

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

**OFFICER-INVOLVED SHOOTING – 043-18**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Van Nuys	7/6/18		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer C	11 years, 8 months
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**Reason for Police Contact**

Officers responded to a suicidal person call, which turned into a barricaded suspect situation. The Subject fired a round at officers, resulting in an officer-involved shooting (OIS).

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded ( )</b>	<b>Non-Hit (X)<sup>1</sup></b>
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Subject: Male, 27 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 May 14, 2019.

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<sup>1</sup> The Subject was not struck during the OIS but subsequently committed suicide.

## **Incident Summary**

Witness A called Communications Division (CD) and reported that the Subject was having a breakdown and had guns in his residence. Witness A also reported that the Subject was acting paranoid and delusional. While this phone call was taking place, the Subject approached Witness A and demanded to know who she was speaking with. When Witness A informed the Subject that she was calling someone to come help him, the Subject said, "No, you're not," and slapped the phone out of her hand. Witness A yelled, "Help," with hope that the 911 operator would hear her, but the call was disconnected before she was able to provide an address.

CD attempted to call Witness A back, but the call was transferred to voicemail.

CD broadcast the information and details provided by Witness A.

In an effort to contain the Subject inside the property, Witness A exited the residence and locked the exterior entry gate with a key. Witness A called CD a second time and requested that the police and an ambulance respond. Witness A again advised that the Subject was having a psychotic breakdown and had access to a shotgun and a 10mm pistol inside his residence. Witness A told the CD operator to send help quickly, because she feared the Subject might use one of the weapons to harm himself. Witness A was then transferred to a Los Angeles Fire Department (LAFD) dispatcher. Witness A advised that the Subject had previously inhaled nitrous oxide, which she believed had damaged his brain. The LAFD was subsequently dispatched.

Upon completing the second call, Witness A returned inside the house and observed the Subject standing in the hallway holding a pistol down by his leg. Witness A touched the Subject's arm to keep him from raising the pistol and told him, "You don't need to do this. I just want you to come outside with me, and I have medical staff waiting for you outside to help you." The Subject refused and told Witness A to let go of him, while pulling his arm away from her. He then walked to his bedroom and sat on his bed holding his dog by the collar with one hand and the pistol in his other hand. Witness A exited her residence a short time later and called CD a third time to report that the Subject had armed himself and was holding a gun in his hand.

Police Officers A and B responded to the call. While responding, Officer A read the comments from the officers' Mobile Data Computer (MDC) to Officer B, which included the above-described information. Prior to arriving at the scene, the officers briefly discussed the resources they were going to use, which included the Department's Mental Evaluation Unit (MEU), as well as the various lethal and less-lethal force options available to them.

Los Angeles Fire Department personnel arrived prior to the officers and stood-by with Witness A near the residence.

Upon arrival, the officers stopped and spoke briefly with unidentified LAFD personnel. The LAFD personnel told the officers that the Subject was sitting in the house with a shotgun, and they pointed out the location of the call.

Officers A and B arrived and placed themselves at the location (Code Six) via their MDC. As the officers were at the trunk of their vehicle, Officer B retrieved a 40mm Less Lethal Launcher, and Officer A designated him/herself as the contact and lethal cover officer. Moments later, they were approached by Witness A, who advised that the Subject was alone in his residence and was last seen holding a handgun.

Witness A also told Officers A and B that while she was in the house with the Subject, he told her that the handgun he had been seen holding had three live rounds in it.

Witness A told the officers the Subject possessed a shotgun as well, but he did not have ammunition for it. She also informed the officers that the Subject had been inhaling laughing gas for the past six months and believed it had damaged his brain. Witness A provided Officer A with a key to the gate to the residence and described where the Subject's bedroom was located on the property.

The officers directed Witness A to remain down the street and then walked toward the Subject's residence. Prior to approaching the house, Officer A broadcast a request for two additional units and a supervisor to respond with emergency lights and siren (Code Three) to his location. Officer A indicated he/she unholstered his/her pistol at that point, because he/she believed the Subject possessed multiple firearms and felt the situation had the potential to escalate to the point where deadly force might become necessary.

As the officers approached, they observed that vegetation covered two sides of the residence and that there were no doors or windows visible from the street. On the officers' BWV, they could be heard discussing their force options with each other, while visually clearing one side of the residence from the sidewalk. Officer B advised Officer A that if the 40mm Launcher failed, Officer B would transition to his/her TASER, and Officer A would remain as the lethal cover officer.

The officers approached the exterior walkway gate located on the corner of the property. On his/her BWV, Officer B could be heard asking Officer A what their plan was and if they wanted to wait for additional units to arrive. Officer A replied that he/she wanted to first enter the walkway in order to view the yard.

Officer A noted that the walkway opened to an exterior courtyard on one side of the residence. Based on how the house was oriented, the courtyard served as the front yard of the residence, which had multiple doors and windows. Officer A used the corner of the garage as cover and visually cleared the courtyard. Upon viewing the layout of the residence, Officer A requested that the first responding unit deploy with a shotgun and that the second unit respond with their vehicle, so their Public Address (PA) system could be used to call the Subject out of the residence.

In an attempt to gain further information regarding the layout of the residence, Officer B momentarily stepped back into the driveway and waved to Witness A to approach him/her. Witness A met with Officer B and described in more detail the location of the Subject's bedroom. Witness A indicated that the walkway was the only way to access the property. She further advised that the last time she observed the Subject with the gun was approximately five to ten minutes prior to the arrival of the LAFD. Witness A also warned Officer B that the sound of sirens might alarm the Subject. Officer B immediately initiated a broadcast to responding units updating them with the information he/she had just received.

Officer B rejoined Officer A and briefed him/her on the layout of the residence. As that occurred, Officer A observed the Subject standing behind a bay window on one side of the residence. Officer A called out to the Subject and told him they needed to speak with him and requested that he open the door. The Subject shook his head side to side, gesturing that he was not going to comply, and then moved out of view. Officer B upgraded their additional unit request to a backup.

Officer B stated he/she unholstered his/her pistol at this time, because Officer B believed it might have become necessary for him/her to use deadly force. However, the investigation determined that Officer B unholsted his/her pistol four minutes later (when the Subject was subsequently observed holding a pistol).

Police Officers C and D arrived. Officer D broadcast they were Code Six. Officer C deployed his/her police rifle, because he/she believed the Subject was armed with a shotgun and a handgun and was in a position of advantage inside his residence. Officer C further stated his/her rifle provided increased accuracy and stand-off distance. Officer D deployed a 40mm Less-Lethal Launcher. Both officers donned their ballistic helmets and joined Officers A and B in the walkway moments after their initial contact with the Subject. After being briefed by Officer B, Officer C assumed Officer A's position at the corner of the garage.

Sergeant A arrived and broadcast he/she was Code Six. Sergeant A met with the officers in the walkway and was told that the Subject was reportedly armed and refusing to come out.

Officer A and Sergeant A discussed a tactical plan that involved positioning a police vehicle in front of the residence and attempting to call the Subject to come outside. In the event the Subject refused, they would then call the Metropolitan Division Special Weapons and Tactics (SWAT) Unit. Sergeant A agreed, but stated they first needed to establish containment around the residence. An LAPD Air Unit arrived overhead and assisted Sergeant A with requesting additional units and placing officers in containment positions around the residence.

According to Sergeant A, the layout of the residence presented a tactical challenge, because the only way to view the front of the residence and contact the Subject was from the walkway.

Officers A and C announced that they observed the Subject behind the bay window holding a pistol in his right hand pointed in a downward direction. Officer B slung his/her 40mm Less-Lethal Launcher at that point and unholstered his/her pistol to assist in covering the courtyard with Officer C. Officer B utilized a post to the left of Officer C as cover.

As additional officers continued to arrive, Sergeant A, Officers A and D, and the Air Unit continued to direct the officers to containment positions around the residence.

Upon his/her arrival, Officer E deployed his/her patrol rifle because of the report that the Subject was armed. Officer E then joined the officers in the walkway and relieved Officer B from his/her position behind the support post. Officer E stated that the post provided Officer E more concealment than it did cover, but he/she felt it was the best option that allowed him/her to cover all of the windows to the residence. Upon being relieved, Officer B holstered his/her pistol, transitioned to the 40mm Less-Lethal Launcher, and maintained a position further in the walkway.

Officers C and E communicated with each other and discussed their fields of view and designated their respective areas of cover responsibility. Officer E stated he/she covered the windows on one side of the gray door and Officer C covered the windows on the other side of the gray door.

Officers B, C, and E periodically observed the Subject look through the curtains of the various windows on the side of the residence. Each time the Subject appeared at a window, the officers attempted to communicate with him by asking that he put down his weapon and come outside.

As the incident continued to unfold, Sergeant B arrived at the scene and met with Sergeant A. On their BWVs, Sergeant A can be heard communicating that he/she would handle supervision at the Subject's residence and asked Sergeant B to establish a Command Post (CP). Additionally, Sergeant A requested that Sergeant B meet with Witness A to obtain the Subject's phone number, so they would have a way to communicate with him inside the residence.

Sergeant B contacted Witness A, who described the Subject's mental health status and provided information about where the Subject had last been seen in the residence. However, Witness A became unwell and had to be treated by a Rescue Ambulance.

Officers C and E observed the Subject in the bay window holding a pistol in his right hand and a phone in his left hand. Sergeant A reaffirmed the officers' role as the two designated cover officers at that point and assigned Officer A the responsibility of communicating with the Subject. Officer B was tasked with providing less-lethal coverage using the 40mm Launcher.

As this incident continued to unfold, Officers B, C, and E can be heard on their BWV declaring on multiple occasions that they observed the Subject inside his residence holding a pistol.

Lieutenant A and Captain A arrived a short time later and met with Sergeant B at the CP. Sergeant B advised Lieutenant A that the Subject was armed inside his residence and was refusing to come outside. Sergeant B also indicated that he had not yet committed a crime but was possibly "5150" (a danger to himself or others.)

Officer F responded to the scene. Officer F provided tactical advice to Sergeant B and was concerned that the officers did not have any ballistic shields at the location. Sergeant B then advised CD to have the next responding unit pick up four ballistic shields from the station and transport them to the scene.

Lieutenant A met with Sergeant A at the walkway and told Sergeant A that Witness A and the Subject's girlfriend had received text messages from the Subject indicating he was not going to put his pistol down because officers were pointing their weapons at him. Lieutenant A asked if it was possible to move the officers in the walkway out of the Subject's view. Because of the layout of the property, Sergeant A did not believe redeployment was a viable option, but Sergeant A indicated he/she would reassess that option once the officers had ballistic shields available.

Sergeant B spoke with Lieutenant B via telephone and discussed the details of the incident. Lieutenant B explained that because the Subject had not yet committed a criminal offense, the circumstance did not meet their (SWAT) criteria to respond and recommended that MEU respond.

Following this conversation, Sergeant B spoke with a detective from MEU and discussed what had transpired. Sergeant B was advised that an officer and a clinician would be responding and had an hour and thirty-minute estimated time of arrival.

Sergeant B informed Captain A that SWAT was not responding, but that MEU personnel were en route. Captain A relayed that information to Lieutenant A and directed Lieutenant A to redeploy officers from the walkway to containment positions and wait for MEU to arrive.

Sergeant A requested the officers try to contact the Subject via telephone a final time before redeploying. Lieutenant A authorized that attempt, but directed them to fall back after the call. Officer A contacted the Subject via cellphone and observed him through the bay window as they spoke. On his/her BWV, Officer A could be seen waiving to the Subject so that he could recognize which officer was speaking with him.

Officer A called and spoke with the Subject multiple times. On Officer A's BWV, Officer A can be heard explaining to the Subject that he was not in trouble, had not committed a crime and that the officers wanted to get him help. Additionally, Officer A gave the

Subject specific instructions to put his gun down and to step outside. Despite Officer A's reassurance that he would not be harmed, the Subject refused to exit his residence.

Sergeant A advised Officer A they were going to redeploy. Officer A stated he/she planned to call the Subject again and ask if he would come out if the officers pulled back from the walkway. When Officer A made that phone call however, the Subject stated he was not going to exit, because he was frightened by the officers' firearms. The Subject then disconnected the call. Officers A, C, and E observed the Subject through a window and saw he was no longer armed. Officer A attempted to de-escalate the situation by gesturing to the Subject with his/her hands to show that they were empty.

On their BWV footage, Officers C and E can be seen lowering their rifles and showing the Subject their hands, while gesturing for him to come outside. The Subject did not respond. Ballistic shields were brought to the walkway, and Sergeant A advised Officers C and E they were available if needed.

Captain A met with Officer A on the walkway. After being briefed, Captain A instructed Lieutenant A and Sergeant A to redeploy officers from the walkway to the street in front. During a discussion captured on Officer A's BWV, it was agreed by Captain A that before that transition was to take place, they would ensure that officers were in containment positions near the residence to watch the front door close to the residence to observe the walkway. According to Captain A, the plan was to then wait for the MEU Crisis Response Team (CRT) to respond.

Sergeant A believed that prior to redeploying officers from the walkway, it was important to provide officers positioned near the Subject's residence with a police vehicle for cover. Due to the lower elevation of that property, it was difficult for those officers to see the door to the Subject's residence. Sergeant A was concerned that if the officers in the walkway were removed prior to this occurring, the Subject could potentially exit his residence and jump the fence without being observed.

While evacuations of the surrounding residences were occurring and adjustments to containment positions were taking place, Officers B and C observed the Subject in the bay window holding the pistol, but not pointed in their direction. Officer C believed the Subject was agitated and yelling at someone on his cell phone. Officer C also observed that the Subject appeared to be holding the pistol above his head while moving it back and forth in what Officer C described as a hammering type motion.

Officers B, C, and E observed the Subject in the bay window. Officer C stated the glare from the sun only allowed him/her to see the Subject's silhouette, but Officer C observed the Subject raise his right arm, while holding an unknown item Officer C believed was a pistol. On his/her BWV, Officer C can be heard yelling, "Gun," and was depicted immediately stepping backward, away from the corner of the garage. Officer C then told Officer E to back up and declared that the Subject had pointed "it" (the gun) at him (Officer E). According to Officer E, upon hearing this, Officer E stepped backward

while looking toward the window and observed the Subject's right arm coming down, while holding the pistol.

Officer C observed the Subject come into view at a window and saw him raise the pistol up between the curtains. On his/her BWV, Officer C can be heard yelling, "Gun," as Officer C raised his rifle and disengaged the safety. Officer C stated the Subject then moved out of his/her view. Immediately after, Officer E could be heard asking Officer C if the Subject had pointed a pistol at him/her (Officer C), to which he replied, "Yes."

Approximately four seconds later, Officer C saw the Subject's silhouette reappear in the same window. According to Officer C, he/she then observed the top of the Subject's pistol come up toward the window, observed muzzle flash, and felt shards of glass strike his/her forearm as the Subject fired a round at him/her. Officer C believed the Subject was trying to kill him/her and immediately discharged one round at the Subject's silhouette from a distance of approximately 17 feet. The investigation later revealed the Subject was not struck by Officer C. The Subject then retreated further into the interior of the residence. The standoff continued with no further contact or observation of the Subject. Several hours later, SWAT made entry and discovered the Subject, who was deceased as a result of a self-inflicted gunshot wound.

### **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 Lieutenant A, Sergeant A, Officers A, B, C, D, and E's tactics to warrant a finding of Administrative Disapproval. The BOPC found Captain A's tactics to warrant a Tactical Debrief.

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

The BOPC found Officers A, B, C, D, and E's drawing and exhibiting of a firearm to be In Policy.

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

The BOPC found Officer C'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. Waiting for Additional Resources** (Substantial Deviation – Officers A and B)

Officers A and B did not wait for additional units to arrive prior to approaching the residence and entering the front gate.

Operational success is based on the ability of the officers to effectively plan and approach each incident in a safe manner. Officers, when faced with an ongoing tactical situation, must remain alert to improve their overall safety by utilizing their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this case, Officer A requested an additional unit and a supervisor prior to approaching the residence based on the information he/she had received that the Subject was armed with a firearm. Despite the lack of exigency, the officers made the decision to approach the residence and enter the yard prior to the arrival of the additional resources they had already requested.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's decision not to wait for the additional units was a substantial deviation, without justification, from approved Department tactical training.

## **2. Utilization of Cover** (Substantial Deviation – Officers A, B, C, D, and E)

The utilization of cover, coupled with distance, enables an officer to confront an armed subject while simultaneously minimizing their exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options.

In this case, officers had obtained information that the Subject was armed with a firearm. Upon entering the walkway, Officer A observed the Subject inside the residence and began to communicate with him through the front windows from a distance of approximately 17 feet. Although Officer A utilized the corner of the garage as a barricade position, he/she was continuously exposed to the windows that the Subject had unrestricted access to along the side of the residence. Additionally, Officers B, C, D, and E periodically relieved each other and assumed the role of DCO. Due to the officers' positions in the walkway, they also did not have adequate cover as they were exposed to the windows on the opposite side of the residence. This left the officers without the benefit of adequate cover throughout the incident. It is the responsibility of each officer to continually assess their environment to determine whether they have adequate cover or if there is a need to redeploy to a more advantageous location. Knowing the Subject was armed and had access to all of the rooms and windows within his residence, the BOPC would have preferred that the officers redeploy to a position of greater distance and cover.

Based on the totality of the circumstances, the BOPC determined that Officer A, B, C, D, and E's actions were a substantial deviation, without justification from approved Department tactical training.

## **3. Containment** (Substantial Deviation – Sergeant A)

Sergeant A knew that the Subject was armed with a firearm and yet he/she reaffirmed the officers' position of containment, which was approximately 17 feet from the closest window of the residence.

In this case, when Sergeant A arrived at the scene, he/she quickly assessed the situation in the walkway leading to the residence. Sergeant A believed the layout of the property created a tactical challenge due to the location of the front door and the multitude of windows. Based on his/her assessment, Sergeant A believed there was no way to deploy officers on two sides of the residence and still maintain visual contact of the Subject through the windows. Therefore, Sergeant A allowed officers to remain in a position that did not provide adequate cover.

Sergeant A continued to assess the deployment of officers and positioned Officer E as a DCO behind a six-inch by seven-and-one-half inch wooden support post.

This post provided limited concealment, however, it did not provide adequate cover.

The BOPC noted that after Sergeant A's initial assessment, he/she should have immediately repositioned Officers C and E to a containment location that provided greater distance and more adequate cover on the side of the residence. More distance and better cover might have provided the officers the benefit of more time to deal with the situation while at the same time mitigating the risk to the officers.

Sergeant A's decision to allow the officers to remain at the walkway and not redeploy to a location with further distance and better cover was not reasonable, or safe, and allowed officers to remain in a position of tactical disadvantage.

Based upon the totality of the circumstances, the BOPC determined that Sergeant A's decision to establish containment at the walkway was a substantial deviation, without justification, from approved Department tactical training.

#### **4. Tactical Communication/ Tactical Planning (Substantial Deviation - Officers C and E)**

The officers positioned at the walkway had formulated a plan that included Officers C and E as DCOs. On numerous occasions, Officers C and E took their hands off their patrol rifles, allowing the patrol rifles to hang on their slings, without the benefit of anyone assigned as a lethal cover officer.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In an effort to de-escalate the situation, Officers C and E took their hands off their patrol rifles because the Subject had communicated that he was afraid of the rifles. In this case, the officers had confirmed that the Subject was armed and therefore took an unnecessary risk by taking their hands off their primary weapon systems.

As such, this act momentarily left the officers without the benefit of lethal cover, placing themselves and their partners at a tactical disadvantage. Although the BOPC understands the officers did so with the intent of building rapport and gaining voluntary compliance, the officers' de-escalation technique compromised their safety.

Based on the totality of the circumstances, the BOPC determined that Officers C and E's decision to release their hold of their patrol rifles and display their hands to an armed person in mental distress, without the benefit of a DCO, was a

substantial deviation, without justification, from approved Department tactical training.

The BOPC also considered the following:

**1. Contact and Cover Roles**

The investigation revealed that upon Officers A and B's initial response, Officer A was designated as both the contact officer and DCO, while Officer B was designated as less-lethal cover. As a result, Officer A drew his/her service pistol in his/her right hand while holding his/her hand-held radio in his/her left hand.

**2. Back-Up vs. Additional Unit Request**

The investigation revealed that Officer A requested the response of an additional unit and a supervisor upon learning that the Subject was armed with a firearm. A request for backup units would have been more appropriate for this situation.

**3. Non-Conflicting Simultaneous Commands**

The investigation revealed that although Officer A was the assigned contact officer, several other officers gave simultaneous commands to the Subject during the incident.

**4. Readiness of Equipment**

The investigation revealed that Officer B did not adjust the length of the sling of his/her 40mm Less-lethal Launcher to his/her measurement upon checking it out at the start of his shift. Officer B struggled to sling the launcher on numerous occasions while at the scene of a critical incident.

**5. Patrol Rifle Manipulations**

The investigation revealed that Officer E did not conduct a chamber check prior to deploying his/her rifle.

**6. Post Categorical Use of Force (CUOF) Protocols (Notifications)**

The investigation revealed that Sergeant C, the Watch Commander, did not notify the Department Operations Center (DOC) within 30 minutes of learning that a CUOF incident had occurred. Additionally, Sergeant C did not document the justification for the deviation in his/her Watch Commander's Daily Report.

## Command and Control

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

Regarding this incident, Sergeant A responded, assumed the role of IC, and contacted the primary unit. After making an initial assessment of the situation, Sergeant A was advised that the Subject had been seen in the residence and was armed with a firearm. Sergeant A designated officers as lethal cover, less-lethal cover, and assigned a communications officer at the end of the walkway. Shortly after additional officers arrived, he/she began to set up containment of the residence with the help of the Air Unit. Sergeant A ensured that proper containment of the location and evacuations of nearby residences were being completed.

Sergeant A was later directed by Lieutenant A to redeploy resources back to the street and await the arrival of additional resources. Lieutenant A advised it was determined that no crime had occurred, and the incident did not meet the criteria for a barricaded subject. Sergeant A requested to remain at end of the walkway to maintain visual contact on the Subject while efforts were made to communicate with him via cellular phone. After 34 minutes of intermittent communication with the Subject via cellular phone, Sergeant A was again directed to redeploy.

Though Sergeant A actively directed resources at scene, he/she did not reassess the officers' position, or redeploy the officers with a sense of appropriate urgency. The amount of time it took for Sergeant A to carry out the plan was lengthy and allowed the continued exposure of the officers in the walkway to an armed suspect. These actions were not reasonable and placed the officers in a situation of unnecessary risk. Additionally, at the time of the OIS, Sergeant A had stepped away from the walkway and into the street, leaving the officers with no supervisory oversight.

As a result, the BOPC determined that Sergeant A's decision to allow officers to remain in a position of inadequate cover, the extended length of time it took to redeploy the officers, and the leaving of the contact team without supervisory oversight at the time of the OIS, substantially deviated without justification from approved Department supervisory training, and thus warranted a tactics finding of Administrative Disapproval.

Lieutenant A arrived after Sergeant A and assumed the role of IC. Upon determining that no crime had occurred, Lieutenant A was directed by Captain A to have the officers in the walkway redeployed to the street. Lieutenant A contacted Sergeant A and directed him/her to have officers redeploy but permitted Sergeant A and the officers to remain in the walkway as they telephonically communicated with the Subject. Lieutenant A continued to oversee tactical operations and ensured containment and evacuations were completed while Sergeant A and the officers

continued to try communicating with the Subject. Realizing that the officers on the walkway had not redeployed, Captain A again directed Lieutenant A to redeploy the officers to the street to wait for additional resources. Lieutenant A contacted Sergeant A again and after consulting with him/her, allowed the officers in the walkway to remain in place while other officers were being positioned to provide cover. It was during this time that the OIS occurred. The BOPC would have preferred that Lieutenant A had recognized the peril that the officers in the walkway were in and followed Captain A's direction to immediately redeploy them to a position of greater safety.

At the time, there was no immediate threat and no reasonable justification for the long delay in carrying out the direction given by Captain A.

As a result, the BOPC determined Lieutenant A's failure to ensure a timely redeployment of the officers substantially deviated, without justification from approved Department supervisory training, and thus warranted a tactics finding of Administrative Disapproval.

Captain A responded to the incident and assumed the role of IC. Upon making the determination that no crime had occurred, he/she directed Lieutenant A to redeploy officers to the street and await additional resources.

Sergeant B also responded, established the CP, and made notifications. Sergeant D responded, separated, monitored, and obtained a PSS from Officer C.

The actions of these supervisors 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.

Each tactical incident also merits a comprehensive debriefing. In this case, there were areas identified 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.

Thus, The BOPC found Lieutenant A, Sergeant A, Officers A, B, C, D, and E's tactics to warrant a finding of Administrative Disapproval. The BOPC found Captain A's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

- According to Officer A, as he/she and Officer B began to approach the residence, Officer A drew his/her service pistol because he/she knew the Subject had a shotgun and a handgun in his possession.

According to Officer B, as he/she walked back towards his/her partner, Officer B heard Officer A giving commands and instructing the Subject to come out with his hands up. The Subject refused to comply with Officer A's commands. Based on the information Officer B had received from Witness A that the Subject was armed, Officer B believed that due to the tactical situation, deadly force could be utilized. Officer B drew his/her service pistol.

According to Officer B, he/she relieved Officer E as the lethal cover officer on numerous occasions. While on point, Officer B saw the Subject holding a handgun. Officer B drew his/her service pistol in defense of his/her life and Officer A's life, and his/her belief that the situation was going to escalate to one involving deadly force.

According to Officer B, while the plan was being developed to redeploy, he/she was standing behind Officers C and E. Officer B observed the Subject rapidly pop into view from the window near the red door with a black handgun in his right hand. The Subject pointed the gun directly where the officers were standing, and Officer B believed the Subject was trying to shoot them. Officer B jumped to cover and said, "Gun. Gun. Gun. Suspect has a gun." Fearing for his/her life, Officer B drew his/her service pistol and held it at a low-ready position behind the officers.

According to Officer C, based on the belief that the Subject was armed with both a shotgun and a handgun, he/she believed that the Subject was in a position of advantage by being inside the residence. In addition, Officer C's patrol rifle provided better accuracy and distance. Officer C grabbed his/her helmet from the rear compartment of his/her police vehicle and deployed his/her patrol rifle.

According to Officer E, he/she responded to a backup call for a man with a gun. Officer E donned his/her helmet and deployed his/her patrol rifle to have superior firepower over the Subject to overcome his resistance if necessary.

According to Officer D, he/she relieved Officer C as the lethal cover officer so that Officer C could relax his/her arms. Prior to temporarily assuming the role of lethal cover officer with his/her shotgun, Officer D was told that the Subject was armed with a gun and seen walking back and forth through the house. Officer D was briefed on his/her primary duties and areas of responsibility to cover and took over Officer C's position.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, C, D, and E, 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 Officers A, B, C, D, and E's drawing and exhibiting of a firearm to be In Policy.

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

- **Officer C** – (rifle, one round)

According to Officer C, while using the corner of the garage as a barricade, he/she observed the Subject point a firearm at him/her. Officer C, called out, "Gun, gun, gun," as the Subject went back behind the curtains and out of his/her view. Officer C redeployed behind cover, then peered back around the corner. At that time, Officer C observed a silhouette of the Subject and a black gun raise towards him/her. Officer C then disengaged the safety on his/her patrol rifle as he/she brought his/her patrol rifle up. Officer C saw muzzle flash and glass shatter. Officer C knew the Subject was shooting in his/her direction because he/she felt glass blow back onto him/her. In fear for his/her life, Officer C pointed his/her patrol rifle and fired one round in the Subject's direction to stop the lethal threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer C 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 Officer C's lethal use of force to be In Policy.