

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

OFFICER-INVOLVED SHOOTING – 049-18

Division **Date** **Duty-On (X) Off ()** **Uniform-Yes () No (X)**

Newton 8/7/18

Officer(s) Involved in Use of Force **Length of Service**

Detective A 18 years, 2 months
Detective E 13 years, 3 months

Reason for Police Contact

Los Angeles Police Department (LAPD) detectives and Federal Bureau of Investigation (FBI) Special Agents (SA) assigned to a specialized, multi-agency Fugitive Task Force (FTF) responded to locate and arrest a murder suspect wanted by LAPD homicide investigators. The detectives confirmed the Subject’s location and while attempting to affect an arrest, the Subject produced a handgun and fired at the officers, resulting in an officer-involved shooting (OIS).

Subject(s) **Deceased (X)** **Wounded ()** **Non-Hit ()**

Subject: Male, 70 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 July 9, 2019.

Background

The Subject had been living in a trailer at a business in Los Angeles, owned by Victim A, who evicted the Subject from the property with the assistance of his friend, Victim B. Victim A requested LAPD to respond and stand by while the Subject removed his property.

Approximately one hour later, Victims A and B were standing in front of the business when the Subject returned in his vehicle. As the Subject exited his vehicle he produced a revolver and fired several rounds at Victims A and B. Both victims were struck by the gunfire and collapsed to the ground. The Subject returned to his vehicle and fled the scene. Victim B survived his injuries; however, Victim A succumbed to his multiple gunshot wounds.

Homicide detectives responded to the location and assumed investigative responsibility for the murder of Victim A and the attempted murder of Victim B and identified the Subject. During the investigation, they also identified the Subject's vehicle, obtained the License Plate No. and obtained his cellular phone number. A felony arrest warrant was issued on the Subject and his vehicle and a search warrant was secured to obtain his cellular phone records and to electronically track his cellular phone.

Incident Summary

Detectives contacted and met with FTF members, LAPD Detective A, and FBI Special Agent (SA) A to brief them on the murder investigation at the station. Detective A and SA A advised the detectives that the FTF would assist in arresting the Subject.

The FTF was a multiple agency task force, consisting of personnel from the FBI, LAPD, California Department of Corrections and Rehabilitation (CDCR), and Los Angeles County Probation (LACP). The purpose of the FTF was to locate and arrest violent fugitives who have committed violent crimes in the City of Los Angeles. They also locate and arrest violent criminals from other cities, states, or countries who have committed violent crimes and are believed to be in Southern California. The task force utilized several different electronic means to communicate with one another.

SA A informed the FTF that the Subject of information indicating that the Subject was in a particular geographic area, which included a motel.

Upon learning about this new information, Detective A conducted a tactical operational briefing at the FTF office located at the Police Headquarters Facility (PHF). The briefing occurred with LAPD Detectives B, C, D, E, and F in attendance.

During the briefing, each detective was provided documentation, which contained a Department of Motor Vehicle printout complete with the Subject's photograph and physical descriptors. In addition, the Detectives were provided with a photograph of his vehicle and registration information. A synopsis of the crime, including information on the outstanding murder weapon and additional firearms registered to the Subject, was

provided along with a satellite image of the area where Subject's EBT card had been used.

Detective A, along with Detectives E and F, advised the FTF members they planned to drive to the area to look for any evidence of the Subject's presence. According to Detective A, prior to driving to the location in their individual vehicles, he/she met with Detectives E and F and discussed their game plan.

Detective A specifically outlined to Detectives E and F that if the Subject was spotted or identified as being in the area, they would not take any enforcement action. Detective A advised that the plan would be to call in FTF reinforcements, make the necessary notifications, and employ the safest tactical plan to approach and arrest the Subject. In addition, if the situation dictated, a call for uniformed patrol resources would be made.

As the three Detectives drove toward the area, Detective A called the Los Angeles Clearing House (LACLEAR) and Area Watch Commander and advised that the FTF would be working in the area. At the direction of Detective A, Detective E called Communications Division (CD) to advise they would be in the area.

Detective F was the first to arrive in the area and drove past the motel when he observed the Subject's vehicle in the parking lot of the motel. Detective F verified the license plate and notified Detective A, who in turn, telephoned Detective B. Together they discussed the plan to monitor the vehicle and to notify uniformed patrol resources if the Subject was to either drive or walk out of the motel.

Detective A sent out a text message to all FTF members requesting their response to the area. That message was sent to Detectives B, C, and D as well as SA's A and B.

Detective E telephoned CD and updated their status and location (Code Six) as Detective A contacted Air Support Division (ASD) and the Watch Commander to notify them they were now surveilling a vehicle wanted in connection with a murder.

Additionally, Detective B wrote a brief synopsis of the homicide and pertinent information regarding the Subject, including his criminal history and a description of the weapons that were registered to him. Detective B then met with Lieutenant A. Detective B advised Lieutenant A that they would maintain surveillance and notify Patrol if the Subject was to leave the motel. Once it had been determined that the Subject was residing at the motel, the FTF would formulate an operational plan to apprehend him.

As the FTF members converged on the motel, information was provided that included pictures of the Subject, his vehicle license plate number, and background information including the Subject's descriptors and those of the weapons registered to him.

As FTF personnel arrived at the location, each investigator with the exception of Detectives C and F donned their ballistic vests with bold letters across the front and

back that identified them as police. Detective B identified him/herself as the Incident Commander, determined sufficient personnel were present, and that a secure perimeter had been established around the motel.

Collectively, the FTF members discussed that they needed to identify that the Subject was in fact residing at the motel and that he was currently on the property. The discussions, via their FBI radios installed in their vehicles, led to a plan that involved Detectives C and F entering the motel and contacting management.

The plan called for Detective C to be the contact person while Detective F covered Detective C. Detective F was to maintain an open line on his/her cellular phone with Detective D for the purpose of providing updates on their contact with management. Detective D in turn would broadcast the information he/she received from Detective F over the FBI radios so that each FTF member had a clear picture of what was happening inside the motel.

With all FTF members aware of the plan, Detective C drove his/her vehicle into the motel parking area. Detective F was in the front passenger seat. With the motel property clear of guests, Detectives C and F entered the office. Detective C identified him/herself to the clerk (Witness A) and provided her with a photograph of the Subject. Witness A identified the Subject as a guest staying in a room, located on the second floor, and confirmed he drove the vehicle that was in the parking lot. Additionally, Witness A believed the Subject was currently inside his room and that the Subject would come to the office between a particular timeframe to pay for an additional night, as that had been his practice.

Detectives C and F returned to their vehicle and drove out of the motel property. Detective F drew up a rough sketch of the interior of the motel including the position of the Subject's room and the location of the motel office (lobby), which he/she shared with the FTF members via the group text message.

According to Detective B, with the intelligence garnered, the FTF began to roundtable various tactical plans to safely approach and apprehend the Subject. They determined the Subject had a tactical advantage, as the door and window of his room overlooked the motel's office, parking area, and breezeway/driveway (entrance). Additionally, the landing outside the Subject's second floor motel room was very narrow with a minimal railing along the outer edge providing little protection from falling to the parking area below. Therefore, the FTF determined any attempt to apprehend the Subject while he was inside his room would place an arrest team at a tactical disadvantage.

Detective B considered the option of contacting Special Weapons and Tactics (SWAT); however, due to his/her prior experience within Metropolitan Division and the FTF, Detective B did not believe this scenario met the criteria for a SWAT call-out. However, if during the tactical scenario Subject did become barricaded within

his motel room, Detective B indicated he/she planned to notify SWAT and await its arrival.

After discussing various options as well as routes available to the Subject, the FTF determined the optimal plan would be to apprehend the Subject in the parking area after he paid his bill and exited the motel office. They believed waiting for the Subject to exit his room and conduct his business in the office would minimize the chance of escalating the situation and decrease the likelihood of him being armed.

As is the practice of the FTF, collectively they discussed their tactical options and concerns and developed a plan that was ultimately approved by Detective B. The tactical plan called for Detectives C and F, together in Detective C's vehicle, to drive into the motel and park on the side of the parking lot. The intention was to have the detectives in place prior to the time the Subject was expected to exit his motel room.

This provided an advantage as Detectives C and F could positively identify the Subject and alert the assembled arrest team of his presence, activity, and location. Additionally, by placing Detective's C and F inside the motel property, they could survey the property and alert the arrest team of the appropriate time to initiate their tactical plan or, if needed, to abort their plan due to the presence of an unexpected motel guest.

Once the Subject exited his room and was positively identified, the arrest team would gather on foot near the main entrance/breezeway to the motel. As the Subject entered the motel office, Detective C, after verifying the motel property was clear of any uninvolved civilians, would alert the arrest team. As discussed, the arrest team would move into the breezeway and assemble along the wall. They would then wait for Detective C to notify them that the motel was safe and that the Subject was exiting the office before initiating any further action to apprehend him. Once the Subject exited the office and stepped into the parking area, he would be standing in front of a large cement wall providing an optimal background for the arrest team in the event an OIS occurred.

The individual assignments in the arrest team were assigned by Detective B and were discussed and clearly understood by every team member. The plan called for lethal and less-lethal weapons to be assembled in a tactical formation. The assignments and tactical formation were as follows: Detective A was to be at the front of the formation armed with a shotgun. He/she would be followed by SA A who was to be armed with his rifle. Third and fourth in line were Detectives D and E, armed with a TASER and beanbag shotgun, respectively. SA B followed Detective D and would be responsible for handcuffing the Subject. Detective B was to bring up the rear with the assignment of coordinating the tactical operation and handling all communications.

Prior to implementing the above tactical plan, the FTF members discussed via their FBI radios that Detective C would have the final word to initiate the approach of the arrest team, to apprehend the Subject, or to abort the plan altogether. This decision would be based on Detective C's continued analysis of the activity at the motel. The discussion also covered other scenarios, including the possibility that the Subject might exit his room, walk directly to his car, and/or drive out of the motel parking lot. If this occurred, the plan was to follow him and broadcast to CD. FTF members would continue until uniformed officers arrived, at which time they would relinquish following the Subject.

Additionally, as part of their preparedness to affect an arrest, FTF members sent Department Use of Force and Use of Deadly Force Policies, as well as policies covering the use of the bean bag shotgun and TASER to each member's cellular phone to review. With the plan outlined and discussed with all FTF members and an acknowledgement from each that they understood their role, the plan was initiated. Detectives C and F drove onto the motel property and parked in a corner of the parking lot, out of view of the Subject's room.

Detective C telephoned the motel management and spoke with Witness A. From her office, Witness A could monitor the motel video surveillance system and identify when the Subject opened his door and stepped out of his room. Witness A agreed to call Detective C and alert him/her to the Subject's presence outside of his room. Detective C instructed Witness A to assist the Subject with his business transaction and then calmly walk toward the rear of the office suite, thereby providing her distance and cover from any activity that occurred while the FTF apprehended the Subject. Witness A was told the officers would not take any action while the Subject was in the office. The motel office suite was separated from the public by a plexiglass barrier that extended from the countertop to the ceiling.

The motel had a video surveillance system that captured the OIS. The following descriptions of the incident were derived from those videos and from the statements of all individuals interviewed.

Witness A called Detective C to inform him/her that the Subject had opened his door and exited his room. At that time, Detective C drove forward and parked along the wall of the motel property, providing him/her with an unobstructed view of the parking area, motel rooms, stairwells, and office. The Subject was visible to Detectives C and F as he stood on the ground floor near the trashcans.

As Detectives C and F had planned, Detective C exited the vehicle and placed an orange traffic cone to the rear of his/her truck giving the appearance that he/she was a construction worker. In the meantime, Detective F remained seated in the passenger seat of the vehicle and continued broadcasting updates to the FTF members who were still outside the motel.

Detective C positively identified the Subject and advised Detective F of the positive identification. Detective F broadcast that identification had been confirmed and that the Subject was walking toward, and ultimately into, the office.

As planned, the contact team gathered near the opening to the breezeway. Upon hearing the Subject was inside the office, the team moved into the breezeway to wait for Detectives C and F to update them on the Subject's exiting the office and confirmation that it was safe to proceed with the plan. Detective B broadcast to CD that they were Code-Six on a murder Subject and provided the location.

As the Subject conducted his transaction inside the office, the contact team assembled along the wall of the breezeway. Special Agent A positioned him/herself against the wall, armed with a rifle. Detective A, armed with his/her shotgun, was to the left of and abreast with SA A. Detective E was next in line, armed with a beanbag shotgun, followed by Detective D, armed with a TASER. Detective B was at the rear of the contact team.

According to Detective A, as he/she was moving forward into position in the breezeway, he/she spotted the window to his right. Detective A was not positive, but he/she was concerned the window looked out into the breezeway from the office. At about this time, Detective A observed movement in the window and announced this to other task force members. The window had not been discussed during any of the preparatory briefings.

Analysis of the motel surveillance video inside the office verified that the Subject had walked toward the window. The Subject initially looked toward the right then to the left. Upon looking left, he appeared to be surprised and immediately reached his left hand into his front left pants pocket and removed a revolver. As the Subject transitioned the revolver to his right hand, he turned toward the door and pushed it open.

Detectives C and F saw the Subject opening the office door. Detective F immediately broadcast this to the arrest team, however neither detective saw the pistol in the Subject's hand until he was out of the office, turning toward the arrest team and raising it in their direction.

Analysis of the motel surveillance video showed that the Subject exited the office door and immediately turned to his left toward the arrest team gathered in the breezeway. With the pistol in his right hand, he turned the corner and, from an approximate distance of six feet, raised it up and pointed it at the arrest team.

As Detective B was broadcasting to CD, the Subject began firing at the arrest team, striking SA A on the left wrist. The Subject acquired a two-handed shooting position and fired a total of three rounds. In response to the Subject's gunfire, SA A and Detectives A and E returned fire. The Subject was struck by the return fire and collapsed to the ground in a prone position.

Once the gunfire began, Detective C positioned him/herself behind a vehicle parked between him/her and the office to avoid cross fire. Detective F initially remained seated in the passenger seat of his/her vehicle and exited as the gunfire was stopping.

The analysis of the surveillance video showed SA A's left hand falling from his rifle as he/she was struck by gunfire. However, SA A immediately reacquired a shooting platform with his/her left hand supporting his/her rifle and engaged the Subject. SA A fired seven rounds at the Subject before taking him/herself out of the scenario by stepping back toward the sidewalk.

According to Detective A, he/she had his/her shotgun at the low-ready position as the Subject suddenly appeared around the corner with the pistol raised in Detective A's direction. Without warning, the Subject began firing rounds at Detective A and his/her partners. According to Detective A, to stop the immediate threat, he/she raised the barrel of his/her shotgun, disengaged the safety, and began firing at the Subject as he/she (Detective A) moved to his/her left. Detective A fired all five rounds from his/her shotgun from an increasing distance of eight to eighteen feet.

According to Detective A, he/she continued assessing the Subject as he/she (Detective A) fired each round and believed, based on his/her assessments, that the Subject was still actively shooting at him/her. Detective A described feeling rounds fired from the Subject flying past his/her head and, unbeknownst to Detective A, his/her tactical light mounted on his/her shotgun was struck by the Subject's gunfire. The investigation revealed one bullet impact on the wall immediately behind Detective A. While investigating the incident, detectives watched the motel surveillance video footage and observed Detective A moving to his/her left during the OIS. In order to more accurately understand the incident, investigators showed Detective A the video and asked him/her to explain his/her actions. According to Detective A, he/she believed he/she moved to his/her left, away from the gunfire, and with the intent to draw the gunfire away from his/her team.

Investigators further analyzed the motel surveillance video and identified Detective A's shooting positions in relation to Subject's positions and actions. Detective A's position for each of his/her first three shotgun rounds was identified through the video evidence. According to the video, the Subject was standing and holding his pistol pointed in the direction of the detectives during each of Detective A's first three shots.

Investigators were unable to positively identify Detective A's fourth and fifth shotgun rounds. The analysis of the video indicated the Subject was still holding his pistol as he was falling back and ultimately down to his knees as Detective A fired those two rounds. Detective A fired his/her five shotgun rounds in approximately two to three seconds.

After firing the fifth and final round from his/her shotgun, Detective A felt his/her weapon go dry. Detective A released his/her hold of the shotgun, allowing it to hang freely by the sling attached to his/her torso and transitioned to the pistol holstered on his/her right

hip. Detective A unholstered his/her pistol with his/her right hand as he/she continued moving to the left.

The analysis of the motel surveillance video showed the Subject falling to the ground. However, according to Detective A, during the transition to his/her pistol, Detective A perceived that the Subject was still trying to shoot him/her and his/her team. Believing the Subject was still actively engaged in the gunfight, Detective A acquired a two-handed, standing shooting position and fired three pistol rounds at the Subject. The three rounds were fired from an approximate distance of ten feet. According to Detective A, he/she assessed between each round and continued firing until he/she believed the Subject was no longer moving and was no longer a threat.

The analysis of video evidence determined that Detective A unholstered his/her pistol approximately two to three seconds after firing his/her last shotgun round. Detective A acquired a two-handed shooting position and fired the three pistol rounds within two seconds. According to the video, the Subject was in a prone position and the pistol had fallen out of his hand and away from his body. Detective A was unaware the pistol was no longer in the Subject's possession.

Detective E formed up third in line behind SA A. While in the breezeway, Detective E was adjusting his/her equipment and dropped his/her flashlight onto the ground. Immediately following that, he/she heard someone from the team announce there was movement in the window. According to Detective E, without any warning, he/she heard gunshots and then saw the accompanying muzzle flash and knew they were being fired upon.

According to Detective E, he/she dropped the beanbag shotgun to the ground and unholstered his/her pistol as the situation had now escalated to that of one involving the threat of serious bodily injury or death. As Detective E was doing this, he/she heard SA A make a distinctive noise of pain that coincided with the Subject's gunshots. Detective E believed SA A had been struck by the gunfire. According to Detective E, his/her primary goal was to protect SA A, him/herself, and the FTF from additional gunshots.

Detective E moved to his/her left behind SA A and forward toward the parking area to engage the Subject and stop the threat. Detective E continued to move forward until he/she had a visual of the Subject. Detective E saw that the Subject was down on the ground and believed he was moving and looking in Detective E's direction.

Detective E could not see the Subject's hands but believed he was actively shooting at him/her (Detective E), as Detective E could still hear gunfire and saw what he/she described as smoke. Detective E acquired a two-handed, standing shooting position, and fired seven rounds at the Subject from his/her pistol. All seven rounds were fired from an approximate distance of 15 feet. According to Detective E, he/she assessed each gunshot and continued firing rounds at the Subject until the Subject stopped firing at him/her.

An analysis by investigators of video evidence indicated that Detective E was in a shooting position and possibly firing his/her first round approximately five seconds after the Subject fired his first round.

Detective D was fourth in line in the breezeway when he/she saw the Subject's hand, with a revolver in it, come around the corner and fire rounds in their direction. Detective D unholstered his/her pistol and moved forward until he/she had a visual of the Subject down on the ground. Detective D advised Detective E to holster his/her pistol and handcuff the Subject while Detectives A and D covered Detective E with their pistols. Detective E holstered his/her pistol and approached the Subject. Detective E handcuffed the Subject without incident and placed him onto his side into a rescue breathing position.

According to Detectives A, D, and E, they became aware that the Subject's pistol was on the ground when they approached and handcuffed him.

After the Subject was in custody, FTF members directed their attention toward the Subject's room. According to Detective B, the Los Angeles Fire Department (LAFD) personnel would not enter the motel until the property, including the Subject's room, was determined to be safe. Detective A took a position of cover behind a vehicle in the parking area and conducted a tactical reload as he/she directed his/her attention toward the room and directed others to do the same.

As uniformed personnel arrived at scene, FTF members briefed them and directed them to conduct a sweep of the room for any individuals related to the Subject. A team was formed to clear the room, which revealed no additional suspects inside. The room was secured until homicide detectives were able to serve a search warrant for evidence related to their murder investigation.

Detective B separated Detectives A and E and monitored them until additional supervisors arrived at scene. With the motel determined to be secure, LAFD I attended to the Subject. The Subject did not respond to the emergency medical treatment and was determined to be deceased by LAFD personnel.

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, B, C, and D's tactics to warrant a finding of Administrative

Disapproval. The BOPC found Detectives E and F's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

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

C. Lethal Use of Force

The BOPC found Detectives A and E'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.)

- In its evaluation of this incident, the BOPC noted the following tactical considerations:

1. Reverence for Human Life (Substantial Deviation – Detectives B and C)

Detective C formulated a plan that involved Witness A notifying him/her when the Subject left his room and came to the office. Additionally, Detective B approved of the plan to involve a civilian in the monitoring and notification of the Subject's movements.

Placing an uninvolved civilian in physical jeopardy should be avoided at every opportunity. Detectives B and C's decision to involve Witness A in the plan to apprehend the Subject was unreasonable and unnecessarily jeopardized the safety of that civilian. Additionally, involving an untested civilian as a part of the planned apprehension of this murder Subject potentially compromised their safety as they were unable to control if she would contact the Subject and notify him of the police presence.

The BOPC determined that Detective B and C's decision to involve a civilian as a part of their plan to apprehend a murder the Subject was a substantial deviation, without justification, from approved Department tactical training.

2. Tactical Planning/Utilizing Cover (Substantial Deviation – Detectives A, B, C, and D)

Detective B approved a tactical plan that called for the team members to set up in the breezeway, without any available cover, as they prepared to take the Subject into custody. The utilization of cover enables an officer to confront an armed suspect while simultaneously minimizing the officer's exposure. As a result, the overall effectiveness of a tactical incident can be enhanced, while also increasing an officer's tactical options.

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 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, Detective B discussed various tactical plans to take the Subject into custody with all members of the team. After weighing the different options, Detective B, as the IC, ultimately decided on a tactical plan to take the Subject into custody in the parking lot. This plan was contingent on the Subject entering the motel lobby to pay for another night, then exiting, and returning to his room. Detective B recognized that team members in the breezeway were in a position without cover. However, Detective B believed the tactical plan was optimal, as the team was in a position of concealment, with superior weaponry, and had planned for an element of surprise.

The BOPC was critical of Detective B's decision to approve a tactical plan that did not make proper use of cover and allowed the arrest team to be in close proximity to a possibly armed suspect. These factors provided the Subject a tactical advantage to observe the arrest team staging, arm himself, and ambush them in the breezeway.

While the BOPC appreciated Detective B's experience in apprehending murder Subject's, the BOPC would have preferred that Detective B place more weight on the possibility that the Subject would be armed. Although Detective B indicated that he/she knew the situation did not qualify as a barricaded Subject, the BOPC would have preferred for Detective B to contact SWAT to discuss the unique tactical situation that he/she and his/her team were faced with. Approaching the Subject without the benefit of cover placed the team at a distinct tactical disadvantage, and it would have been preferable to call the Subject out or consider the use of a vehicle or some other form of cover rather than plan to take

the Subject into custody in the exposed courtyard. Based upon the totality of the circumstances, the BOPC determined that Detective B's decision to position the team members in the breezeway without the benefit of cover, was a substantial deviation, without justification, from approved Department tactical training.

Additionally, while Detective B had assumed the role of IC, Detectives A, C, and D were also Detective IIs and took part in the creation of the tactical plan. As Department supervisors, Detectives A, C, and D shared the responsibility for ensuring that the tactical plan was adequate and took into account cover and other officer safety concerns.

Based on the fact that Detectives A, D, and C knew of and approved the use of a plan that exposed the team to a potentially armed suspect without the benefit of cover, the BOPC determined that their decisions relative to the tactical planning was a substantial deviation, without justification, from approved Department tactical training.

3. Situational Awareness

Officers, when faced with an ongoing tactical situation, must remain alert to improve their overall safety by their ability to recognize an unsafe situation and then work collectively to ensure a successful resolution.

In this case, Detectives C and F were directed to establish an Observation Post (OP) inside the motel parking lot and communicate pertinent information to the team members in the event the Subject exited his motel room. In order to safeguard the public and provide real time information during the tactical operation, the OP had to be in a position to monitor the entire property. This proved problematic, as the Subject's motel window overlooked the motel parking lot.

The BOPC noted that the detectives took measures to mitigate the potential risk, including keeping their vehicle secreted in an alcove, out of view of the Subject's room. The detectives maintained this position until Witness A notified them that the Subject was exiting the motel room. Once the Subject exited his room, they moved forward and parked their vehicle in an area of the parking lot behind another parked vehicle to ensure the greatest possible distance between them and the Subject. The detectives had no way of knowing that they would ultimately be downrange from the officers involved in the OIS, as the Subject chose the location of his assault on the officers lined up in the breezeway.

Based on the totality of the circumstances, the BOPC determined that the detectives' actions relating to situational awareness were not a substantial deviation from approved Department tactical training.

- The BOPC also considered the following:

1. Situational Awareness

The investigation revealed that the sketch of the motel layout, drawn by Detective C, did not incorporate one of the office windows, which provided a view into the breezeway. Detective C was reminded that accurate information can improve the officers' overall safety and help recognize potential unsafe situations.

2. Ballistic Helmets

The investigation revealed that the detectives did not don their ballistic helmets as they prepared to take the Subject into custody. All involved personnel are reminded of the importance of donning their ballistic helmets as soon as feasible while involved in a tactical situation with an armed suspect.

3. Code Six/Code Five

The investigation revealed that when Detective B broadcast his/her status and location, he/she also broadcast that it was for a murder suspect. Detective B was reminded that when broadcasting information regarding a dangerous Subject, it is likely that nearby patrol units would respond to provide assistance. The BOPC would have preferred that Detective B also requested a Code Five¹ to advise nearby officers stay out of the area until they were needed.

4. Requesting Rescue Ambulance

The investigation revealed the detectives did not request a second RA for the Subject immediately after he was taken into custody. It was noted however, that LAFD personnel were standing by and provided medical treatment to the Subject once the scene was secure and clear to enter. The officers were reminded to request an RA in a timely manner to ensure all parties are provided medical care as soon as practicable.

These topics were to be discussed during the Tactical Debrief.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the

¹ A Code Five is a radio code broadcast situationally, often by undercover officers, to indicate that they don't want an investigation interrupted by routine patrol officers.

appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

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

B. Drawing and Exhibiting

- According to Detective A, he/she heard the OP broadcast that the Subject was out of his room and going to the lobby. Shortly thereafter, Detective A heard the OP directing the team members to move up to the breezeway. Detective A exited his/her vehicle and deployed his/her shotgun.

According to Detective A, as he/she fired his/her shotgun rounds at the Subject, he/she assessed and noted the Subject was not stopping and not going down. Detective A believed something was not right and that the shotgun was not working. After firing his/her last round, Detective A felt his/her shotgun go dry. Believing the shotgun was not working, Detective A released his/her hold on the shotgun, let the shotgun hang in a slung position, and drew his/her service pistol.

According to Detective D, he/she was fourth in the line of officers and his/her role was to arrest and utilize less-lethal force. Detective D began to reach down to open the TASER holster, when he/she saw a hand come around the corner holding a silver revolver. Detective D observed at least two rounds fired, in rapid succession. Detective D observed Detective E firing his/her gun and drew his/her service pistol.

According to Detective E, he/she saw the muzzle flash directed towards the wall where Detective E and the team members were standing, so he/she dropped the beanbag shotgun, drew his/her service pistol, and side stepped to the left.

According to Detective F, neither he/she nor Detective C were planning to engage. When the gunfire erupted, Detective F remained seated in his/her vehicle and ducked down. Once the gunfire stopped, Detective F exited his/her vehicle, proceeded around the front of his/her vehicle, drew his/her service pistol, and joined Detective C.

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

C. Lethal Use of Force

- **Detective A** – (shotgun, five rounds; pistol, three rounds)

According to Detective A, while in the breezeway, he/she observed a flash of movement in the window and advised the team members. Suddenly and without warning, the Subject appeared around the corner and actively fired upon the officers. Detective A recalled seeing a revolver right in front of him /her and the Subject's face behind it, looking Detective A dead in the eye, determined to kill Detective A. Believing the Subject was trying to kill him/her and his/her partners, Detective A fired five rounds from his/her shotgun at the Subject to stop the lethal threat.

Also according to Detective A, as he/she transitioned to his/her service pistol, the Subject was starting to go back, possibly retreating to the lobby or a position of cover. At this point, Detective A believed he/she was going to die, because he/she would not be able to unholster his/her service pistol quick enough. The Subject then began going down, while still armed with the handgun in his right hand. Detective A observed the Subject turning and looking back towards the officers in the breezeway as he fell to the ground. Believing the Subject was still shooting at Detective A and his/her partner officers, Detective A fired three rounds from his/her service pistol at the Subject to stop the threat.

The BOPC noted that this was a dynamic, rapidly evolving incident involving a murder Subject who had ambushed the officers. The BOPC reviewed the FID investigation and the surveillance video camera footage of both the motel lobby and the parking lot. Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Detective A (shotgun rounds 1-5), 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 Detective A's lethal use of force (shotgun rounds 1-5) to be in policy.

In evaluating Detective A's additional lethal use of force (service pistol rounds 1-3), the BOPC noted that the entire shooting, from the Subject's first round to Detective A's last round, was approximately six seconds. Detective A fired his/her shotgun rounds before transitioning to his/her service pistol. The BOPC reviewed footage of the motel surveillance video camera that captured the OIS and noted that it took Detective A approximately three seconds to transition to his/her service pistol before firing three rounds in less than one second. Detective A recalled rounds going by his/her head and perceived that the rounds he/she fired from his/her shotgun were not stopping the Subject, who was intent on killing him/her and the other officers.

According to Detective A, upon transitioning to his/her service pistol, his/her perception remained that as the Subject was going down, he still posed a threat and

was not giving up. The BOPC believed that it was reasonable for Detective A to perceive a continued imminent threat of death or serious bodily injury by the Subject, such that the situation justified the use of lethal force when he/she fired his service pistol and therefore, Detective A's lethal use of force was objectively reasonable.

Therefore, the BOPC found Detective A's lethal use of force (service pistol rounds 1-3) to be in policy.

- **Detective E** – (pistol, seven rounds)

According to Detective E, as the team members were waiting for an update from the OP, he/she heard someone say, "Somebody just poked their head out of that window." Approximately one second later, Detective E heard approximately six or seven small caliber rounds being fired, accompanied by muzzle flash. Detective E was certain that he/she and his/her fellow officers were getting shot at.

Detective E saw the muzzle flash directed towards the wall where he/she and the team members were standing, dropped the beanbag shotgun, drew his/her service pistol, and side stepped to the left. As Detective E moved to his/her left, he/she heard SA A utter a distinctive noise of pain. Based on the muzzle flash, the sound made by SA A and the way he/she slumped over, Detective E knew SA A had been shot. Detective E's primary goal at that point was to protect SA A, him/herself, and his/her fellow officers.

Detective E's training kicked in as he/she moved to look for the threat. Detective E was unaware of Detective A's location or condition as he/she continued to side step to his left, bypassing SA A. Detective E observed the Subject on the ground, lying to one side with his head turned, looking directly at Detective E. Although the Subject's right hand was concealed from his/her view, Detective E was still hearing gunshots and observing smoke. Certain that the Subject was actively shooting at him/her, Detective E fired seven rounds from his/her service pistol at the Subject to stop the threat.

In evaluating Detective E's lethal use of force, the BOPC considered several factors in evaluating its reasonableness. In this case, Detective E heard gunshots, observed muzzle flash, and observed Detective A and SA A engaged in a gunfight with the Subject. Detective E also observed SA A back away after apparently being struck by gunfire. Detective E moved behind SA A and then forward in front of him/her to shield him from gunfire. Detective E rounded a blind corner to engage an armed murder Subject that had just fired on and struck an officer. Based on his/her observations, Detective E believed the Subject was shooting at him/her while lying on the ground and he returned fire.

The BOPC looked closely at Detective E's service pistol rounds after the Subject had fallen to the ground. While the BOPC was critical of the tactical planning that placed Detective E in the position he/she was in, the BOPC took into consideration

the fact that he/she was making decisions under overwhelming circumstances, i.e.: he/she had just experienced sudden gunfire and he/she knew one of his/her team members had been struck by gunfire. Additionally, although Detective E saw the Subject on the ground, he/she believed the Subject was still firing at the officers because he/she heard gunshots and could not see the Subject's hands. Under stressful and uncertain circumstances, Detective E was forced to make the decision to use lethal force in what was clearly a rapidly unfolding tactical situation.

Based on the totality of the circumstances, the BOPC concluded that due to the lack of cover, proximity to the Subject and the compressed timeframe in which Detective E was required to make a decision, an officer with similar training and experience, would reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury at the time of Detective E's lethal use of force, making it objectively reasonable.

Therefore, the BOPC found Detective E's lethal use of force to be In Policy.