

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

OFFICER-INVOLVED SHOOTING 086-12

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
Southwest	12/12/12		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer K	14 years, 5 months
Officer L	14 years
Officer P	21 years, 1 month

Reason for Police Contact

The Subject barricaded himself in a residence with his two children in the midst of a custody battle with Victim A. Victim A called 9-1-1 and relayed that the Subject had the kids upstairs with a knife.

<u>Subject</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject: Male, 28 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 November 5, 2013.

Incident Summary

Uniformed Police Officers A and B received a radio call to respond to a location for an “Assault with a Deadly Weapon (ADW) subject there now” incident. The Person Reporting (PR) was identified as Victim A and the subject was identified as her ex-boyfriend, with whom she had two children.¹

Note: Victim A called Communications Division (CD) to report that the Subject was on Phencyclidine (PCP) and had assaulted her. Victim A also advised that the Subject was barricaded upstairs with their two children and had a knife. The call was broadcast as a Battery Domestic Violence for any Area Unit.

Victim A called a second time and further advised that the Subject pulled the knife on her. As a result, CD upgraded the call to an “ADW Subject There Now,” and subsequently assigned the call to a unit, Code-Three.

Uniformed Police Officers C and D immediately advised CD they would also respond. Upon arrival, the officers were met on the sidewalk by Victim A’s cousin, Witness A. Witness A advised the officers that she resided at the residence and had recently allowed Victim A and her children to stay with her. Witness A further advised that the Subject had locked himself, along with his two children, in her second-story bedroom.

Witness A directed the officers to her residence where they were met by Victim A at the front door. Victim A identified the Subject as her ex-boyfriend and advised he was with their children inside a locked bedroom with a knife.

Officer A, fearing for the safety of the children, immediately formulated a tactical plan to ascend the stairway in an attempt to locate and make contact with the Subject. Officer B, armed with his sidearm, led the search team along with Officer A, armed with a Thomas A. Swift Electronic Rifle (TASER), Officer C, armed with his sidearm and Officer D, armed with a beanbag shotgun.

Upon reaching the second story of the residence, Officer A began to call out to the Subject in an attempt to ascertain his position. As the officers were conducting their search, the Subject responded to Officer A from behind the closed door of a bedroom located at the end of a narrow hallway.

The officers deployed on the bedroom, and Officer A inquired as to the welfare of the children. The Subject assured him that they were safe, and he and Officer A began to converse with one another from opposite sides of the bedroom door. Officer A made several requests for the Subject to exit the bedroom but each time the Subject refused. Officer A continued to negotiate the release of the children with the Subject who Officer

¹ The Subject and Witness A were in a dating relationship for 12 years. They had two children together.

C described as, "pretty upset and irate," indicating that the Subject stated he would harm his kids if the officers did not leave.

With officers still inside the residence, the Subject called CD and told them to send a specialized unit to come get him because he was not leaving unless they took him and his kids all together.

The officers requested a supervisor and uniformed Sergeant A advised CD that he was en route. Officers B and D, in an attempt to de-escalate the situation and influence the Subject to believe that they cleared the location, exited the residence and moved their police vehicles out of the Subject's view. Officers A and C remained inside the residence and monitored the situation from the adjoining bedroom. When the Subject failed to exit the bedroom, Officers A and C attempted to re-engage the Subject in conversation. The Subject responded that he wasn't going to come out and that he didn't want his kids to live like that.

Uniformed Officers E, F and G arrived on scene and were assigned as containment officers. While waiting for a supervisor to arrive, the officers attempted to ascertain if the Subject was armed but he indicated that he did not have an illegal weapon. When Officer C asked specifically if he possessed a knife, the Subject responded that he was not going to come out and that the officers should put a bullet in the back of his head.

Sergeant A arrived on scene. Officer C briefed Sergeant A and advised him that the Subject no longer wished to communicate with the officers. Sergeant A, in an effort to engage the Subject in conversation, identified himself. The Subject remained evasive as to whether he was armed but allowed the children to verbally respond to Sergeant A's request to hear their voices.

Sergeant A requested that the Subject release the children and exit the bedroom. When the Subject again refused, Sergeant A telephonically notified the Area Watch Commander, Sergeant B, who instructed him to notify the specialized unit.

Sergeant A contacted a specialized unit desk and was forwarded to on-call Lieutenant A. Upon confirming that the criteria for a response had been met, Lieutenant A notified his on-call tactics supervisor, Sergeant C and Officer H, and requested the deployment of a special rescue vehicle.

Lieutenant A, believing an explosive charge may be necessary to breach the location, contacted the on-call Los Angeles Police Department (LAPD) Bomb Squad Technician Supervisor, Sergeant D and requested his unit to respond and to bring an armored vehicle. Also, as a precautionary measure, Lieutenant A requested the Los Angeles Fire Department (LAFD) to respond and stage at the Command Post (CP). Additionally, Lieutenant A ensured that the on-call LAPD Behavioral Science Services (BSS) psychologist, had been notified and was responding.

Officer H arrived on scene and was briefed at the CP by the Incident Commander (IC), Captain A. Officer H then, in an effort to formulate a tactical response, responded to the residence where he was briefed by Sergeant A and Officers A and C. Lieutenant A arrived on scene and staged at the CP and, utilizing the specialized unit base frequency, helped facilitate the responding resources and personnel with Officer H.

Upon the arrival of specialized unit Officer I, he was briefed by Officer H, who designated him the team leader of the primary Emergency Rescue Team (ERT), which was comprised of various officers. The primary ERT was tasked with securing the interior of the residence and, if a tactical entry became necessary, to gain access via the bedroom door.

Officer I, along with the primary ERT, immediately relieved the patrol assets from the interior of the residence. Prior to Officer C being relieved, he verbally introduced Officer J, who was a crisis negotiation expert to the Subject. Officer J then assumed the role of primary negotiator. The primary ERT was later complimented by the arrival of specialized unit Police Officers K and L.

Note: Officer J described the Subject's demeanor as erratic, explaining that he contradicted himself on several occasions. The Subject would later admit to him that he was in possession of a knife.

Specialized unit Officer M was briefed by Officer H who designated him the team leader of the secondary ERT, which was comprised of additional officers.

The secondary ERT was tasked with securing the exterior of the location and, if a tactical entry became necessary, to gain access via a second-story bedroom window. Once briefed, the secondary ERT relieved the exterior patrol assets. The secondary ERT would later be complimented by the arrival of other specialized unit Police Officers N, O and P. Officers O and P were designated as a Sniper Team and were tasked with providing visual intelligence via their scopes from a position near the residence. Although the blinds covering the bedroom window were shut, the officers were to report any movement they might observe in the event they were opened or moved.

Note: Information was broadcast from the CP over the specialized unit frequency that Subject 1 was earlier observed carrying a box cutter attached at his waist.

Officer H's tactical plan included the possible use of an explosive charge to breach the bedroom door if entry became necessary. Due to their training in explosives, a specialized unit breaching team was designated to carry out this assignment with direct oversight by Sergeant D and Officer Q, who was responsible for examining the door and providing advice on the amount of explosives necessary to complete the breach.

The tactical plan also required the secondary ERT to provide a diversion by breaking the bedroom window and deploying a Noise Flash Device (NFD), while the primary ERT

entered the residence via the bedroom door. If the primary ERT was unsuccessful in making entry, the secondary ERT would assume the responsibility and enter via a bedroom window. Because both points of entry were situated directly across from each other, Officer H cautioned each team to be cognizant of the potential for crossfire.

Specialized Unit Police Officer R, who was also a member of the CNT cadre, arrived on scene and briefed with Lieutenant A and Sergeants E and F. Following the briefing, Officer R spoke with Victim A in an effort to gain intelligence on the Subject. Victim A informed Officer R that the Subject was a gang member and that they were having child custody issues. She also advised that the Subject had been smoking PCP all day and knew from previous experiences that PCP caused the Subject to become irrational and upset and therefore, she feared for the safety of their two children. Officer R briefed specialized unit Officer S, who was also a specialized negotiator, upon his arrival.

Officers R and S responded to the residence and met with Officer J. After briefing with Officer J, they had him continue the negotiations as they monitored the progress and provided advice. Sergeant C and Officer H also responded and remained in the residence in order to monitor the negotiation process.

Note: All negotiations were conducted from opposite sides of the closed bedroom door and Sergeant C would relay the information to personnel on the perimeter and to the CP, over the specialized unit radio frequency.

Shortly thereafter, the Department Doctor suggested having Witness A make a recorded message requesting the Subject to peacefully exit the bedroom. Officer R responded to the CP to obtain the recording as the Subject continued to refuse to exit the bedroom and/or release the children. The Subject advised that he did not feel well, had cut himself, and requested a Rescue Ambulance (RA). Officers feared the Subject had injured the children and requested that they verbalize that they were okay, which they did. The negotiating team then advised the Subject that the LAFD would not enter the location until the standoff was resolved. The Subject retracted his claim of being injured and then advised that he was tired.

Officer R played the recorded message for the Subject, who attempted to have a conversation with the recording. The Subject still refused to exit and became irate. After almost three hours of continuous negotiations, with the Subject still refusing to exit or release his children, Officer S assumed the role of primary negotiator, with Officer R becoming the secondary negotiator.

Lieutenant A, who was monitoring the situation with the Department Doctor at the CP, requested to meet with Sergeant C and Officer H to discuss possible options. Lieutenant A responded to the residence and, based upon the Subject's past statements, discussed the potential need of a forced entry while referring to the Department Doctor's opinion regarding the Subject's behavior pattern. With the approval of Captain A, the use of an explosive breach was authorized.

Note: The Doctor believed the kids were in danger based on the fact that the Subject was acting in very erratic fashion, was delusional, and other themes he was verbalizing.

The negotiating team believed that the Subject and the children had moved away from the door and opted to capitalize on the opportunity. Officer T deployed on the door and successfully placed an explosive charge near the locking mechanism of the door and the frame.

Officer P (Sniper) advised that he observed a child at the second-story bedroom window. The negotiating team continued negotiations with the Subject who, on several occasions, agreed to exit the bedroom with the children. In each instance, however, the Subject then failed to comply.

Sergeant C advised Lieutenant A, via radio, that the Subject's statements were alluding to a religious-type theme of "ending the situation" and that Officer S advised the negotiations were currently at an impasse. As Officer S attempted to have the Subject allow the children to look out the window, Lieutenant A advised Sergeant C that in case of imminent peril he (Sergeant C) was authorized to initiate a rescue.

Sergeant C advised that the officers were still attempting to negotiate with the Subject but his last statement to them indicated that he did not want to speak with the officers. Sergeant C later described the Subject as becoming more agitated as he stated that "God had a plan for him" that involved the children.

Officer S was able to reacquire dialogue with the Subject, who requested a telephone so he could speak with Witness A. The officer had previously offered the Subject one of their telephones so the Subject would not have to contend with talking through a door, however the Subject previously refused the offer. Upon the Subject's request, the CP immediately requested vehicles to be moved from the street so a specialized vehicle could be deployed closer to the residence.

As officers worked to introduce the telephone into the negotiations, they attempted to make arrangements with the Subject on how to get it into the room. Although the Subject refused to open the door to receive the phone, he became agitated with the negotiators, believing they were trying to trick him. The negotiating team attempted to regain the Subject's trust and offered to give him a ten minute break to collect his thoughts.

Officers N and U were requested to relieve Officers P and O as the Sniper Team. Once relieved, Officers P and O were redeployed within the secondary ERT. The Subject again agreed to exit the bedroom, and Sergeant C heard what he believed were miscellaneous items being moved away from the door. When the Subject voiced his intention not to exit, the negotiators decided to give the negotiations a short break while they prepared to introduce the telephone.

With the negotiations at a standstill, the officers opted to increase the level of negotiations by becoming more assertive with the Subject. The telephone was placed outside of the bedroom door and Officer R assumed the role of primary negotiator.

The Subject further advised that he and the kids were going to go to sleep and never wake up. Officer H verified that his ERTs were prepared and began to discuss the option of utilizing a pole camera to attempt to get a visual inside of the residence via the bedroom window. At the same time, the negotiators received authorization from Captain A to again increase the pressure on the Subject to exit the location.

Lieutenant A discussed the deteriorating situation with the Bureau Commander, Commander A. Commander A, Lieutenant A and the Department Doctor deployed to the specialized vehicle, in order to monitor the real-time negotiations taking place with the Subject. As they monitored the negotiations, it was apparent that they were not progressing, and Lieutenant A had LAFD medical personnel remain staged at the specialized vehicle, in case a tactical entry became necessary.

The Subject advised that he would exit the bedroom and that he had to undo a tie on the door. The CNT continued to hear movement from within the bedroom, and the Subject advised that the door was stuck. After several minutes had passed and the Subject had still not exited, Officer H believed that the Subject had barricaded or fortified the door, which would delay their entry. Realizing that utilizing a pole camera at the window would give away their secondary entry team's position, Officer H elected not to use it. Officer R repeatedly attempted to confirm the welfare of the children but received no response as the Subject became more agitated and accused the officers of tampering with the door and the windows.

While still receiving no response from the children, the primary ERT again heard objects being moved inside the bedroom and observed the doorknob moving. Sergeant C feared that the Subject was further barricading the door and if the officers continued to allow the Subject to improve and fortify his position, it would make it that much more difficult for everyone to get inside. Officer H relayed the officers' observations and concerns to Lieutenant A and Commander A approved the specialized unit to initiate a tactical entry.

Officer H heard a loud thump come from the bedroom, followed by the loud crying of a child. Based upon the Subject's recent statements, the belief that the Subject was barricading the door, the thump which could have been a child falling, and the child crying in the bedroom, Officer H advised Sergeant C of his belief that a tactical entry was necessary, and Sergeant C contacted Lieutenant A and requested confirmation that he (Sergeant C) had operational control.

Officer H verified that his teams were in position and cognizant of their respective duties and tactical concerns. The breaching team consisted of Officers K and L, who were armed with rifles and breaching tools.

The arrest team consisted of Officers T and V, who were each armed with a pistol and a TASER. Officers R and S, both armed with pistols, remained in the adjoining bedroom to provide support if necessary.

The secondary ERT moved into formation atop the carport on one side of the residence, nearest the bedroom window with Officer M deployed to one direction. Officer M (Team Leader) was armed with a rifle and also possessed a pad to cover the broken window in case his team needed to make entry.

Officer W was responsible for breaking the second-story west-facing bedroom window and his partner, Officer X, armed with a rifle was responsible for providing additional cover for the secondary ERT.

Upon confirmation that he had operational control, Sergeant C gave the order for the ERTs to initiate entry. Sergeant C utilized the radio to communicate with both ERT teams and utilized a numerical countdown in order to have them deploy in unison. On the count of three, the officers prepared for entry. On the count of two, one officer caused a distraction "break and rake" of the solid-paned window. As the window broke and the interior blinds were stripped away, a second officer peered inside and observed the Subject with his back against the bedroom door facing his direction. At the same time, the two children began to run away from the Subject towards the secondary ERT's location. The Subject immediately reached out and grabbed both of them at the same time and picked them up to his face, in a choke-type hold, and the kids were moving in his arms, "like rag dolls."

As Sergeant C reached the count of one, Officer W broke the window on one side of the bedroom, and Officer V initiated the explosive charge. With Subject 1 holding the two children, the Subject was ordered, "Drop the kids!" and, "Let me see your hands!" The Subject immediately went into a seated position with his back against the bedroom door. The Subject held onto both his children with one arm and raised a mattress up in front of them with the other.

Officer Y shouted out to the primary ERT that the Subject was against the bedroom door. Officers successfully breached the door, allowing entry for the primary ERT.

Once the door was breached, the Subject pushed the mattress off of him and stood up with the kids again both up in front of his face and tried to take them into the closet. The Subject, standing with his back to the wall, slowly began to move toward the open closet. Officer Y, fearing for the safety of the children, attempted to acquire a sight picture on the Subject's head, body and or leg area but was unable to attain an unobstructed sight picture. Officer P ordered the Subject to, "Let the kids go," and, "Put [his] hands up."

The Subject failed to comply with the officers' orders and Officer P, who was armed with the 40 mm multi-launcher, fired one rubber projectile at the Subject's left knee.

With no reaction from the Subject, Officer P attempted to fire a second projectile. As Officer P pulled the trigger, his weapon malfunctioned.

Note: Investigators were unable to determine if the projectile struck the Subject. Aside from a small laceration on the Subject's left leg, above the knee, no other injuries were observed that could be attributed to the 40 mm multi-launcher projectile.

With the bedroom door open, the officers in the hallway observed a headboard had been placed at the doorway, impeding their entry. Officer K entered and as he turned to his left, to clear one side of the room, he was met with the Subject and his two children.

Officer K observed the Subject holding the boy in his left arm and the girl in his right arm, holding her by her neck. The Subject was holding a dagger in his right hand and as he moved, the girl was "swinging wildly." Fearing the girl was at risk of great bodily injury, possibly a broken neck, or slide into the dagger," Officer K advanced on the Subject and raised his rifle between the two children and pointed it at the Subject's head. Officer K then fired one round from a distance of one foot, missing the Subject.

Note: Officer K's round penetrated the wall behind the Subject and impacted a wall of the adjoining residence.

The Subject reeled forward and came into contact with Officer K. The contact, along with the debris strewn upon the floor, caused Officer K to fall forward, facedown. Simultaneously, Officer L, having entered behind Officer K, heard the children screaming and observed the Subject holding the girl by her neck and described the Subject's actions of tossing her as very aggressive and violent.

Officer L also observed the Subject gripping the butt of a knife. When Officer L heard the gunshot, he observed the Subject momentarily go limp and believed the threat had been neutralized by Officer K, who was then on the floor.

Suddenly the Subject popped back up while still holding onto the children, raised the girl eye level, as though he was using her as a shield, and Officer L realized that the threat had not been neutralized. He believed a close-contact shot would be necessary.

Cognizant of his proximity to the Subject, Officer L immediately transitioned from his rifle to his semiautomatic pistol. Officer L placed the barrel of his pistol to the right temple of the Subject's head and fired two contact rounds, striking the Subject twice. The Subject released his grip on the children as he collapsed to the floor.

Note: Officer L's interview did not establish whether he saw the Subject holding the knife when he made the decision to shoot him.

Note: Officer I couldn't make out the object he observed in the Subject's hand because of the angle he was at, but it was something dark in his

right hand and he was holding onto it, in addition to a kid basically up off the ground up and close to his head.

Note: Witness B was interviewed by the Deputy District Attorney (DDA), which led to inconsistent statements about whether the Subject took any action with his knife.

Officer L holstered his pistol and immediately grabbed hold of the girl and handed her to another officer who evacuated her from the residence, via the bedroom door. Officer T grabbed hold of the boy and handed him to Officer Z. Officer Z then handed the boy to Officer O who evacuated him to awaiting LAFD personnel, via the bedroom window.

Officers I and J entered the bedroom and Officer J searched the Subject for weapons, but located none. Observing obvious signs of death, Officer J opted not to handcuff the Subject.

Note: Officer J advised that upon entry, he observed a black “fixed blade kind of combat knife” on the floor approximately four feet away from the Subject’s head.

The Subject was armed with a black plastic knife, described by officers as a “dagger.” The knife was approximately five and one half inches in total length with a two and one half inch blade. The knife was found lying on the floor in the bedroom where the OIS occurred.

Sergeant C trailed in behind the primary ERT and entered following the OIS. Sergeant C immediately assessed the situation and upon determining that an OIS occurred, obtained Public Safety Statements (PSS) from Officers K and L and separated them.

Note: Sergeant C did not obtain a PSS from Officer P; he was not aware that Officer P had fired the multi-launcher until after he exited the residence.

Los Angeles Fire Department personnel responded and determined the Subject’s death.

All documents and circumstances surrounding the separation, monitoring, PSS, and admonition of officers not to discuss the incident prior to being interviewed by FID investigators were reviewed by FID. All protocols were complied with and properly documented.

A post-mortem examination was conducted by the Los Angeles County Department of Coroner. The Subject’s cause of death was ascribed to multiple gunshot wounds to the head.

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 weapon 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 Officers K, L and P's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officers K, L and P's drawing and exhibiting of a firearm to be in policy.

C. Less-Lethal Use of Force

The BOPC found Officer P's use of less-lethal force to be in policy.

D. Lethal Use of Force

The BOPC found Officers K and L's use of lethal force to be in policy.

Basis for Findings

A. Tactics

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

1. Crossfire/Background

The decision was made to breach the bedroom from two different points simultaneously. The Secondary ERT breached the window mainly as a distraction and as a contingency entry point in the event the Primary ERT was unable to breach the door. A potential crossfire existed between the Primary and Secondary ERTs, located at different entry points to a bedroom.

Officer H formulated the tactical plan and ensured each team member knew their roles and responsibilities. He verified that his teams were in position and cognizant of their respective duties and tactical concerns.

In assessing the officers' actions, the BOPC noted that the potential crossfire was a known element of the tactical plan. Officers assigned to the Department's specialized unit are a highly trained and disciplined tactical team. Each team verbally coordinated their breach/entry into the bedroom, ensuring only one team made entry and taking precautions to avoid potential crossfire.

In conclusion, the decision to breach the bedroom from two different entry points was coordinated and executed to create confusion and increase the element of surprise on behalf of the Subject. As such, the BOPC found that the officers' actions did not substantially deviate from approved Department tactical training, or more specifically, from approved Department specialized unit training. However, to reinforce the importance of basic principles associated with special tactical deployment, the BOPC directed that this topic be discussed during the Tactical Debrief.

2. Verbal Warning

Officer P was standing atop the carport, outside a second-story bedroom window. Officer P learned through updates that the Subject had made indirect threats to kill the children and heard the crying.

Upon breaching the window, Officer P observed the Subject holding the two children high in front of him. Officer P fired one rubber projectile from his 40mm Less-Lethal multi-launcher without providing a verbal warning.

The BOPC determined that it would not have been practical or preferred in this specific situation due to the exigency and tactical element of surprise required. The BOPC determined that Officer P's decision to fire a 40mm multi-launcher round without providing a verbal warning was within Department guidelines and objectively reasonable. However, in an effort to enhance future tactical performance, the topic of Verbal Warnings will be addressed in the Tactical Debrief.

- The BOPC additionally considered the following:
 1. Victim A initially told the 9-1-1 operator that the Subject, her ex-boyfriend, was on PCP, struck her on her lip, and was barricaded upstairs with her kids and had a knife. The call was broadcast as a Battery Domestic Violence for any Unit, Code-Two, without mentioning the knife. Victim A made a second call and advised that the Subject pulled a knife on her earlier. The call was upgraded to a Code-Three "ADW su[bject] there now." Representatives from Communications Division advised that the 9-1-1 operator received a Notice to

Correct for her actions and was directed to attend training regarding her actions. The BOPC determined this action to be appropriate and no further action is required.

2. After firing the first Less Lethal projectile, Officer P experienced a weapons system malfunction with the 40mm multi-launcher, causing it to misfire upon attempting to fire a second round. According to the Commanding Officer of the specialized unit, many of the 40mm multi-launchers were experiencing malfunctions while cycling rounds into the weapon system. The entire inventory of 40mm multi-launchers were exchanged via the manufacturer and have proven to perform more reliably. The BOPC determined that no further action is required at this time.
 3. Officer K had 27 rounds, instead of the required 28 rounds in one of his rifle magazines. The Commanding Officer of the specialized division noted that this issue was addressed with Officer K, as well as at a platoon training day for other specialized unit personnel. The BOPC determined this action to be appropriate and no further action is required.
- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident.

The BOPC directed that Officers K, L and P attend a Tactical Debrief and that the specific identified topics also be covered. Although the remaining specialized unit supervisors and officers will not receive formal findings, in an effort to enhance future tactical performance, the BOPC will direct the Commanding Officer of the specialized unit to ensure that they attend the Tactical Debrief.

B. Drawing/Exhibiting

- Officers K, L, and P were advised that the Subject, who was believed to be under the influence of PCP, had barricaded himself in a bedroom armed with a knife and held his children hostage. Negotiations were at an impasse, and the Subject's behavior became more unpredictable, as he began to express erratic and delusional behavior with themes of death. The Subject made indirect threats to kill his children, and believing time was no longer on their side, the tactical plan was initiated.

As the officers were prepared to make entry into the bedroom, they exhibited their Department approved rifles. Officer P was designated with a Less-Lethal Force option, and transitioned from his rifle to the 40mm multi-launcher.

Officer P heard regular updates regarding the status of the negotiations via the radio. Officer P heard that the Subject was talking religiously and threatening to harm the kids and take care of them in the next life.

Officer K heard the children crying and heard the Subject make indirect threats to kill the children. The Subject had become more animated and argumentative. Officer K believed the Subject was fortifying the door and intended to harm his children. Officer K believed the lives of the children were in danger.

Officer L heard the children crying and heard the Subject make indirect threats to kill the children. He also indicated that he heard the Subject admit that he had a knife.

An officer with similar training and experience would believe that the situation could escalate to the point where the use of lethal force would become necessary. Therefore, due to Officers K, L, and P's reasonable belief that the situation may escalate to a level where deadly force could become necessary, the BOPC found the officers' drawing/exhibiting to be in policy.

C. Less-Lethal Use Force

- **Officer P** (40mm multi-launcher, one rubber projectile)

Officer P received information from the initial call-up text message and was also briefed by Officer H that the Subject was armed with a knife, barricaded, and holding his two children hostage. Officer H was updating the teams regularly regarding the progress of the negotiations. At several points during negotiations, the Subject threatened to harm the children.

Officer H formed a plan, where two specialized unit entry teams were prepared to breach the bedroom to produce a distraction, but only one team would enter to prevent crossfire. Officer P was outside of the residence on top of the carport with the Secondary ERT, armed with a 40mm multi-launcher, loaded with rubber projectiles. The count-down was initiated; the secondary ERT team broke open the window and tossed in a flash bang.

Officer P observed the Subject holding both children and crouching behind a mattress. The Subject was ordered to release the children, but he ignored commands and retreated further back into the room. Officer P feared for the safety of the children and fired one less-lethal round at the Subject's left knee. Officer P did not see the knife.

The deployment of the Less Lethal projectile was used in a multi-faceted attempt to force the Subject to drop the children, and distract him from the actions of the ERT as they entered the bedroom, which was part of the tactical plan and objectively reasonable to allow the safe extraction of the hostages and in an effort to stop the Subject's aggressive actions.

Therefore, the BOPC found Officer P's application of less-lethal force to be in policy.

D. Lethal Use of Force

Officers K and L maintained their positions in the bedroom adjacent to the Subject's barricaded position for several hours while the CNT attempted to gain the Subject's voluntary compliance. Eventually the Subject made indirect death threats, coupled with his unpredictable behavior, potential PCP influence, and belief that he was armed with a knife, created the immediacy with which the officers felt they had to enter to prevent harm to the children. Additional time was determined to no longer be safely available to negotiate further and the ERT tactical plan was approved by the IC and initiated.

Officer K (rifle, one round)

As Officer K negotiated with the Subject, he attempted to peacefully resolve the situation by having the Subject release the children and surrender. The Subject refused to release the children and threatened to harm them. Officer K believed the Subject was going to do something to harm his children and that their lives were in imminent danger.

The explosive breach was made into the bedroom. Officers K and L utilized specialized tools while another officer provided cover. As Officer K entered the room, he encountered the Subject holding his children in each arm and a dagger in his right hand. Officer K aimed at the Subject's head and fired one round. Officer K recalled that the Subject was holding a girl by her neck and had what appeared to be a dagger his right hand. In his left hand, he had the little boy. He began to move and was swinging wildly while the girl was dangling by the neck.

Officer K was concerned that the girl was at risk of serious bodily injury. He had a very short window for opportunity, so he advanced up onto the subject, raised his rifle right between the two children, into the subject's head and discharged one round.

Officer L (pistol, two rounds)

Officer L heard the children crying and heard the Subject make indirect threats to kill the children. He also indicated that he heard the Subject admit that he had a knife. Officer L entered the bedroom and observed the Subject holding a knife. He heard a

shot fired (by Officer K) and observed the Subject go limp, as if he had been struck by the gunfire, but then the Subject jumped back up, using his daughter as a shield. Believing the children were in imminent danger, Officer L transitioned from his rifle to his service pistol and fired two contact shots at the Subject's head. Officer L stated that because the Subject was using the girl as a shield, he transitioned from his rifle to his pistol due to proximity. And, also, he knew he had to get a side shot, and the best way to do that was with a contact shot. He placed the gun to the Subject's right temple. The Subject started to turn, and Officer L fired two rounds.

The BOPC evaluated the circumstances relevant to Officers K and L's lethal use of force. An officer with similar training and experience would believe that the Subject's actions posed a substantial risk of serious bodily injury or death to the hostages.

Therefore, the BOPC determined that Officers K and L's use of lethal force was in policy.