

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

**OFFICER-INVOLVED SHOOTING – 053-13**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
-----------------	-------------	----------------------------	-------------------------------

Harbor	06/30/13		
--------	----------	--	--

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

Officer C	4 years, 6 months
-----------	-------------------

**Reason for Police Contact**

Officers responded to a call of a disturbance, man with a gun at a residence. Officer C confronted the Subject in the rear yard, at which time the Subject pointed the weapon at Officer C, resulting in an officer-involved shooting.

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X )</b>	<b>Non-Hit ( )</b>
-------------------	---------------------	---------------------	--------------------

Subject: Male, 26 years of age.

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on June 3, 2014.

## **Incident Summary**

On the date of this incident, Witness A was awakened by what he thought was the sound of firecrackers coming from the west side of his home. Witness A went to his rear yard to investigate, believing it may be his neighbor.

Witness A overheard his neighbor and two other individuals (one male and one female), talking about handling a handgun. Witness A specifically recalled hearing someone say something about making sure you have a target before pulling the trigger and then heard what sounded like dry firing. Witness A went back into his residence and dialed 911, informing the Emergency Board Operator (EBO) he overheard his neighbor talking about a handgun and heard the clicking sound of the trigger.

**Note:** Witness A never told the operator he saw anyone firing a handgun or heard the sound of gunfire.

EBO broadcast the call as a "415 man with a gun." Uniformed Police Officers A and B heard the radio broadcast and had the EBO assign them as the primary unit.

**Note:** Officer A (driver) did not respond with emergency lights and siren because they were already fairly close to the location. Therefore, their Digital In-Car Video System (DICVS) was not activated.

Uniformed Sergeant A, was also in the vicinity and advised (Communications Division) CD that he was responding to the radio call as well. Due to the nature of the radio call and the comments of the call, Officers A and B both stated they unholstered their weapons upon exiting their vehicle.

The officers' plan was to knock on the door and call the occupants out of the residence. Officer A took a guarding position on the east side of the residence while his partner, Officer B, knocked on the front door as Sergeant A stood by. According to Sergeant A, they announced themselves as police officers with no response.

According to Officers A and B, the radio call indicated the Subject was located to the rear of the location, possibly firing a handgun. The person reporting (PR) observed the Subject with a gun and heard him talking about it.

**Note:** The comments of the radio call stated the PR possibly heard the firing of a handgun from the rear yard. However, a review of the audio recording of the 911 call revealed the PR said he could not tell if it was a handgun or fireworks. The PR never said he observed the subject with a handgun.

After there was no response from knocking on the front door, Officers A and B, in addition to Sergeant A, walked along the east side of the residence to the rear. As they reached the southeast exterior corner of the residence, Officer A held his position and was able to see into a rear bedroom through a sliding glass door. Officer A observed a

male holding a handgun and manipulating it with his right hand. Officer A then advised Officer B and Sergeant A of his observations. Sergeant A instructed Officers A and B to hold their position and to watch the Subject while he went out to the front yard to request a back-up and an Air Unit.

Sergeant A radioed CD that he needed backup and an Air Unit for a man with a gun inside the residence. Sergeant A also advised CD that the suspect was seen playing with a firearm.

Officer A advised CD that he observed two males and one female inside the residence and that the male wearing blue jeans and a blue top was handling the gun, but at no time did Officer A describe the male holding the handgun in a threatening manner.

**Note:** Sergeant A told detectives that his understanding of the radio call was that there was a 415 man with a gun with possible shots fired. Additionally, the comments indicated there had been other calls for service of this type at this location and that the PR requested that he not be identified.

Because the PR reported he had heard possible shots fired and that Officer A observed a man with a gun inside the residence, Sergeant A believed that shots had probably been fired and they needed to investigate. Sergeant A was unable to observe any physical evidence to indicate that the felony crime of discharging a firearm within the city limits had actually occurred.

Sergeant A's decision to request a back-up was due to the fact there were three Subjects inside the residence and he wanted additional units to surround the location prior to the Air Unit calling them out.

Uniformed Police Officers C and D heard Sergeant A's request for backup for a disturbance, man with a gun inside a residence. Officer D advised CD that they were responding to Sergeant A's backup request Code three. Officer C was driving and activated his emergency lights and siren.

While en route to the backup request, Officer C determined that he was going to deploy his Department-issued rifle upon arrival and Officer D would deploy his slug shotgun.

Upon arrival, Officer C donned his ballistic helmet and Load-Bearing Vest (LBV) over his police uniform. In doing so, the vest covered his uniform shirt and police badge. Officer C then deployed his Department-issued police rifle, seated a magazine with 28 cartridges and chambered a round with the safety switch on. According to Officer D, he deployed his shotgun due to the nature of the call involving a man with a gun.

**Note:** Officer C's LBV did not have "LAPD" or "POLICE" in two-inch letters as required on all tactical vests on both the front and back or a cloth badge with the officer's embroidered badge number on the vest.

According to Sergeant A, he recalled instructing Officers C and D when they arrived, to don their ballistic helmets, and for Officer C to deploy his rifle. Sergeant A then instructed them to replace Officers A and B and remain at the corner of the building, watch the Subject inside the location, and hold their positions until additional units arrived.

**Note:** Sergeant A told investigators that if he had noticed Officer C was not properly attired, he would have had him remove his vest, but still deploy his police rifle.

Officers C and D approached Officers A and B's location along the side of the residence. Officer A saw Officers C and D positioned at the corner on the side of the building. Officer C was standing on a small, three-step concrete porch, looking through a window into the rear room where the Subject was located. Officer C told Officer A that he could see three individuals, and one of them was dismantling a handgun.

Officer C then advised Officer A and his partner, (per Sergeant A), to go back and put on their helmets. Officer C took Officer A's position, standing on the small three-step concrete porch, where he was able to observe the individuals. Officer D was behind Officer C with his shotgun held at a low-ready, but he did not have a view of what Officer C was observing. Officer D then removed Officer C's Digital In-Car Video System (DICVS) microphone along with his own and put them in his pocket.

**Note:** Officer D told investigators that he removed the microphone from Officer C's utility belt along with his own for tactical reasons. Officer D believed that placing the microphone in his pocket would not alter the recording.

Sergeant A stated that his plan was to wait for the Air Unit to arrive and then call out the Subjects. Officer D recalled Sergeant A had advised them that once the Air Unit was overhead, they would identify themselves and call out the Subjects.

**Note:** Officer D believed Sergeant A discussed his plan so everyone could hear it.

While watching the three individuals inside the residence, Officer C recalled someone behind him talking about coming up with a game plan to call out the subjects. Suddenly, Officer C saw a male with long hair walking toward the sliding glass door. Officer C quietly advised officers standing behind him that someone was coming to the sliding glass door and was opening it. Officer C believed that no one inside the residence was aware of the officers' presence in the backyard.

Police Officers E and F responded from the station to the backup request. Officer E drove with lights and siren to the location which activated their DICVS. Once they arrived, Officer F deployed his Department-issued shotgun. Officers E and F walked up

to the location and were directed by Sergeant A to deploy on the side of the residence along with other officers already in position along the east wall. Officer E stated that Officer F was in front of him, and he was the last officer in line.

**Note:** The room that the Subject was walking out from did not have permanent steps. A hard black plastic step stool was utilized to step down to ground level.

According to Officer C in his first interview, he indicated as soon as the Subject opened the sliding glass door, he (Officer C) stepped down off of the porch, shouldered his rifle and came up on target, but was able to remain behind cover.

**Note:** During Officer C's second interview, he said that as the Subject opened the sliding glass door, he moved away from cover, completely exposing himself. At that point, Officer C saw the gun in the Subject's hand.

Lighting from inside the room allowed Officer C to see the Subject holding a semiautomatic handgun in his right hand, held down to his side. As the Subject began to step down onto the black steps from the room, Officer C believed he yelled, "Gun" three times, and then said, "Let me see your hands." The Subject then began to raise the handgun in Officer C's direction. Officer C said he did not have time to identify himself as a police officer. Officer C said he believed the Subject was going to shoot him and/or his fellow officers and fired six rounds from his patrol rifle.

**Note:** Officer C indicated in his interview that he only recalled firing his rifle three times. However, the audio recording captured two rounds fired, a momentary pause then two additional rounds fired, a momentary pause and two additional rounds fired.

The Subject was struck one time in the upper right chest. The force of the gunshot caused the Subject to fall back into the room. Sergeant A advised CD that shots had been fired.

**Note:** Officer C was interviewed on three separate occasions in conjunction with this investigation. During his first interview on the night of the incident, Officer C believed he yelled "Gun" three times and then ordered the Subject to show him his hands before he fired. During his second interview, Officer C was presented with the audio recording of the incident. Although Officer C believed he had yelled commands before he fired at the Subject, the audio tape determined that he yelled, "Don't fucking move" and "Officer needs help, shots fired" simultaneously as he fired. His third interview dealt with him covering his badge with the LBV.

Officer C continued to cover the Subject with his rifle as he ordered the Subject to show him his hands multiple times.

**Note:** According to Officer E, as soon as he arrived along the side of the residence, the OIS occurred. Officer E never heard any commands prior to the shooting.

Officers who were behind Officer C indicated they heard Officer C yell commands, "Let me see your hands" prior to the OIS.

The Subject was taken into custody without incident and Sergeant A contacted CD and requested a Rescue Ambulance. The Subject was transported to a local hospital and treated for a 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). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers' benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

#### **A. Tactics**

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

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

The BOPC found Sergeant A's, Officers A, B, C and D's drawing and exhibition of a firearm to be in policy.

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

The BOPC found Officers C's use of lethal force to be out of policy, Administrative Disapproval.

### **Basis for Findings**

#### **A. Tactics**

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

1. Equipment – Load Bearing Vests

In this instance, Officer C placed a LBV over his police uniform, thereby covering his uniform shirt and Department badge.

Officers are required to display “POLICE” on their LBV to maximize their visible identification while involved in tactical incidents. This ensures that they are identifiable as police officers to other officers and the public in order to avoid compromising the tactical operation. In this circumstance, Officer C was involved in a tactical situation where a Subject was believed to be armed with a weapon. As a result, Officer C was authorized to utilize the LBV; however, Officer C’s LBV was void of all required law enforcement identification markings. According to Officer C, this was the first time he had donned it in a police situation and did not believe the LBV required markings because it was an ammo vest and not a tactical vest.

**Note:** Sergeant A stated that he did not see that Officer C’s LBV was not equipped with the required markings. If he had, Sergeant A would have requested him to remove the LBV, but still deploy his police rifle.

It is the expectation of the BOPC that when officers don an LBV, the officers remain clearly identifiable. The BOPC found that Officer C’s actions substantially deviated from approved Department policy. In light of a codified mandate, Officer C’s explanation for not ensuring that the vest was appropriately marked, did not justify deviating from that requirement. This topic of the LBV and the required markings will be specifically addressed during the Tactical Debrief.

2. Command and Control

The overall success of any given tactical incident is based in significant part on effective command and control, including on-scene leadership and direction. The importance of command and control at an incident cannot be understated in that the degree of command and control provided can influence the overall outcome. In this circumstance, Sergeant A was provided information via his MDC that indicated the Subject was a “man with a gun” call, causing a disturbance, and possible shots fired. Upon arrival Sergeant A met with Officers A and B and developed a plan to make contact with the residents by knocking on the front door. After receiving no response, Sergeant A received information from CD stating that the Subject was in the back house. Consequently, Sergeant A directed and accompanied Officers A and B to enter the rear yard to search for the Subject.

Sergeant A recalled that as he and other officers entered the premise, they were trying to determine if anybody was present. Sergeant A stated that they knocked on the front door, and there was no answer and no movement. They were about to go Code 4, when they received information that the Subject may be to rear of the location. Sergeant A and other officers went to the rear of the location to verify whether or not the Subject was there.

Moments later, Officer C observed the Subject inside the location playing with a handgun. Sergeant A recalled that when he became aware that the Subject was armed, his mindset was that it's more probable than not that a shooting may have occurred. Sergeant A stated that in order to conduct an investigation, based on the nature of the call and his observations, his primary concern was for the safety of the officers and citizens.

After being advised of the gun inside the location, Sergeant A developed a tactical plan to direct Officers A and B to monitor the Subject, while he responded to the front of the residence to request additional resources. Sergeant A completed the request for additional resources and ensured they were briefed on the tactical plan upon their arrival. Sergeant A directed Officer's C and D to assume Officers A and B's position so that they could don their ballistic helmets. Sergeant A recalled that his directions were to first make sure every officer put on their safety gear and to stand down until the Air Unit arrived so that the Subject could be called out of the location.

Lastly, Sergeant A instructed responding units to shut down their emergency equipment to prevent the Subject from exiting the location prior to the containment being established.

Based on the information provided by CD of possible shots fired and that the PR heard the Subjects talking about a gun, combined with Officer C's observations that BOPC determined that Sergeant A had an obligation to determine whether a shooting had occurred at the location and contain any individuals until additional resources arrived. In addition, with no answer at the front door of the residence and upon learning that the individuals possibly resided to the rear of the residence, Sergeant A appropriately directed the officers to the south side of the location to investigate and ensure containment of the potentially armed individuals. Upon realizing that the Subject was inside the location with a handgun, Sergeant A developed a sound tactical plan to safely detain the occupants of the residence and complete the shooting investigation.

The BOPC's assessed the actions of Sergeant A and was pleased with the overall command and control and effective leadership exercised and believe that the tactical plan developed by Sergeant A was well formulated based on the circumstances.



Although the philosophy behind a Tactical Debrief is to enhance future performance by discussing areas where improvements could be made, often times, discussions pertaining to positive aspects of the incident lead to additional considerations that would be beneficial in future incidents. Therefore, the topic of Command and Control will be discussed during the Tactical Debrief.

### 3. Use of Cover

Officer C observed the Subject open the sliding glass door and in response, Officer C stepped away from the cover afforded by the residence. Officer C recalled that he could see the Subject beginning to exit without calling him. Officer C wanted to break the cover to observe the Subject and start giving commands. According to Officer C, he stepped away from cover believing that the gun was still apart. Officer C didn't think the Subject would have a gun in his hand and had wanted to call the Subject out. According to Officer C, he saw a perfect opportunity of the Subject coming out to them and to start issuing commands.

The utilization of cover affords an officer a barrier to maintain a tactical advantage. In this circumstance, Officer C was utilizing the southeast corner of the residence for cover. Subsequently, Officer C observed the Subject approach and then opened the sliding glass door of the bedroom. Based on the information provided by Officer A, Officer C believed that the handgun was unassembled and did not observe the Subject holding a handgun prior to exiting the residence. Consequently, Officer C moved away from cover to address the Subject as he exited the location.

Officer C recalled that when he took over as the officer on point from the primary unit, the last thing that the primary unit saw was the gun apart.

The Subject then proceeded to step onto a step-stool that was nearby, at which time Officer C observed the Subject armed with a handgun in his right hand. According to Officer C's first interview, he believed he yelled, "Gun" three times and then stated, "Show me your hands." Subsequently, the Subject began to raise his handgun and pointed it in Officer C's direction, resulting in an OIS.

In the BOPC's assessment of the tactics used by Officer C, the BOPC found that by moving away from cover to confront the Subject, Officer C unnecessarily exposed himself to danger and placed himself at a significant tactical disadvantage, doing so without reasonable justification. Officer C knew that the Subject had been in possession of a firearm in the residence. Although Officer C did not anticipate that the Subject would exit armed with a gun, he should have reasonably believed that the Subject could be armed in light of the nature of the radio call. Consequently, Officer C should not have stepped away from cover under the circumstances, especially to confront a potentially armed Subject. Additionally, when Officer C moved back towards cover while firing his weapon,

he objectively created an unstable and awkward platform, which may have contributed to his impaired accuracy.

The BOPC found that Officer C's actions substantially and unjustifiably deviated from approved Department tactical training. The topic of using cover will be addressed during the Tactical Debrief.

#### 4. Verbal Commands

The initial command given by Officer C was issued while he was standing in a poorly illuminated backyard, attired in a black LBV without police markings or other identification, which would have likely identified him as a police officer.

According to Officer C, he saw the gun, and advised other officers of his observations. When he observed the weapon, Officer C told the Subject to show his hands. Officer C stated that the gun was coming up in his direction, and he didn't have time to identify himself as a police officer.

Officer C further recalled that it was a situation that he couldn't explain. Officer C stated that adrenaline kicked in, and the first words out of his mouth were "Don't fucking move."

Whenever possible, officers should ensure that they are identifiable, especially during critical confrontations. Officers should not assume that a Subject knows that they are in fact the police. Uniform markings or verbal commands establishing one's identity as the police are necessary in order to enhance the likelihood of immediate compliance and ensure there is no confusion as to the purpose of an officer's presence.

The BOPC found that Officer C's actions substantially deviated from approved Department tactical training and that Officer C's rationale for doing so did not reasonably justify that deviation. The topic of verbal commands will be addressed during the Tactical Debrief.

- The BOPC additionally considered the following:

1. Weapon Transition

Officer C's police rifle was equipped with a two-point sling. Officer C was a right hand shooter which potentially caused him to move his location in order to adjust his police rifle and acquire a sight picture.

2. Target Acquisition

While moving, Officer C fired six rounds in a southwesterly direction at the Subject. The Subject sustained one gunshot wound to the chest. One round

impacted the exterior wall, near the southeast corner of the house, the area where Officer C was positioned prior to the OIS. Officer C should be reminded of the importance of target acquisition, background, sight alignment and sight picture.

### 3. Preservation of Evidence (Magazines)

According to Sergeant B's statement, he observed Officer C write the number "28" on the magazine inserted in the police rifle subsequent to the OIS. Although the investigation revealed Officer C did write the number "28" on his magazine in pencil after the incident occurred, the investigation revealed that the magazine in the police rifle had already been previously marked by Officer C with the number "28" in accordance with Personnel and Training Bureau Notice, March 2012, and had been photographed at the scene by Scientific Investigation Division before he re-wrote the number on the magazine. However, Officer C should have waited until after the magazine count was conducted by detectives.

### 4. Equipment (Digital In-Car Video System)

While positioned on the east side of the residence, Officer D removed Officer C's DICVS microphone, along with his own, and secured them in his right rear pants pocket. Officer D stated his objective was to conceal the microphone light, and ultimately their location, from the Subject. Although it was reasonable that Officer D would want to conceal his location from an armed Subject, the topic will 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.

After a thorough review of the incident, the BOPC found that Officer C's tactics substantially deviated from approved Department training without reasonable justification. As such, the BOPC found that the actions of Officer C warranted a finding of Administrative Disapproval.

The BOPC determined that the identified areas for improvement concerning Sergeant A, Officers A, B and D neither individually nor collectively substantially deviated from approved Department tactical training. Therefore, the most appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place is a 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.

The BOPC realized that this case resulted in significant discussion at the Use of Force Review Board. Those discussions focused on the actions of Officer C in light of approved Department tactical standards and training. The BOPC also understood that officers must often make critical decisions without the benefit of time or tactical advantage, and that there is often not enough time to provide an announcement. However, every attempt should be undertaken to ensure that officers are identifiable through *Police* markings and announcement whenever possible. The BOPC believed in this case, Officer C's collective actions of failing to provide an opportunity for the Subject to comply by donning a LBV with identifying markings and failing to announce his authority, as well as his stepping away from cover substantially deviated from approved Department tactical training without sufficient justification. Accordingly, the BOPC recommended a finding of Administrative Disapproval.

As for Sergeant A, along with Officers A and B, the UOFRB determined, and the Chief concurred, their actions did not substantially deviate from approved Department tactical training and that a Tactical Debrief is the appropriate mechanism for the above officers to discuss the events and actions that took place during this incident.

The BOPC found that Sergeant A, along with Officers A, B and D, attend a Tactical Debrief and ensure the specific identified topics are covered.

## **B. Drawing/Exhibiting**

- In this instance, CD broadcast a radio call of a disturbance, man with a gun. Sergeant A, along with Officers A and B responded to the call. As Officers A and B exited their vehicle and approached the location they drew their service pistols.

Officer B recalled that the comments of the call indicated that there was a man with a gun and that the Subject shot the weapon in the backyard and was possibly in the backyard of the residence.

Officer A recalled that he received a radio call of a Subject to the rear of the location possibly firing rounds in his back yard and that the PR observed the Subject with the gun and was talking about it.

Once the Subject was observed inside the location armed with a handgun, Sergeant A broadcast a request to CD for additional resources.

Officer C heard Sergeant A request a backup for a disturbance, man with a gun inside the location. When Officer C arrived at the scene, he exhibited his police rifle.

Officer D deployed his shotgun due to the nature of the call involving a man with a gun.

Officer C recalled that as he approached, he saw Officers A and B holding a corner on the east side of the location. According to Officer C, they informed him that they had eyes on the Subject and they saw one of the individuals taking apart a gun. At that point, Officer C took Officer A's position, which was to keep eyes on the Subject who was inside the location.

Following the OIS, when the Subject and the two additional individuals were taken into custody, Sergeant A drew his service pistol. Sergeant A recalled that he unholstered when the team moved out into the opening where they could see inside of the location.

The BOPC determined that based on the totality of the circumstances, officers with similar training and experience as Sergeant A, along with Officers A, B, C and D, while faced with similar circumstances would reasonably believe that a strong possibility existed that the subject was armed and there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Sergeant A, along with Officers A, B, C and D's drawing and exhibiting of a firearm to be in policy.

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

- In assessing this incident and the deadly force used, the BOPC has carefully considered the facts and circumstances in their entirety. The BOPC appreciates the dynamics that each officer was confronted with and understands the limited amount of time that Officer A had to make a decision when confronted with an armed individual. The BOPC's decision was based on an objective assessment of Officer C's use of deadly force under the facts and circumstances involved, consistent with Department policy. Those findings are based on the perspective of a Los Angeles Police Officer with similar training and experience placed in generally the same set of circumstances, consistent with current Department policy as well as training standards that are applicable to the use of deadly force.

#### **Officer C – (rifle, six rounds)**

Officer C responded to Sergeant A's back-up request for a disturbance, man with a gun. Officer C recalled that he believed that the PR said the Subject was shooting in the backyard of the location. Officer C recalled that when Officer C arrived at the location, Officer C saw a Subject inside the house playing with a gun.

Upon arrival, Sergeant A informed Officer C to don his ballistic helmet and relieve Officers A and B at the rear of the location. Sergeant A recalled advising Officer C that Officer C had eyes on the Subject and that he had a gun. Sergeant A recalled

informing Officer C that the Subject was playing with the gun and at some point it was one of the officers that was observing the Subject and that he was taking the weapon apart.

Officer C assumed Officer A's position, at which time he informed Officer C that he had previously observed an armed individual inside the residence, however, the last time Officer A observed the gun, it was apart. According to Officer C, shortly after he assumed the point position he observed the Subject approach the sliding glass door, open it and exit, of his own accord. Officer C issued a verbal command to the Subject, stating, "Don't fucking move," at which time the Subject pointed his gun toward Officer C. Fearing that the Subject was about to shoot at Officer C and his fellow officers, Officer C fired six rounds.

Officer C recalled that the Subject started to step outside of the threshold of the sliding glass door and observed his hands were at his side. There was a light that was behind the Subject that backlit him and Officer C recalled seeing the perfect silhouette of a handgun.

Officer C further recalled that for a brief second, he made eye contact with the Subject and both their guns were pointing at each other. Officer C recalled saying, "Don't fucking move," and the Subject started to raise his gun.

In assessing Officer C's use of deadly force, the BOPC considered that Officer C donned an LBV with no identifying markings, in violation of Department policy. That action, coupled with the fact Officer C was also wearing an unmarked ballistic helmet and did not verbally identify himself as a police officer may have contributed to the Subject's inability to recognize Officer C as a police officer. Under this circumstance, verbal commands establishing one's identity as the police are necessary in order to enhance the likelihood of immediate compliance and ensure there is no confusion as to the purpose of the officer's presence.

Additionally, evidence supports that Officer C unreasonably moved away from cover in order to confront a potentially armed subject, thus placing himself at a tactical disadvantage and requiring him to fire his rounds as he was moving back to cover.

In the BOPC's objective assessment of the totality of Officer C's actions at the time of the shooting, the BOPC found that an officer with similar training and experience placed in generally the same set of circumstances would not have resorted to deadly force at the time that Officer C fired his rifle. Consequently, Officer C's use of deadly force (six rounds) was not objectively reasonable and in violation of Department policy.

Accordingly, the BOPC found Officer C's lethal use of force be found out of policy, Administrative Disapproval.