

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

OFFICER-INVOLVED SHOOTING – 068-18

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

West Valley 12/22/18

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

Officer C	6 years 3 months
Officer F	2 years 7 months
Officer J	1 year 7 months
Officer K	6 years 4 months

Reason for Police Contact

Officers responded to a radio call of the Subject acting erratically. Upon their arrival, the officers encountered the Subject, who was armed with a knife. Officers monitored the Subject as he moved through the neighborhood on foot. The Subject ultimately armed himself with a handgun resulting in an Officer-Involved Shooting (OIS).

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

Subject: Male, 33 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 November 26, 2019.

Incident Summary

Witness A observed the Subject acting erratically in the neighbourhood, banging on doors and paying close attention to children. Accordingly, Witness A believed the Subject was mentally disturbed or intoxicated. Witness A called 911 and reported her observations to the Emergency Board Operator (EBO) at Communications Division (CD).

CD assigned the call to Officers A and B. The comments of the call described the Subject as a male, mids 30s, with facial hair, wearing a black jacket and dark pants, appearing to be under the influence, and walking back and forth from house to house as he banged on the front doors.

Officers A and B showed themselves as Code-Six upon arriving in the area, and Officer A drove on side streets, at which point he/she and Officer B immediately saw the Subject walking toward them. Both officers recognized that the Subject matched the description of the suspect that had been provided in the broadcast. At the same time, Witness A and her family were driving west. As she drove past the officers, she identified the Subject to the officers.

Officer A turned the vehicle around and both officers activated their Body-Worn Video (BWV) cameras. They slowly followed the Subject, and according to the officers, the Subject alternated between a fast paced walk and a jog. Officer A attempted to gain the Subject's attention. The Subject did not respond to Officer A's voice or the fact that he was illuminated by the spot lights on the police vehicle; rather, he continued walking and/or jogging away from the officers.

Officers A and B both observed the Subject with an object in his hand. As the Subject continued to move through the neighborhood, Officer A observed the Subject discard an item onto the ground

Officer A drove past the discarded item, recognized it was a sheath and then observed that the Subject was holding a knife in his hand, which he/she communicated to Officer B.

Both Officers recognized that the Subject was now approaching Witness B.

Officer A accelerated forward while Officer B broadcast a request for an additional unit. Officer A exited his/her driver's door and unholstered his/her pistol, while Officer B exited the passenger side door. Both officers yelled commands at the Subject; however, he did not respond to their commands and continued to run through the residential neighborhood.

Immediately after exiting the police vehicle, Officer B broadcast a back up request for a male armed with a knife.

Both officers, aware that the Subject was armed with a knife, were concerned that he would again approach a resident or possibly force entry into one of the many residences in the neighborhood. The officers elected to follow the Subject on foot and stay in containment mode until additional resources arrived with less-lethal force options.

Officers A and B continued to verbalize with the Subject as they followed him through the neighborhood and, as they did so, they continually updated CD as to their location. Officer A identified what he/she thought was a handgun in the Subject's right hand. Officer B could not see a handgun at this time.

Officer B unholstered his/her pistol and used the attached light to illuminate the Subject's position. Officer B did so until he/she lost sight of the Subject on a residential driveway. Officer B broadcast to CD that the Subject had gone into a backyard and that they were holding the perimeter.

Immediately following that broadcast, Officers C and D arrived at the location. Officers A and B updated Officers C and D regarding the Subject's last known location and description. They also informed the officers that the Subject was armed with a knife and that he may also have a pistol in his right hand. Officer C and D held their positions at the front of the residence while Officers A and B moved to cover one side of the perimeter. As the officers turned, Officer B heard the sound of a gate opening. Looking in that direction, Officer B saw the Subject exiting the gate and running. Officer B broadcast his/her observations to CD.

Officers E and F arrived on scene as Officer B gave the latest update. Officer F accelerated forward past Officers A and B until they caught up to the Subject who was still running. Officer F stopped his/her police vehicle in the street facing the same direction.

At about this time, Sergeant A and Officer G turned toward the Subject, who was running at him/her, and immediately stopped his/her police vehicle.

As the Subject continued running, he was between the two police cars and was clearly visible to the sergeant and officers who were positioned on both sides of him. Officers exited their vehicles and loudly verbalized their concern for crossfire, thereby alerting all the officers present. Sergeant A and Officers E and G identified the Subject as being armed with a pistol and unholstered their pistols as they sought cover behind their respective doors. Commands were given to the Subject to drop the weapons and stop. The Subject ignored those commands and continued to run past Sergeant A's police vehicle.

Officers A, B, C, D, E and Sergeant A continued to pursue the Subject. Sergeant A broadcast the Subject's location and direction of travel, and broadcast that the Subject appeared to have a gun in his hand.

Officers F and G were initially part of the group pursuing the Subject on foot; however Officer F returned to his/her police vehicle to retrieve his/her 40-Millimeter (mm) Less-Lethal launcher, and Officer G was directed by Sergeant A to return to their police vehicle and secure it.

As officers continued to pursue the Subject, the police helicopter (Air 16) arrived overhead and broadcast the Subject's direction of travel and his clothing description. As the Air Support Unit officers then began directing responding officers to strategic positions to facilitate the Subject's containment .

As the Subject continued to flee, he did not comply with the officers' commands to drop the gun, or to stop and get onto the ground.

The Subject was captured on residential surveillance video running with a pistol in his right hand and a knife in his left hand. Officer F, armed with the 40mm Less-Lethal Launcher, rejoined Sergeant A and the group of pursuing officers.

The Subject continued to ignore the orders of officers and turned into a cul-de-sac. The Subject approached a residential gate at one end of the cul-de-sac and attempted to access it as the officers pursuing on foot arrived. Sergeant A directed Officer H to drive his/her police vehicle forward to provide cover for the officers on foot. As Officer H did so, the officers followed alongside the police vehicle, utilizing it as cover, as it proceeded into the cul-de-sac.

As this was occurring, Officer J also pulled his/her police vehicle into the cul-de-sac. Numerous officers continued to order the Subject to stop and get on the ground; however, as depicted on BWV, the Subject ignored all commands.

Sergeant A directed Officer F to move forward and fire Less-Lethal munitions at the Subject. As Officer F moved forward, he/she warned the Subject that he/she was about to shoot him with the 40mm Launcher and that the Subject could be injured. However, as Officer F was taking aim, the Subject moved up the driveway of a residence and disappeared out of sight on the side of the house. Officer F did not fire at this time.

Officer K, who had seen the Subject walking up the driveway, joined Officer J on the driver's side of their police vehicle as Officer J assumed a cover position behind his/her open door. Both Officers J and K unholstered their pistols, as they believed the Subject was armed. As the Subject disappeared out of sight, Officer K recognized that the Subject was armed with a pistol and verbalized this to other officers at scene.

Upon seeing the Subject disappear along the side yard of the residence, Sergeant A broadcast that he/she wanted to set up a perimeter and contain the Subject in the back yard of the house.

Officer K redeployed to the passenger side of his police vehicle, took a two-handed shooting stance over the hood of his vehicle and focused his pistol on the last known

location of the Subject. Officer F, armed with the 40mm Less-Lethal Launcher, took cover behind the right front fender of Officer H's police vehicle and focused on the garage/driveway area of the residence.

Air 16 began coordinating units into containment positions around this residence. In the meantime, the units in front of the residence held their positions and were supplemented by more officers.

Without warning, the Subject stepped out from one side of the house and walked in front of the garage door. According to officers, and as captured on a surveillance video, the Subject was holding a pistol in his right hand and a knife in his left hand.

According to Officer K, the Subject walked across the driveway with the pistol in his right hand. Officer K observed that the Subject held the pistol with his elbow bent at 90 degrees with his forearm parallel to the ground, thereby holding the pistol across his midsection with the muzzle pointed directly at him/her and other officers at the scene.

Officer K yelled for the Subject to drop his gun. The Subject did not respond to the command. Fearing the Subject was going to shoot him/her and his/her partner, Officer K fired two rounds at the Subject while he (the Subject) was at the base of the steps to the front porch. Officer K quickly assessed and, believing the Subject was still pointing the pistol in his direction, fired a third round.

According to Officer K, the Subject then moved toward the front door of the house and out of his line of sight. Officer K believed the Subject was attempting to gain entry into the house.

According to Officer F, he/she saw the knife in the Subject's hand and feared he was moving toward the front door of the residence with the intent to force entry into the residence. Officer F fired his/her first 40mm projectile at the Subject at approximately the same time that Officer K fired his/her third round. Officer F removed the fired cartridge from the launcher and inserted a fresh round. Officer F aimed for the mid section of the Subject and fired a second round. Neither round had any discernible effect on the Subject.

The Subject approached the front door of the residence and was captured by the surveillance video holding the knife in his left hand and the pistol in his right hand. He attempted to gain entry into the house by trying the door, but it was locked. The Subject then unsuccessfully attempted to force his way into the house by using the pistol as a striking device against the glass pane on the front door.

According to Officer J, he/she saw the Subject walking in front of the garage door pointing the pistol at officers. Officer J redeployed to the rear of his/her police vehicle and heard what he/she believed was an exchange of gunfire. Officer J did not see who was firing, but believed the Subject had fired at officers.

Officer J heard officers stating that he (the Subject) was attempting to get into the house, and Officer J heard a loud "slamming" noise on the front door. He/she saw the Subject walking away from the front door and proceeding in front of the residence. Officer J's BWV depicts him/her seeking cover behind the right rear portion of a police vehicle and tracking the Subject as he walked away from the front door.

As captured on Officer J's BWV, the Subject momentarily paused and pointed the pistol in his/her direction. Believing the Subject was going to fire at him/her, Officer J fired one round from a standing two-handed shooting position from an approximate distance of 50 feet.

The Subject continued moving to a gate at one end of the residence. From there he was able to open the gate and access the backyard. When he did so, the officers lost sight of him. Sergeant A broadcast that shots had been fired.

Officer K believed the Subject may continue through the residences and volunteered to redeploy to contain the side of the perimeter. Sergeant A, not aware that Officers J and K had fired their pistols, approved the move.

Officers J and K were joined by Sergeant B who immediately identified them as being involved in the OIS and stayed with them until officers arrived to relieve them of their post. Once relieved of their post and no longer involved in the tactical aspects of the incident, Sergeant B obtained a Public Safety Statement (PSS) separately from both officers.

Sergeant C arrived and established a Command Post (CP) at the intersection. Sergeant C was joined by Sergeant D and several of the responding K9/Metropolitan resources.

A K9 search team supervised by Officer L was assembled for the purpose of locating the Subject. Officer M was designated as the officer responsible for deploying Less-Lethal force options during the search. Officer M obtained a 40mm Less-Lethal Launcher.

The team began their search of the back garden of the residence. They entered the side gate along the side of the house and immediately identified the Subject laying on the ground under a tree in the corner of the property. According to the search team, only the lower portion of the Subject's body was visible to the officers.

The search team obtained cover and began issuing commands for the Subject to stand up and show his hands. The officers advised the Subject they would get him medical attention. The commands were repeatedly given; however, the Subject gave no physical or verbal response to the officers.

According to Sergeant D, he/she joined the search team immediately after the Subject was located. Sergeant D utilized a bullhorn and issued commands to the Subject to

gain his compliance; however, the Subject did not comply with the commands. According to the search team, they were unsure if the Subject was conscious or in medical distress. However, he was deemed unsafe to approach as they could not see both of his hands and believed he was still in possession of a pistol. A plan to utilize the Less-Lethal weapon to strike the Subject and solicit some indication he was or was not conscious was presented to the CP and approved by Sergeant C.

As captured on BWV, the Subject was warned that a 40mm round would be fired at him and it could cause injury. He did not respond. At that point, Officer L broadcast to officers in containment positions around the perimeter, alerting them that a Less-Lethal round was going to be fired.

Officer M fired the first of two 40mm rounds at the Subject. According to Officer M, the round grazed the Subject's right leg just above his knee, but did not elicit a response. Officer M fired a second 40mm round striking the Subject in the right knee. Both 40mm rounds were fired from an approximate distance of 55 feet.

The Subject responded to the second 40mm round fired and began to move; however, he did not comply with repeated commands to stand up and show his hands. Officers observed the Subject manipulating his waistband with his right hand and believed he had removed an item from his waistband.

A broadcast was made to alert officers on the perimeter that a bean bag shotgun was going to be fired. Officer M fired one bean bag round at the Subject, which struck the Subject in the inner right leg.

Sergeant D utilized the bullhorn to continue verbal efforts to gain the Subject's compliance. The Subject ignored the commands and began breaking the wooden fence adjacent to him. The Subject ultimately climbed under the fence into a small area that housed pool equipment.

The K9 search team maintained their positions around the Subject and continued their efforts to communicate with him. The commands were repeatedly given over the bullhorn in two languages. Although officers could see the Subject moving, he stayed within the pool equipment area and was non-compliant with their commands to come out and to show them his hands.

The area in which the Subject was concealed was small with high walls. As such, the officers' view of the Subject was obstructed. In addition, the Subject was believed to be armed with a pistol and a knife. The Subject was not complying with the officers' request to submit to arrest and was unsafe to approach; therefore, he was deemed to be a barricaded suspect. Metropolitan Division Special Weapons and Tactics (SWAT) was notified and initiated a response.

Dispatched as a compliment to the SWAT personnel were Los Angeles Fire Department (LAFD) Firefighter/Paramedics and A Crisis Negotiation Team (CNT).

After ongoing efforts to negotiate with the Subject, CNT determined that all efforts to communicate with the Subject had been exhausted and recommended that tactical options should be considered. Commander A, who was present at the CP, concurred with the assessment and authorized the addition of tactical considerations.

A plan to utilize CS gas was presented to the CP by Sergeant E and approved by Commander A. Prior to deploying the gas, the Subject was given an additional opportunity to surrender prior to the introduction of the gas. He was again warned that if he failed to comply with the officers' directions, force would be used and that the force could cause serious injury. All SWAT personnel donned their gas masks.

Officer N tossed a CS cartridge over the wall into the small area where the Subject had barricaded himself. As the gas was dispersing, the Subject was encouraged to exit the area with his hands up.

The Subject immediately responded to the CS gas and began to comply. The Subject was ordered to walk around the pool to an open pool gate by Sergeant E. When he arrived at the gate, the Subject was ordered down onto his knees and taken into custody without further incident.

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 Officer E's tactics to warrant Administrative Disapproval and Sergeants A, C, and D, along with Officers A, B, C, D, F, J, K, and M's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

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

C. Less- Lethal Use of Force

The BOPC found Officers F and M's less-lethal use of force to be In Policy.

D. Lethal Use of Force

The BOPC found Officers J and K'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

Tactical De-Escalation

- 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.

The primary officers had been regular partners for approximately two years and had previously discussed tactics including contact and cover, tactical de-escalation, suspects armed with knives, foot pursuits, Less-Lethal force options, requesting additional resources and radio communications.

In this case, the officers responded to the area of the radio call and observed an individual walking in the opposite direction on the sidewalk. The officers noted that the individual matched the description of the suspect that was provided in the comments of the radio call. One of the officers illuminated the Subject with his flashlight and briefly verbalized with him in an attempt to get the Subject's attention, establish lines of communication and conduct a consensual encounter. The Subject reacted by running away from the officers. The officers continued to assess the situation as they followed the Subject in their police vehicle. One of the officers observed that the Subject was holding a knife in his hand and was approaching a

female citizen who was standing in the driveway of her residence. The officer immediately communicated his/her observation to his/her partner. As the Subject continued to approach the female citizen, the officers immediately stopped their police vehicle, exited and one of the officers requested an additional unit. One of the officers then gave the Subject commands to show his hands. The Subject did not comply with the commands and continued to run away from the officers. One of the officers immediately upgraded the request to a back-up and together, the officers followed the Subject on foot in containment mode. One of the officers then broadcast a description of the Subject and his direction of travel.

The officers continued to follow the Subject on foot, as they utilized time and clear lines of communication in an attempt to gain the Subject's compliance and resolve the situation peacefully, without using force. The Subject did not comply with their commands and continued to flee. At this point, additional resources arrived, including additional units, a supervisor and an air unit. As the Subject continued to flee, the supervisor observed that the Subject was also holding a handgun in his right hand and broadcast this information. The officers and supervisor continued to follow the Subject on foot, in containment mode, as the supervisor communicated with the officers on the ground and with the air unit to track and contain the Subject.

The officers, supervisor, and air unit tracked the Subject to a cul-de-sac, where the Subject ran to the rear of a residence and out of view. The officers and supervisor assumed positions of cover in front of the residence as they communicated to establish lethal and Less-Lethal cover options. As the supervisor was assessing the situation and communicating with the air unit to establish a perimeter, the Subject exited from the rear of the residence, still armed with a knife and a handgun, and began to walk across the driveway of the residence. As the Subject attempted to enter the front door of the residence, the officers gave him numerous commands to stop and drop the weapons. The Subject did not comply with the commands and pointed the handgun in the direction of the officers. Faced with an imminent threat of serious bodily injury or death, one of the officers utilized Less-Lethal force and two officers utilized lethal force to stop the deadly threat.

After the OIS, the Subject fled on foot into the back yard of the residence. The supervisor broadcast a help call and continued to communicate with the air unit to establish perimeter containment of the residence.

After a perimeter was established, Metropolitan Division K9 resources arrived and located the Subject hiding beneath a tree in the back yard of the residence. The K9 supervisor and officers assessed the situation, communicated their observations to each other and assigned individual roles and responsibilities. The K9 officers and supervisor then utilized time and clear lines of communication in an attempt to de-escalate the situation, gain the Subject's compliance and resolve the situation peacefully, without using force. The K9 officers and supervisor were very empathetic to the Subject and continuously advised him that they were not going to hurt him and wanted to get him medical treatment. The Subject did not comply with

their commands and the K9 officers and supervisor observed that the Subject was not moving and although he still posed an immediate threat of violence or physical harm, he was possibly severely injured. At this point, the K9 supervisor ensured that an RA was staged nearby and, with the approval of the IC, formulated a tactical plan to utilize Less-Lethal munitions to determine if the Subject was actually incapacitated or if he was attempting to bait the officers into approaching his location.

After the Less-Lethal munitions were deployed, the Subject crawled under a wooden fence into an enclosure that housed pool equipment. The K9 officers and supervisor continued to utilize time and clear lines of communication, in two languages, in an attempt to de-escalate the situation, gain the Subject's compliance and resolve the situation peacefully, without using additional force. The Subject did not comply with their continued commands to surrender. After approximately 25 minutes, the K9 supervisor determined that the Subject met the criteria of an barricade and requested that Metropolitan Division SWAT resources respond to the scene. As the K9 officers and supervisor awaited the arrival of SWAT personnel, they continued their attempts to communicate with the Subject for an additional 70 minutes without success.

Upon the arrival of SWAT personnel, a tactical plan was formulated to utilize a robot to remotely open lines of communication between CNT personnel and the Subject. During this time, medical personnel were staged at the scene in order to minimize the time needed to deploy medical personnel. Despite their efforts in both languages, CNT personnel were not able to establish a dialogue with the Subject.

After approximately two hours, SWAT and CNT personnel exhausted all their efforts to communicate with the Subject and get him to surrender peacefully. At this time, the SWAT supervisors considered deploying a Sting Grenade to get the Subject to exit the enclosure and surrender. However, after further evaluation, they decided not to utilize the Sting Grenade and subsequently formulated a tactical plan to deploy a chemical agent into the wooden pool equipment enclosure in an effort to gain the Subject's compliance. After receiving approval from the IC, SWAT personnel deployed the chemical agent into the enclosure. Once the chemical agent was deployed, SWAT personnel continuously communicated with the Subject to exit the enclosure and surrender peacefully. The Subject complied with the commands and was taken into custody without further incident.

- In evaluating this incident, the BOPC noted the following tactical considerations:

- 1. Situational Awareness** (Substantial Deviation – Officer E)

Officer E re-deployed to a position of cover, which was in between the Subject's position and the position of other officers who were providing lethal cover.

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. The ability to adjust to a tactical situation ensures minimal exposure to the officers.

In this case, the BOPC was critical of Officer E's decision to re-deploy to a position in the foreground of the officers who had their service pistols pointed in his/her direction. Officer E's actions caused a lethal cover officer to have to lower their weapon or risk striking Officer E in the event that lethal force was necessary. Consequently, Officer E's positioning had the effect of limiting the force options available to other officers. Additionally, the BOPC noted that Officer E did not communicate his/her intentions to fellow officers, nor did his/her actions gain or provide any significant tactical advantage to the collective efforts of the officers at scene.

Based upon the totality of the circumstances, the BOPC determined that Officer E's actions significantly compromised his/her safety, as well as placed himself/herself and his/her fellow officers at a significant tactical disadvantage and therefore were a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:

Securing of Police Vehicle - The FID investigation revealed that Officer A left his/her police vehicle unsecured when he/she and his/ her partner exited to pursue the Subject. While this incident was fluid and dynamic, the security of police vehicles is an important component of officer safety as there are tools and weapons in police vehicles that could be accessed by unauthorized persons.

Tactical Communication - The FID investigation revealed that during the foot pursuit, Officer A observed that the Subject was holding a dark object in his right hand and believed it was a handgun. Although Officer A communicated his/her observation to his/her partner, he/she did not broadcast this information to the responding units. Officer A was reminded that when tactically feasible, it is important to communicate relevant observations so that responding personnel have an optimal understanding and situational awareness of the tactical incident.

The FID investigation revealed that Officer E did not advise his/her fellow officers that he/she was going to re-position a police vehicle that they were using for cover. In this case, Officer E re-positioned the police vehicle so the front of the police vehicle would face towards the residence, where the Subject was located. Officer E recognized that SUV police vehicles have a higher profile and it can provide cover to more officers with the doors open and when oriented toward a Subject. Unfortunately, some officers were momentarily left without cover during the tactical situation when Officer E re-positioned the police vehicle without informing them of his/her intentions. Although the BOPC understood the motivation behind Officer E's decision to re-position the police vehicle, the BOPC would have preferred that he/she had communicated his/her intentions to the officers before he/she actually re-

positioned the vehicle so they could work together as a team and to optimize their situational awareness and the use of available cover.

The FID investigation also revealed that Officer B incorrectly broadcast his/her location when he/she requested an additional unit and a back-up. Officer B was reminded of the importance of maintaining constant awareness and broadcasting the correct location to ensure responding units arrive in a timely manner.

Additionally, the FID investigation revealed that Sergeant A drove toward the Subject and the pursuing officers running in his/her direction. Although the involved supervisor immediately recognized the potentially unsafe tactical situation and made the necessary adjustments, Sergeant A was reminded that it is important to monitor the direction of travel of a foot pursuit to ensure his/her approach does not place himself/herself or other officers at a tactical disadvantage.

Non-Conflicting Simultaneous Commands – The FID investigation revealed that officers gave simultaneous commands to the Subject during the foot pursuit as well as when the foot pursuit terminated. Although the commands were non-conflicting, the officers were reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

Utilization of Cover – The FID investigation revealed that during the slow-moving foot pursuit, multiple officers tracked the Subject while running in the roadway without the benefit of cover. Although the officers were continuously communicating as they attempted to maintain visual contact with the Subject, the officers were to be reminded of the importance of utilizing cover or placing barriers between themselves and the Subject when involved in a tactical situation involving a Subject armed with a knife or a handgun. The BOPC opined that the lack of cover was not a deviation from approved tactical training, as the Subject's constant movement created a fluid and dynamic situation, which inhibited the officers' ability to utilize available cover.

Protocols Subsequent to a CUOF Incident – The FID investigation revealed that after the Subject ran into the rear yard of the residence, Officers J and K volunteered to redeploy to a position on the perimeter. At that time, the officers did not advise Sergeant A that they were involved in an OIS. Sergeant A was unaware that the officers had discharged their service pistols and approved their request. A review of the officers' BWV reflects that they did not discuss the incident and subsequently advised Sergeant B of their involvement in the OIS. Although the BOPC understood that this was a dynamic and ongoing tactical situation and the officers were concerned with the containment of an armed Subject in a residential neighborhood, the officers were reminded of their responsibility to report their involvement in an OIS to a Department supervisor in a timely manner so that supervisory personnel can appropriately assess the situation and provide appropriate command and control.

Preservation of Evidence – The FID investigation revealed that Officer F placed an expended 40mm Less-Lethal Launcher casing in his/her uniform pant pocket at

some point during the incident. According to Officer F, he/she could not recall if he/she picked it up from the roadway or placed it there while reloading. Officer F was reminded that whenever tactically feasible, it is preferable to leave evidence undisturbed during a Categorical Use of Force until FID investigators can properly document and preserve the scene.

- **Command and Control**

In this case, Sergeant A responded to the scene and was faced with an ongoing and dynamic tactical incident involving a slow-moving foot pursuit through a residential neighborhood of a Subject armed with a knife. Sergeant A immediately exited his/her police vehicle and observed that the Subject was armed with a handgun, in addition to the knife. Sergeant A broadcast this information to alert officers at the scene as well as responding officers of the additional weapon. Sergeant A then appropriately assumed the role of the IC and joined the foot pursuit as the Subject continued to flee through the neighborhood.

As the IC, Sergeant A communicated with both the officers on the ground as well as with the air unit to track and contain the Subject. As the officers followed the Subject into a cul-de-sac, Sergeant A directed a responding unit to drive the police vehicle forward to provide cover for the officers as they attempted to contain the Subject. Sergeant A then directed Officer F, who was equipped with the 40mm Less-Lethal Launcher, to move forward and discharge the 40mm Less-Lethal Launcher at the Subject. Officer F was not able to get in a firing position before the Subject ran to the rear of a residence and out of sight. At this time, Sergeant A assessed the situation and communicated with the air unit to establish a perimeter and contain the Subject.

During the containment of the Subject, officers became involved in an OIS. Immediately following the OIS, Sergeant A broadcast a help call and continued to communicate with the air unit to ensure that the perimeter was secure. Sergeant A directed officers to don their ballistic helmets if and when it was tactically feasible to do so.

After a perimeter was established, Sergeant A awaited the response of Metropolitan Division K9 personnel and communicated with the CP regarding the ongoing tactical situation. During this time, Sergeant A assembled a search team, assigned specific roles and responsibilities, and formulated a tactical plan to evacuate the occupants of two residences.

As the incident stabilized, Sergeant A inquired of the officers in his immediate area if they had discharged their service pistol. At that time, none of the officers reported that they had discharged their service pistols. As such, Sergeant A admonished all the officers in his immediate area not to discuss the incident.

The FID investigation revealed that after the OIS, Officers J and K volunteered to redeploy to a position on the perimeter. Sergeant A approved the officers' request but was unaware that the officers had discharged their service pistols. Consequently, Officers J and K were not present when Sergeant A attempted to identify the involved personnel.

The BOPC evaluated Sergeant A's actions during this incident and noted that he/she demonstrated active leadership and displayed a calm and patient demeanor throughout the incident. Sergeant A utilized time, planning, additional resources, and communication to effectively manage an ongoing and dynamic tactical incident, contain the Subject and ensure a smooth transition when Metropolitan Division K9 supervisors arrived and assumed control of the tactical operation. As such, the BOPC determined, that the command and control exercised by Sergeant A during the incident was exemplary. Sergeant A's actions were consistent with Department supervisory training and met the BOPC's expectations of a leader during a critical incident.

Sergeant B responded and identified Officers J and K as being involved in the OIS. Sergeant B separated the officers, obtained an independent PSS from each officer and then monitored the officers.

The actions of Sergeant B were consistent with Department supervisory training and met the BOPC's expectations of a field supervisor during a critical incident.

Sergeant C responded, assumed the role of IC, and established a CP at an appropriate location. Sergeant C maintained communication with Sergeant A during the ongoing tactical situation and coordinated with K9 Sergeant D throughout the incident regarding K9 tactical operations. During this time, Sergeant C approved the K9 deployment and search plan, the K9 search announcement exemption, the use of Metropolitan line platoon officers as part of the K9 search team, and the use of Less-Lethal force options. Additionally, Sergeant C coordinated with Lieutenant A and Commander A regarding SWAT operations and the use of a chemical agent to get the Subject to surrender peacefully without the use of additional force.

The BOPC evaluated Sergeant C's actions during this incident and noted that he/she demonstrated active leadership throughout the incident. The BOPC determined, Sergeant C's actions during this critical incident were consistent with Department supervisory training and met with their expectations of a field supervisor during a critical incident.

Sergeant D responded to the CP and met with Sergeant C to discuss the ongoing tactical situation. During this time, Sergeant D coordinated with the K9 search teams to develop a tactical plan to search for the Subject. The plan included a K9 search announcement exemption and the use of Metropolitan line platoon officers as part of the K9 search team. After one of the K9 search teams located the Subject, Sergeant D joined the K9 search team, assumed command and control of the

ongoing tactical operation, and assigned specific roles including communication, lethal, and less-lethal responsibilities.

Sergeant D then calmly and patiently attempted to communicate with the Subject to gain his compliance and resolve the situation peacefully, without using force. After verbalizing with the Subject for several minutes, Sergeant D observed that he was not moving and was possibly severely injured. Sergeant D was mindful that the Subject still posed an immediate threat of violence or physical harm based upon his location behind a tree and the strong possibility that he was still armed. At this time, Sergeant D ensured that an RA was staged nearby and with the approval of the IC, formulated a tactical plan to utilize less-lethal munitions to determine if the Subject was actually incapacitated or if he was attempting to bait the officers into approaching his location. After less-lethal munitions were deployed, Sergeant D advised the IC that the Subject crawled under a wooden fence into a small pool equipment enclosure.

Sergeant D then obtained a bullhorn and along with a bi-lingual K9 officer, verbalized with the Subject to get him to surrender in both English and Spanish. During this time, Sergeant D directed K9 officers to have a ballistic shield standing by and to set up high intensity lights to illuminate the Subject's location. After approximately 25 minutes, Sergeant D assessed the situation, determined that the Subject met the criteria of a barricade and requested that Metropolitan Division SWAT resources respond to the scene. As the K9 officers and supervisor awaited the arrival of SWAT personnel, they continued their attempts to communicate with the Subject for an additional 70 minutes, without success.

The BOPC evaluated Sergeant D's actions during this incident and noted that he/she demonstrated active leadership and displayed an extremely calm, patient, and professional demeanor throughout the incident. He/she provided clear and concise direction and continually ensured all personnel understood the mission and their specific assignments. Sergeant D ensured there was adequate containment, assigned specific roles and responsibilities, and continuously attempted to utilize time, planning, and communication to de-escalate and effectively manage an ongoing and dynamic tactical incident. Sergeant D exhausted all available options to get the Subject to surrender peacefully and then re-evaluated and appropriately recognized that the situation met the criteria for a barricade. Sergeant D then ensured a smooth transition when SWAT supervisors and personnel arrived and assumed operational control of the tactical operation. The BOPC determined that Sergeant D's actions during this critical incident were exemplary, consistent with Department supervisory training, and met the BOPC's expectations of a field supervisor during a critical incident.

Sergeant E responded to the CP and met with the IC, Sergeant C. Sergeant E then responded to the backyard of the residence and met with Sergeant D to discuss the ongoing tactical operation. During this time, SWAT personnel assumed operational control of the tactical incident and replaced K9 personnel. Sergeant E directed

SWAT personnel to remain on the tactical channel, so that patrol personnel, Metropolitan line platoon personnel, and K9 personnel all had a real time situational awareness of the ongoing SWAT tactical operation.

Sergeant E then formulated a tactical plan to utilize a robot to remotely open lines of communication between CNT personnel and the Subject. During this time, Sergeant E ensured that medical personnel were staged at the scene. Despite their efforts in both Spanish and English, CNT personnel were not able to establish a dialogue with the Subject. After approximately two hours, SWAT and CNT personnel exhausted all their efforts to communicate with the Subject and get him to surrender peacefully. At this time, Sergeant E formulated a tactical plan to deploy a chemical agent into the wooden pool equipment enclosure to get the Subject to surrender peacefully. Sergeant E communicated his/her plan to the leadership at the command post and received approval from Sergeant C, Lieutenant A, and Commander A. Sergeant E then directed SWAT personnel to deploy the chemical agent into the enclosure. Once the chemical agent was deployed, SWAT personnel continuously and calmly communicated with the Subject to exit the enclosure. The Subject exited the enclosure and was taken into custody without further incident.

The actions of Sergeant E, along with Commander A and Lieutenant A, during this critical incident, 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.

In conducting an objective assessment of this case, the BOPC found Officer E's tactics to warrant Administrative Disapproval and Sergeants A, C, and D, along with Officers A, B, C, D, F, J, K, and M's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- **Officer A**

First Occurrence

According to Officer A, as he/she was placing the police vehicle in park, the Subject approached to within approximately one foot of a female citizen who was standing in her driveway. Officer A observed that the Subject was armed with a knife. Officer A exited the police vehicle, drew his/her service pistol, and gave the Subject commands to let him/her see the Subject's hands.

Second Occurrence

According to Officer A, when he/she heard Officer B call out that the Subject was running on streets, Officer A drew his/her service pistol a second time because he/she still considered the Subject a threat.

Third Occurrence

According to Officer A, he/she drew his/her service pistol when he/she believed the Subject was attempting to force entry into the residence while armed with a knife and handgun.

- **Officer B**

First Occurrence

According to Officer B, he/she and Officer A followed the Subject as he traveled down the street, Officer B drew his/her service pistol because he/she momentarily lost sight of the Subject and did not want the Subject coming back out toward him/her armed with a knife.

Second Occurrence

According to Officer B, he/she believed he/she drew his/her service pistol a second time when he/she heard gunshots.

- **Officer C**

According to Officer C, he/she drew his/her service pistol when he/she observed the Subject holding a knife in his hand as he approached the front of a residence.

- **Officer D**

First Occurrence

According to Officer D, upon his/her and Officer C's arrival at the scene, Officers A and B asked them to cover the front of the residence. Based upon the information that the Subject was armed with a knife and had previously attempted to enter residences, Officer D exited the police vehicle, assumed a position of cover behind the open passenger door of the police vehicle and drew his/her service pistol.

Second Occurrence

According to Officer D, as they tracked the Subject, he/she observed that the Subject was holding a shiny long object in his left hand, which Officer D believed was a knife. Officer D then heard an officer state that the Subject was armed with a

handgun. Consequently, each time the Subject looked back in his/her direction, Officer D stopped behind a tree and drew his/her service pistol. Officer D believed this occurred once or twice during the foot pursuit.

Third Occurrence

According to Officer D, as the officers followed the Subject, he/she drew his/her service pistol and assumed a position of cover behind a police vehicle.

- **Officer E**

First Occurrence

According to Officer E, he/she exited the police vehicle and observed that the Subject was holding a handgun in his right hand. Based upon his/her observations, Officer E drew his/her service pistol and assumed a position of cover behind an open passenger side door.

Second occurrence

According to Officer E, he/she observed the Subject try to open a gate on one side of the cul-de-sac. At that point, Officer E opened the front passenger side door of the police vehicle for cover and drew his/her service pistol.

Third Occurrence

A review of Officer E's BWV revealed that after Officer E re-positioned the police vehicle, he/she ran in the roadway past Officers J and K's police vehicle to a third police vehicle parked in the roadway. Officer E then left his/her position of cover behind that police vehicle, walked up onto the front yard of the residence, assumed a position of cover behind a palm tree, and drew his/her service pistol.

Fourth Occurrence

According to Officer E, after the Subject went into the backyard of the residence, he/she deployed his/her Patrol Rifle since the Subject was armed with a handgun. Officer E then assisted with the evacuation of the occupants in nearby homes.

- **Officer J**

According to Officer J, he/she received information while en route to the location that the Subject was armed with both a knife and a handgun. Upon arrival, Officer J observed the Subject who was armed with a handgun, at the end of the cul-de-sac. The Subject then ran towards the residence. Officer J parked his/her police vehicle, exited, and drew his/her service pistol.

- **Officer K**

According to Officer K, upon arrival, he/she observed the Subject walking at a quick pace, Officer K exited the passenger side of his/her police vehicle, and drew his/her service pistol because the Subject was reported to be armed with a knife and a handgun.

- **Sergeant A**

According to Sergeant A, as soon as he/she turned the corner, he/she observed the Subject running down the street towards his/her police vehicle. Sergeant A was not expecting the Subject to be right in front of him/her when he/she made the turn. Consequently, with the Subject quickly approaching, Sergeant A immediately exited the police vehicle and drew his/her service pistol because he/she could see that the Subject was holding something in his hand and knew that it was a knife.

The BOPC conducted a review of the circumstances of the incident and considered several factors related to the drawing and exhibiting of firearms by the involved officers. The BOPC noted that the incident escalated when the Subject was observed by officers holding a knife. The Subject was later observed to be also holding a handgun. Possession of either of these weapons by a Subject could form the basis of a reasonable belief that the tactical situation could escalate to one involving the use of deadly force by officers.

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

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

C. Less-Lethal Use of Force

- **Officer F – (40mm Less-Lethal Launcher, two rounds)**

First Round

According to Officer F, he/she was positioned behind a black and white police vehicle when he/she observed the Subject come out from the side of the residence. The Subject walked across the driveway, towards the front door of the residence, while holding a knife out to his side. At that point, Officer F heard multiple officers giving the Subject commands to stop and drop the knife. The Subject did not comply with the commands and continued to walk across the driveway towards the front door of the residence. Officer F discharged one round from his/her 40mm

Less-Lethal Launcher at the Subject's abdomen area to stop his actions and prevent him from possibly breaking into the residence and possibly harming the people inside.

The investigation revealed that Officer F discharged his/her 40mm Less-Lethal Launcher simultaneous to Officer K firing his/her third round from his/her service pistol.

Second Round

According to Officer F, after discharging the first 40mm round, he/she assessed and observed that the first round struck the Subject in his abdomen area. The Subject continued to walk towards the front door of the residence, while still holding the knife in his hand. Based upon his observations, Officer F believed that the first round did not have any effect on the Subject and there was a high likelihood that the Subject was going to break into the residence and possibly cause serious bodily injury to the people inside. Consequently, Officer F discharged a second round from his/her 40mm Less-Lethal Launcher at the Subject's abdomen area to stop his actions.

- **Officer M** – (40mm Less-Lethal Launcher, two rounds)

First and Second Rounds

According to Officer M, the Subject was located behind a tree that was on the side of the pool. Officer M and the K9 personnel were positioned on the opposite side of the pool. From Officer M's position of cover behind a pillar, he/she could only see the Subject from his feet to just beneath his waistband. Officers gave the Subject commands to stand up and advised him that he would not be hurt and they were there to help him. The Subject did not respond to the commands. Believing that the Subject posed an immediate threat to the officers and the public, Officer M discharged one round from his/her 40mm Less-Lethal Launcher at the Subject. Officer M assessed and observed that the round grazed the top of the Subject's right leg. The Subject did not respond, and Officer M believed that the first 40mm round was ineffective. Based upon his/her observations, Officer M discharged a second round from his/her 40mm Less-Lethal Launcher at the Subject.

- **Officer M** – (Beanbag shotgun, one round)

According to Officer M, after discharging the second 40mm round, he/she assessed and observed that the second 40mm round struck the Subject on his right knee with no response from the Subject. As a result, Officer M believed the 40mm Less-Lethal Launcher was not going to be effective. At that point, it was decided that they were going to utilize the beanbag shotgun because the Subject still remained an immediate threat to the officers and the public. Officer M transitioned to a beanbag shotgun and fired one Super Sock round from his/her beanbag shotgun at the Subject to control his actions.

The BOPC conducted a thorough review of the investigation and considered several factors in determining the reasonableness of Officer M's use of the 40mm Less-Lethal Launcher and the Beanbag shotgun. The BOPC noted that the Subject's actions, including his decision to continuously attempt to evade the officers, his position of advantage behind the large tree, and his attempt to break into and enter a residence while armed with a knife and a handgun, all contributed to the decision to use this tactic in this circumstance. While remaining partially obstructed behind a large tree, the Subject refused to communicate with the officers, did not move in response to the officers' actions, and was believed to be still armed with the handgun and knife. The BOPC believed that based upon these factors, the Subject posed an ongoing and immediate threat to the officers and the residents in the surrounding neighborhood.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer M while faced with similar circumstances, would believe the same application of Less-Lethal force to be reasonable to control the Subject's actions.

Therefore, the BOPC found Officers F and M's Less-Lethal Use of Force to be objectively reasonable and In Policy.

D. Lethal Use of Force

- **Officer J** – (pistol, one round)

According to Officer J, the Subject was carrying a handgun as he started to walk towards one end of the residence. Officer J gave the Subject commands to turn around and drop the gun. The Subject did not comply with Officer J's commands and pointed the handgun toward his/her fellow officers. As the Subject continued moving south, the Subject moved in front of him/her and Officer J observed him make a lifting motion with the same hand that he/she had originally observed holding the handgun. In fear that the Subject was going to point the handgun at him/her and start shooting at him/her, Officer J fired one round from his/her service pistol at the Subject to stop the threat.

- **Officer K** – (pistol, three rounds)

Rounds One and Two

According to Officer K, from his/her position behind the engine block of the passenger side of his/her police vehicle, he/she observed the Subject reappear from the side of the residence and walk across the driveway, while holding a handgun in his right hand and the knife in his left hand. The Subject had the handgun displayed across his midsection, parallel to the ground and perpendicular to his body. As the Subject walked, his body was canted slightly to the left, in Officer K's direction and

the barrel of the handgun was pointed towards Officer J, Officer K and the other officers.

According to Officer K, as the Subject continued to walk across the driveway, towards the front of the residence, Officer K gave the Subject multiple commands to drop the handgun. The Subject did not comply with Officer K's commands and continued to point the handgun at him/her and his/her fellow officers. In fear for his/her life, Officer K fired two rounds from his/her service pistol at the Subject to stop the threat because he/she fully believed that the Subject was going to pull the trigger of his handgun.

Round Three

According to Officer K, after firing the first two rounds from his/her service pistol, he/she assessed and it appeared that the Subject had a reaction to the gunshots because he winced or "stutter stepped." The Subject, however, did not stop and continued to walk towards the residence. Officer K continued to assess and observed that the Subject still had the handgun pointed at Officer K and his/her fellow officers. Believing the Subject was still a threat, Officer K fired one additional round from his/her service pistol at the Subject to stop the threat.

In this case, the BOPC conducted a thorough review of the investigation. During their review, several factors were noted in determining the reasonableness of the use of lethal force by Officers J and K. The Subject was observed to be carrying both a knife and a handgun, refusing to comply with officers' commands to drop the weapons and surrender, and was seen attempting to gain entry into a residence during the incident.

Officer K observed the Subject point the handgun towards Officer K and other officers who had responded to the incident. Despite being given multiple commands to drop the handgun, the Subject continued to point the handgun at officers.

Officer J observed the Subject holding a handgun and refusing to drop it even though he was given commands to drop the handgun. The Subject pointed the handgun toward other officers at the location and lifted the same hand that was seen with the handgun toward Officer J.

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