fearing the Subject now had access to the residents, began forming a contact team to approach and enter the residence.

The contact team consisted of Sergeant A and several officers that included Officers G and E. Sergeant A would act as the supervisor, and gave each of the officers a specific assignment that included less-lethal and arrest team responsibilities. The contact team was assembled on the sidewalk close to the target location when the Subject exited the front door.

Meanwhile, Officer F alerted everyone at the front of the location that the Subject had exited the residence. According to Officers F and his/her "spotter," the Subject was holding the pick axe in his right hand in an elevated position as he walked at a fast pace toward the officers' position and that of the contact team. Believing his/her team would shortly be exposed, Sergeant A directed the officers to redeploy to other cover.

According to Officer F, he/she was aware that the contact team had formed on the sidewalk near the primary location. With the Subject armed with the pick axe and approaching the sidewalk at a fast pace, he/she (Officer F) was concerned the Subject would attack Sergeant A's team, his/her "spotter," or Officer F him/herself.

Officer F yelled, "Drop the axe, drop the axe." According to Officer F, the Subject did not slow his pace nor display any actions that would lead Officer F to believe the Subject was going to stop his advance or drop the pick axe. According to Officer F, he/she was in fear for his/her life and the lives of his/her fellow officers. With the Subject approximately 14 feet from the end of the driveway, Officer F switched the selector switch on his/her rifle from safe to fire. Officer F fired one round from his/her rifle from an approximate distance of 48 feet, striking the Subject in the chest.

The Subject fell onto the driveway with the pick axe in his hand. Sergeant A directed the contact team to approach the Subject. As the team approached, the Subject released the pick axe and rolled over onto his back. Officers E and G handcuffed the Subject while the rest of the team provided cover.

Officer F instructed the arrest team to place the Subject on his side "in order to allow him to breathe."

Sergeant A called for a Rescue Ambulance (RA) that had been staged at the intersection to respond and render aid to the Subject. Los Angeles Fire Department Firefighter/Paramedics rendered aid and transported the Subject to a local hospital. The Subject failed to respond to lifesaving treatment in the emergency room and passed away.

## **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 B, and Officers A, D, E, F, G, H, I, and J's tactics to warrant a Tactical Debrief.

### **B. Drawing and Exhibiting**

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

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

The BOPC found Officers D, E, G, H, I, and J's less-lethal use of force to be In Policy.

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

The BOPC found Officer F'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 subject 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**

- In its analysis of this incident, the BOPC identified the following tactical considerations:

### **1. Non-Conflicting Simultaneous Commands**

The investigation revealed that multiple officers gave simultaneous commands to the Subject during the incident.

### **2. TASER Target Areas**

The investigation revealed that Officer E aimed at the Subject's chest area when discharging the TASER.

### **3. Ballistic Helmets**

The investigation revealed that some of the officers did not don their ballistic helmets during this incident.

### **4. Preservation of Evidence**

The investigation revealed that Sergeant A directed an officer to kick the axe away from the Subject to prevent him from re-arming himself. In this case, it was understandable because the risk of the Subject re-arming himself outweighed the benefits of leaving the evidence in place.

- The BOPC also considered the following:

### **1. BWV Activation**

The investigation revealed that Officer J activated his/her BWV after he/she discharged his/her 40mm Less-Lethal Launcher.

### **2. Required Equipment**

The investigation determined that Sergeant A was not in possession of his/her Hobble Restraint Device or his/her OC Spray.

### **3. Command and Control**

Sergeant A responded and assumed the role of IC. He/she assessed the situation and based upon exigent circumstances, he/she formulated a tactical plan to approach the Subject and take him into custody. Sergeant A assigned each officer specific roles and responsibilities, including lethal, less-lethal,

communications, and arrest. Sergeant A ensured that the officers understood the tactical plan and explained the exigent circumstances of the situation.

Lieutenant A responded and assumed the role of IC after being briefed by Sergeant A. Lieutenant A assigned Sergeant A to continue oversight of the tactical operation. Lieutenant A also established a CP and requested the response of Metropolitan Division SWAT.

Throughout the incident, Sergeant A displayed a calm and professional demeanor. Sergeant A provided clear and concise direction and continually ensured all personnel understood the mission and their specific assignments.

Sergeant A ensured there was adequate containment, requested additional resources, assigned specific roles and responsibilities to arriving officers, and ensured neighboring residences were evacuated. Sergeant A continuously attempted to utilize time and containment to de-escalate the situation. When additional supervisory personnel arrived, he/she briefed them on the situation and assigned them specific responsibilities.

After the OIS, Sergeant A ensured the officers remained calm and focused. He/she again formulated a tactical plan to safely approach and take the Subject into custody.

Sergeant B responded and met with Sergeant A. Sergeant B assumed supervisory responsibility of the rear of the residence. Sergeant B assigned each officer specific roles, including lethal and less-lethal responsibilities. Sergeant B provided timely updates on the Subject's actions and location and continuously verbalized with the Subject in an attempt to de-escalate the situation and get him to surrender peacefully.

Sergeant C responded and ensured that the involved officers were separated and monitored. Additionally, Sergeant C obtained a Public Safety Statement from Officer F.

The actions of Lieutenant A, along with Sergeants B and C, 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.

The BOPC found Sergeants A and B, and Officers A, D, E, F, G, H, I, and J's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

- According to Officer A, upon arrival, he/she exited the police vehicle and began to approach the residence. Based upon the information that the Subject was armed with a knife and could be lying in wait to attack the officers, Officer A drew his/her service pistol.

According to Officer A, he/she drew his service pistol just before the contact team started to move forward towards the Subject.

According to Officer F, he/she was instructed to grab his/her rifle and respond to the front of the residence. Officer F was advised that his/her area of responsibility would be the front driveway and anything covering the one side of the property.

According to Sergeant A, as the rescue team redeployed with Witness A back to the front of the driveway, he/she drew his service pistol and covered the roof area of the residence.

Based on the totality of the circumstances, the BOPC determined that an officer and supervisor, with similar training and experience as Sergeant A and Officers F and A, while 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 Sergeant A, along with Officers A and F's drawing and exhibiting of a firearm to be In Policy.

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

- **Officer D** – Beanbag shotgun, six super sock rounds, in three sequences of fire.

First Sequence – (Beanbag shotgun, four super-sock rounds)

According to Officer D, the Subject did not comply with multiple Use of Force warnings and commands to surrender. In addition, two separate TASER deployments were ineffective. At that point, the Subject appeared to be aggravated and began to head towards the front door of the residence where Witness A was located. Officer D discharged one round from his/her beanbag shotgun at the Subject because Officer D believed the Subject was still armed with a knife and was going to go back in the residence and attack Witness A again.

According to Officer D, he/she assessed and observed that the beanbag round hit the Subject in the stomach, but it didn't really do anything because the Subject barely flinched. Officer D then observed that the Subject was turned away from him/her, so Officer D aimed for the Subject's buttocks area and discharged a second round from his/her beanbag shotgun at the Subject to stop his actions.

According to Officer D, he/she assessed and observed that the second beanbag round had no effect on the Subject. Sergeant A then directed Officer D to aim lower. Officer D discharged a third round from his/her beanbag shotgun at the Subject's thigh to stop his actions.

According to Officer D, he/she assessed and observed that the Subject swatted at the beanbag round like it had been a bug or something that annoyed him. Officer D then discharged a fourth round from his/her beanbag shotgun at the Subject, striking him on the thigh again.

#### Second Sequence – (Beanbag shotgun, one super-sock round)

According to Officer D, the Subject began to throw pieces of pottery at the officers. Officer D then discharged a fifth round from his/her beanbag shotgun at the Subject's stomach to stop his actions.

#### Third Sequence – (Beanbag shotgun, one super-sock round)

According to Officer D, he/she believed the Subject was going to come over the top of the Scion vehicle, so he/she fired a sixth round from his/her beanbag shotgun at the Subject's stomach to stop his actions.

- **Officer E** – (TASER, two, five-second TASER activations, in probe mode, from an approximate distance of 11 feet)

According to Officer E, the Subject did not comply with the Use of Force warning and additional commands to move away from the vehicles and put his hands up. Knowing that there was a wounded victim inside the residence who needed aid, Officer E stepped forward about two feet to make sure the TASER darts made contact with the Subject. Officer E then deployed his/her TASER at the Subject for one five-second burst, in probe mode.

According to Officer E, he/she observed that the TASER had very little effect on the Subject. He/she then heard Sergeant A tell him/her to discharge his/her TASER at the Subject one more time. Officer E deployed his/her TASER at the Subject for a second five-second burst, in probe mode.

At this time, Sergeant A deemed that the Subject was unsafe to approach because the Subject had just stabbed Witness A, and the officers did not

know where the knife was located. Sergeant A then directed Officer E to move forward about another three feet and deploy the TASER at the Subject.

- **Officer G** – (TASER, one, four-second TASER activation and four, five-second TASER activations, in probe mode, from an approximate distance of 11 feet)

According to Officer G, he/she observed that the Subject was standing in between two cars and was not complying with the officers' Use of Force warning and commands to surrender. The Subject had a blank stare on his face, and Officer G believed the Subject was under the influence. Officer G then heard a TASER being discharged and observed the Subject take the darts out, turn around, and start walking towards the front of the residence. Believing the Subject was armed with a knife and was going to go inside the house, Officer G deployed his/her TASER at the Subject, in probe mode, to stop the Subject's actions.

According to Officer G, he/she assessed and observed that the first TASER activation had no effect on the Subject. Believing the Subject was still a threat, Officer G activated his/her TASER two additional times, in probe mode, to stop the Subject's actions.

According to Officer G, he/she believed he/she activated his/her TASER for a total of three, five-second activations, in probe mode.

The investigation revealed that there was a total of five activations, in probe mode, from Officer G's TASER. The first activation had a four second cycle, while the other four activations each had a five second cycle.

- **Officer H** – (TASER, one five-second TASER activation, in probe mode, from an approximate distance of 10 feet)

According to Officer H, he/she was continuously trying to de-escalate the situation by calling the Subject by his first name and verbalizing with him to go down to his knees. After the Subject threw the chair at him and Officer I, Officer I observed that the Subject was about to grab a large ceramic flower pot. In an effort to protect him/herself and Officer I, Officer H deployed his/her TASER at the Subject, in probe mode, to stop his actions.

- **Officer I** – (Beanbag shotgun, three super sock rounds, in three sequences of fire)

First Sequence – (Beanbag shotgun, one super-sock round)

According to Officer I, the Subject was not complying with several verbal commands to surrender. The Subject began to get violent, bladed his body, and started getting into a fighting stance. The Subject had a look on his face, an eerie stare, that Officer I had never seen before. After confirming with Sergeant A that he/she wanted



Officer I to deploy the beanbag shotgun, Officer I aimed for the Subject's abdomen and discharged one round from his/her beanbag shotgun.

Second Sequence – (Beanbag shotgun, one super-sock round)

According to Officer I, after discharging his/her first round, he/she assessed and observed that the beanbag round did not have an effect on the Subject. At that point, officers continued to give the Subject verbal commands to get on the floor and get on his knees. The Subject became more agitated and started to cuss at them. Sergeant A then directed Officer I to deploy a second round from his/her beanbag shotgun. At that moment, the Subject grabbed a chair and started to move. As the Subject proceeded to throw the chair at him/her and Officer H, Officer I discharged a second round from his/her beanbag shotgun at the Subject's abdomen to stop his actions.

Third Sequence – (Beanbag shotgun, one super-sock round)

According to Officer I, the Subject proceeded to throw large pieces of the clay pot at the officers and then climbed on the front of his vehicle. After Officer D shot his/her beanbag shotgun, Sergeant A requested another beanbag. At that point, Officer I did not know if the Subject was going to climb over the vehicle and advance towards them, so Officer I aligned his/her sights towards the Subject's abdomen and discharged one round from his/her beanbag shotgun at the Subject to stop his actions.

- **Officer J** – (40mm, two projectile rounds)

First Round

According to Officer J, he/she observed that the Subject was armed with a full-size axe or pickaxe in his hand and was making his way in the officers' direction. Officer J gave the Subject commands to drop the axe. The Subject did not comply with the commands. Believing the Subject was going to come through the fence, Officer J discharged one round from his/her 40mm Less-Lethal Launcher at the Subject's lower abdomen to stop the threat.

Second Round

According to Officer J, he/she assessed and observed that the Subject had gone down and momentarily sat with the axe in his hand. As Officer J was re-loading, the Subject stood up and started to come towards them again. Officer J assessed and discharged a second round from his/her 40mm Less-Lethal Launcher at the Subject's thigh and hip area to stop the threat. He/she observed that the projectile round struck the fence in front of him/her and did not believe the round struck the Subject.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers D, E, G, H, I, and J, while faced with similar circumstances, would believe the application of these less-lethal force options to stop the Subject's actions were objectively reasonable.

Therefore, the BOPC found Officers D, E, G, H, I, and J's Less-Lethal Use of Force to be objectively reasonable and In Policy.

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

- **Officer F** – (rifle, one round)

According to Officer F, he/she gave the Subject multiple commands to drop the axe. The Subject did not comply with his/her commands. At that point, the Subject was quickly closing the distance and his step was getting faster and faster. Simultaneously, the Subject slung the axe over his shoulder as if he was going to either start running towards Officer F or throw the axe towards the officers. Officer F observed that the Subject was holding the axe with a two-handed grip, with the axe pick portion held high over his shoulder.

According to Officer F, the Subject was looking directly at him/her, and he had a "thousand-yard stare" in his eyes. The Subject was now closing the distance a lot quicker and Officer F believed that the Subject was coming directly for Officer F and the other officers. In fear for his/her life and the lives of the officers literally right next door on the adjacent property, Officer F fired one round from his/her rifle 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 Officer F, 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 Officer F's lethal use of force to be In Policy.