

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

**OFFICER-INVOLVED SHOOTING – 095-13**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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West Los Angeles	11/17/13		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer C	16 years, 2 months
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**Reason for Police Contact**

The Subject was involved in an Assault with a Deadly Weapon (ADW) of a utility company employee (Witness A). Officers arrived at the Subject's residence and attempted to contact the Subject, who exited onto his second story balcony and pointed a shotgun at the officers, resulting in an officer-involved shooting.

<b>Subject(s)</b>	<b>Deceased (X) Wounded ( ) Non-Hit ( )</b>
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Subject: Male, 75 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 September 30, 2014.

## **Incident Summary**

On the date of this incident, the Subject telephoned a utility company to report a problem at his home. The utility company employee (Witness A) arrived at the residence and approached the remote-controlled, double wrought iron, electric gate at the driveway of the residence. Witness A pressed the intercom button on the speaker box and heard a bell ring inside the residence approximately three to four times. Although Witness A had no verbal contact with the Subject over the intercom, the driveway gate began to open and, simultaneously, Witness A heard one gunshot. Witness A was alarmed by the sound of the gunshot, but believed it was still necessary to enter the residence to investigate the nature of the problem.

**Note:** The investigation later revealed that the Subject had fired one shot from a blue steel .38 caliber revolver through his second story, bedroom window. The revolver was recovered from inside the Subjects bedroom, but no impact was located and no fired projectile was recovered.

Witness A cautiously walked east on the driveway toward the front door of the residence. As Witness A approached the front door, he heard yelling and screaming emanating from the second floor of the residence, but could not understand what was being said. Witness A observed the silhouette of a person through a second floor window, which then moved back away from the window. Witness A knocked on the front door and heard more screaming from inside the residence. As Witness A verbally identified himself as a utility company employee, he heard more unintelligible talk and the sound of locks on the front door being unlocked.

The Subject opened the front door holding a revolver in his right hand. The Subject pointed the revolver at Witness A's face and told him that he was lucky he did not get shot. Witness A told the Subject to put the revolver away because he was there to help with the utility problem.

**Note:** According to Witness A, the Subject was attired in a green military fatigue jacket, t-shirt, and blue or dark sweatpants. At the time of the officer-involved shooting, the Subject was attired in a light brown sweatshirt, light brown t-shirt, and dark brown sweat pants.

The Subject continued to point the revolver at Witness A and told him he did not call the utility company and that he was employed by the Central Intelligence Agency (CIA). Witness A, fearing for his safety, again told the Subject to put the revolver away. The Subject placed the revolver down at his side, but transitioned the handgun back and forth between his right and left hands.

Witness A told the Subject he was going to notify the utility company dispatch that he was leaving the property. The Subject placed the revolver in his front waistband, but then pulled it out again and pointed the revolver at Witness A. Witness A repeatedly told the Subject not to point the revolver at him. The Subject then moved the revolver behind his back.

The Subject pointed the revolver at Witness A again, and Witness A pleaded with him to stop pointing the revolver at him. The Subject repeated that he worked for the CIA and he never called the utility company for any problem. During this time, Witness A smelled the odor of alcohol emitting from the Subject's breath and he appeared intoxicated and with "glassy" eyes.

Witness A decided to leave the residence for his own safety and walked away from the front door, followed by the Subject. Witness A walked down the driveway to put his tools away in his utility vehicle. The Subject followed behind Witness A pointing the revolver at his back. Witness A informed the Subject he was going to leave, and the Subject stated, "You got lucky, little man."

Witness A entered his vehicle to leave, but the Subject paced back and forth behind the truck and then stepped in front of his vehicle, blocking his path. When the Subject moved out of his path, Witness A drove away from the residence. Witness A called his dispatch center by cellular telephone and informed them of what had occurred as he drove toward a local freeway. The dispatch center transferred his call to a supervisor, who advised him to telephone 911.

Witness A telephoned the 911 emergency line and was connected to the California Highway Patrol Communications Center. The call was then transferred to the Los Angeles Police Department (LAPD) Communications Division (CD). Witness A reported the incident to the Emergency Board Operator (EBO) and advised he would meet the police at a designated intersection.

CD issued a "ADW Just Occurred" broadcast for any available patrol division unit. The Subject was described as a male, early 60's, "390" (intoxicated), wearing a camouflage hat, blue sweats, and pointed a possible .22 caliber revolver at Witness A. Uniformed Police Officers A and B were assigned the radio call.

Police Officers C and D notified CD they were responding as a back-up unit. Officers C and D responded to a nearby intersection to await the arrival of Officers A and B, prior to meeting with Witness A. As they waited for Officers A and B to arrive, Officer C retrieved his patrol rifle from the trunk of his police vehicle, believing the radio call comments indicated the Subject was armed and had fired a gunshot.

Officer C inserted a 30-round magazine into the magazine well of the rifle, and chambered a round. Officer C slung the rifle over his right shoulder utilizing his tactical two-point sling, with the muzzle of the rifle pointed toward the ground. Minutes later, Officers A and B arrived and told Officers C and D they were en route to meet with Witness A. Officer C told them he and his partner would remain at the location.

Officers A and B arrived at the designated location to meet with Witness A. Witness A told the officers what occurred upon his arrival at the Subject's residence. Officer A instructed Officer B to complete the face sheet of an Investigative Report (IR) for Assault with a Deadly Weapon (ADW), which was signed by Witness A.

Officers C and D waited for approximately 10 minutes, and then decided to meet with Officers A and B at the location to obtain more information about the incident. When the officers arrived at the location, they were briefed on the crime by Officers A and B. Officer A obtained the Subject's name, residence address, and telephone number from Witness A's work order. Officer C telephoned the desk officer at the station to query the Subject in the Automated Firearms System (AFS) and determined that no firearms were registered to him.

Officers A requested a supervisor to respond to their location. Uniformed patrol division Sergeant A advised he was en route. When Sergeant A arrived at the location, Officer A briefed him regarding the crime reported by Witness A. Sergeant A concurred that an ADW had occurred and the Subject was armed inside his residence.

Sergeant A contacted patrol Watch Commander Sergeant B and advised him of the incident. Sergeant A told Sergeant B that the Subject had committed an ADW with a firearm against Witness A, who was investigating a utility problem at the Subject's residence. Witness A believed a gunshot had been fired when he arrived at the residence, and Sergeant A was concerned there might be a gunshot victim and/or a possible hazardous situation inside the home.

Sergeants A and B agreed that a follow-up to the residence was necessary to make contact with the Subject. Once the Subject exited the residence unarmed, they could conduct their investigation to determine if anyone was injured inside the residence, examine the residence for any utility issue(s) and make an appropriate arrest.

Sergeant A discussed a tactical plan with the officers to conduct a follow-up to the Subject's residence. If the Subject refused to exit his residence, the officers would contain the residence and handle the situation as a barricaded subject scenario, which requires additional protocols. Sergeant A and all of the officers travelled to the residence, updating the location as a follow-up on their computer.

When the Officers and Sergeant A arrived, Officers A and B parked their police vehicle one residence south of Subject's residence. Officer C broadcast that all the units had arrived at the residence, and the officers updated their location. The officers exited their vehicles and approached the front of the residence. Officer C took the point position with his patrol rifle, followed by Officer D with the beanbag shotgun, Officer B with the TASER, Officer A, and then Sergeant A, who was wearing his ballistic helmet.

Officer C positioned himself south of a large tree adjacent to the wrought iron and cinderblock wall at the front of the property, using his rifle to cover the second story of the residence. The other officers and Sergeant A positioned themselves south of Officer C, using the wall for concealment and cover. The officers observed lights on inside the residence emanating from the living room, an upstairs room and a front porch light. Officer C observed a life-size cardboard cutout of an armed security guard on the north

side of the second floor balcony, and communicated his observation to the other officers. Officer B unholstered his pistol in preparation to confront an armed subject.

Officer A used his cellular telephone and called the Subject's contact telephone number twice, but there was no answer. Sergeant A then ordered the officers to return to their patrol vehicles and retrieve their ballistic helmets. Officer B holstered his pistol, and all the officers returned to their vehicles, as Sergeant A remained at his position to watch the residence. Officer B also removed a shooting trauma kit from his vehicle, and Officer C put on his tactical vest.

While the officers were at their vehicles, Sergeant A observed the silhouette of a person walking inside the living room and turn off the lights. At this time, believing the Subject was still armed, Sergeant A unholstered his service pistol to a two-handed low-ready position. As the officers returned to the block wall wearing their helmets, Sergeant A observed the front porch light turn off, and shortly after, the light in an upstairs room was turned off. Sergeant A told the officers what he observed and believed there was at least one person inside the residence.

Sergeant A told the officers to take cover positions along the front wall of the property. Officer C returned to his previous position south of the tree using his patrol rifle to cover the front door and second floor balcony of the residence. Sergeant A then directed Officers A, B and D, to move to the front gate. Sergeant A and Officer A positioned themselves behind the north brick pillar of the gate next to the intercom/speaker box, with Officers B and D standing behind them. Officer B unholstered his service pistol again in response to an armed subject.

Officer A pressed the intercom button numerous times for approximately five minutes, each time hearing a ringing sound from inside the residence, but there was no response. Moments later, the Subject mumbled something unintelligible over the intercom before telling the officers to go away.

Officer A identified himself as a Los Angeles Police Officer. Officer A asked the Subject to come outside so that they could check on the utility problem and ensure that he was safe. The Subject continued to mumble and did not comply. During this time, Officer C observed a light on the north side of the residence and a light over the front door turn off. Officer C believed the Subject was moving around on the second floor of the residence, but he was not sure where the Subject was inside the residence. Sergeant A then directed Officer A to loudly shout to the Subject to open the gate so they could talk to him. Officer A repeated the request several times.

Approximately one minute later, the driveway gate opened. Sergeant A, believing that the Subject was complying with their request to speak with them, directed the officers to approach the front door of the residence. As the officers approached the front porch area of the residence, Officer A told the officers behind him to watch the second floor balcony. When the officers reached the front porch area, they blocked Officer C's line of the sight of the front door. Officer C advised the officers he was moving from his

cover position to the north side of the residence. Officer C redeployed behind a large hedge at the north side of the breezeway, which leads to the rear of the residence. From his position, Officer C was able to cover the rear, the east side of the residence and a portion of the upstairs balcony area.

Officer A approached and stood to the left side of the front door, with Officer B positioned approximately five feet offset and behind him. Officer D was positioned on the walkway, with Sergeant A behind him across from a living room window at the front of the residence. Officer A knocked on the door, and the officers heard mumbling emanate from inside the residence. Officer A again asked the Subject to exit the residence so he could talk with him regarding the utility problem and ensure he was safe.

At this time, Officer A realized he was standing in front of a large curtained window adjacent to the front door, which was tactically unsafe. Officer A backed away from the front door onto the walkway and looked up to the second floor balcony. Officer A believed he saw a door open on the upstairs balcony, but he did not see anyone exit. Officer A advised the other officers that there was activity on the second floor.

Sergeant A then observed the curtains on the living room window move and saw the Subject standing at the window. The Subject moved toward the front door, and Sergeant A heard him speak with a slurred voice, but he was unable to understand what was said. Sergeant A shouted that the Subject was approaching the front door and told all the officers to back away from the front door. As the officers moved back, Officer A saw the Subject through the large curtained window adjacent to the front door holding what appeared to be a blue steel revolver in one of his hands.

According to Sergeant A, he heard Officer A shout out, "gun!" several times and saw the officers crouch for their safety. Sergeant A also shouted, "gun!" several times to alert the other officers and to ensure that Officer C was aware of the threat. As Officer A saw the Subject move away from the window, Sergeant A ordered all the officers to fall back for cover.

Sergeant A broadcast a backup request for a man with a gun. Sergeant A holstered his pistol and moved toward the front of the property. CD asked Sergeant A to repeat his broadcast. Sergeant A broadcast that the officers needed backup for a man with a gun.

Officers C moved west from his position using his rifle to cover the second floor balcony as he shouted he would cover the officers' redeployment. Officers A and B covered the front door of the residence with their pistols as they walked backward with Officer D and Sergeant A. Officer C continued to move west and then took a right kneeling position on the lawn on the side of a three foot-high row of hedges lining the north side of the driveway. Officer C covered the second floor and front door of the residence with his patrol rifle, allowing the officers to continue to move back to the front of the property.

According to Sergeant A, he looked back and saw Officer A following behind, but Officers B, C and D were still holding covering positions on the lawn. Sergeant A directed the officers to seek cover at the front of the property. Sergeant A and Officer B positioned themselves behind the brick pillar at the northwest end of the driveway. Sergeant A unholstered his service pistol again and assumed a two-handed low-ready position to confront an armed subject. According to Sergeant A, Officer B dropped to his knee and took a barricade position with his pistol on the south side of the brick pillar.

Sergeant A could not see Officer C due to shrubbery blocking his view, but was aware of his position and knew that Officer C needed to redeploy back to cover with the other officers. Sergeant A was about to shout out that Officers A, B and D should cover Officer C's redeployment, when suddenly, the Subject came outside onto the second floor balcony.

All the officers saw the Subject standing south of the cardboard cutout, holding a long barreled rifle or shotgun with both hands with the stock of the weapon against his right shoulder. Sergeant A and Officer B saw the Subject sweeping the shotgun barrel horizontally back and forth in the direction of the officers at the front of the property.

Officers A and B illuminated the Subject with their tactical pistol lights. Officer C focused on the Subject between the limbs of the tree in front of him using his rifle scope and illuminated the Subject with his tactical light mounted on the barrel of his rifle. Officer C shouted, "Shotgun." The Subject responded by turning his body in Officer C's direction and pointed the shotgun at him. In defense of his life, Officer C fired one round from his patrol rifle at the Subject. The round struck the Subject in the upper left torso.

The Subject dropped the shotgun and fell to the balcony floor in a southerly direction. Officer C used his rifle scope to maintain a visual on the Subject, but advised the other officers that the Subject was out of his view on the balcony. According to Sergeant A, prior to the shooting, he heard all the officers shout, "gun!" several times.

Sergeant A holstered his pistol, and broadcast shots fired, officers need help. Air 16 advised they were en route with a two minute delay. Sergeant A also requested a rescue ambulance (RA) for a subject down, but not in custody.

Officers A, B, and D continued to illuminate the second floor balcony with their pistol tactical lights, but they were unable to see the Subject. Officer C moved around to the driveway and walked backward toward the front gate with his rifle shouldered, using his rifle scope to view the second floor balcony. Officer C took a position south of a large tree for cover, and using his rifle scope and illumination from his tactical light, was able to see the Subject lying on his back on the second floor balcony.

The Air Unit arrived over the location and advised Sergeant A that the Subject was down on the second floor balcony next to the cardboard cutout and he was not moving. Sergeant A repeated his request for an RA for a male, approximately 70 years of age, suffering from a gunshot wound. Sergeant A added that the Subject was down and the

residence had not been cleared. Sergeant A and the officers held their positions until backup units arrived. As units began to arrive, Sergeant A broadcast that the incident was over and the Subject was down, but additional units should respond without their emergency lights and sirens.

When sufficient officers arrived, Sergeant A formed an entry team to clear the residence. Sergeant A directed the officers to wear their ballistic helmets and assigned officers with a patrol rifle, slug shotgun, beanbag shotgun, TASER, and designated additional officers as an arrest team. Due to the unfolding tactical situation, Sergeant A was unable to ensure the separation of Officers A, B, C, and D.

The entry team determined that all the entrances to the residence were locked. The entry team officers announced they were police officers before forcing entry through the rear door of the residence with a metal ram. The entry team tactically cleared the first floor of the residence. As they cleared the second floor, the Subject was observed on the floor of the balcony lying motionless on his back with his head pointed in a southerly direction. The shotgun was on the floor positioned next to the Subject's left foot. Sergeant A directed Officer E to handcuff the Subject. Officer E rolled the Subject over onto his stomach and handcuffed his wrists.

Los Angeles Fire Department (LAFD) staffed by Firefighter/Paramedics A and B examined the Subject and determined death. There was no evidence of a utility problem at the residence.

### **Los Angeles Board of Police Commissioners' Findings**

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers' benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

#### **A. Tactics**

The BOPC found Sergeant A and Officer C's tactics to warrant a Tactical Debrief.

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

The BOPC found Sergeant A and Officer C's drawing and exhibiting of a firearm to be in policy.



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

The BOPC found Officer C's lethal use of force to be in policy.

### **Basis for Findings**

#### **A. Tactics**

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

##### **1. Additional Unit/Back-up Request**

The officers, along with Sergeant A, arrived at the location of the incident involving an ADW Subject, with possible shots fired; however, they did not request additional units or a back-up.

Sergeant A was cognizant of the situation and the possibility that the Subject was armed with a firearm; therefore, he designated the officers' tactical positions as well as force options. Additionally, due to the nature of the radio call, Sergeant A advised the officers to retrieve and don their ballistic helmets prior to approaching the property.

Generally, when officers are dealing with an uncooperative or aggressive Subject, who is believed to be armed with a firearm, a request for an additional unit or back-up would be prudent, but is not required. In evaluating Sergeant A's actions, the BOPC determined that the initial decision to not request additional personnel at this time did not substantially deviate from approved Department tactical training. As the incident progressed, and it was confirmed that the Subject was still armed and was not going to cooperate with the officers, additional units were requested. The units arrived and were able to assist with clearing the residence and taking the Subject into custody.

Considering the nature of this incident, it was incumbent upon Sergeant A to assume command and control of the incident in order to oversee the officers' tactical positions and approach. Sergeant A's actions were consistent with approved Department supervisory training. However, in an effort to enhance future tactical performance, the topic of additional units/ issuing back-up requests was discussed during the Tactical Debrief.

##### **2. Barricaded Subject/ Specialized Unit Notification**

Once Witness A informed the officers that he heard a gunshot as he arrived and observed the Subject to be armed and possibly under the influence, Sergeant A believed the incident may become a barricaded subject situation, prompting notification to a specialized unit. According to Sergeant A, he discussed the

possibility of a barricaded subject scenario with the officers, but indicated that their primary objective was to go up there, make contact and communicate with the homeowner to see if they could persuade him to voluntarily exit the residence and speak with them.

Sergeant A decided to have his team attempt to make contact with the Subject and gain his compliance to surrender rather than immediately escalating the situation. Additionally, Sergeant A believed that it was necessary to determine if there was any injured party or whether the utility issue might pose a safety hazard to the homeowner or any nearby residences.

According to Sergeant A, with regard to the approach on the house, his primary goal was to try and gain compliance with the Subject. Sergeant A felt that he had a strong tactical plan up to that point, and his goal was to see if the officers could gain compliance to conduct an investigation. Sergeant A did not see the need at that point to further alert the Subject by calling in an airship or anything of that nature because he felt that he had a solid approach.

The BOPC evaluated Sergeant A's actions. Sergeant A was aware of the barricaded subject criteria. Sergeant A assessed the situation and determined that the criteria for a barricaded Subject had not been met. The BOPC determined that based on the totality of the circumstances, Sergeant A's actions were reasonable, and did not represent a substantial deviation from approved Department tactical training, as he wanted to make sufficient effort to have the Subject exit the residence and take him into custody. However, in an effort to enhance future tactical performance, the topic of barricaded subjects/ specialized unit notification will be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:

1. Command and Control

Sergeant A took several assertive steps to assure effective command and control over the incident. Sergeant A developed and discussed a tactical plan with the officers and assigned the officers specific duties and force options. Due to the nature of the radio call, Sergeant A advised the officers to don their ballistic helmets prior to entering the property. Subsequent to the OIS, Sergeant A designated a search and arrest team who cleared the residence and handcuffed the Subject without incident. The BOPC determined that Sergeant A's actions were consistent with approved Department supervisory training and their expectations of a field supervisor during critical incidents. In an effort to enhance future tactical and supervisory performance, the topic of Command and Control will be discussed during the Tactical Debrief.

2. Air Unit Request

Sergeant A did not request an Air Unit prior to the officers' arrival or while at the residence. Sergeant A had knowledge the Subject was armed with a gun and had committed an ADW on Witness A. However, Sergeant A did consider and elected not to request an airship, noting he did not want to possibly cause a situation to occur that was unnecessarily aggressive, especially if there was an opportunity to talk to the Subject and gain compliance. Sergeant A utilized his discretion not to request an airship. However, Sergeant A is reminded of the tactical advantages gained by having an Air Unit overhead for additional tactical insight and assessment, as well as officer and public safety. In an effort to enhance future tactical performance during similar situations, this topic be discussed during the Tactical Debrief.

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

After a thorough review of the incident, it was determined that the identified areas for improvement neither individually nor collectively substantially deviated from approved Department tactical training. Therefore, the most appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place is a Tactical Debrief.

In conclusion, the BOPC found Sergeant A and Officer C's tactics to warrant a Tactical Debrief.

## **B. Drawing/Exhibiting**

- The officers were responding to a radio call of an ADW Subject with possible shots fired. Upon their approach, Officer C exhibited his police rifle and Sergeant A drew his service pistol. Sergeant A recalled that he had his gun drawn out because of the belief that there may have been somebody armed in the house. According to Officer C, he deployed his police rifle and chambered a round because of the nature of the call, ("Man with a gun, shots fired.")

The BOPC determined that that based on the totality of the circumstances, an officer/sergeant with similar training and experience as Officer C and Sergeant A while faced with similar circumstances would reasonably believe that the Subject was armed with a firearm and that he posed a substantial risk of serious bodily injury or death, wherein the situation had escalated to the point where deadly force may be justified. In conclusion, the BOPC found Sergeant A and Officer C's drawing and exhibiting of a firearm to be in policy.

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

- **Officer C** (rifle, one round)

The officers responded to an ADW with possible shots fired. Upon their arrival, the officers attempted to contact the Subject via the intercom and telephonically. Initially the officers did not receive a response from the Subject; however, after numerous attempts the Subject opened the electronic gate allowing access onto his property. The officers tactically approached the front door of the residence and attempted to converse with the Subject through the front door. In the interim, Officer C took a position of cover behind a tree on the north side of the driveway and covered the second floor balcony.

While at the front door, the Subject was observed holding a handgun through the curtained window. An officer shouted "gun!" several times which caused Sergeant A to direct the redeployment of the officers to a better position of cover.

The Subject was then observed on the second story balcony holding what appeared to be a long-barrel firearm aimed at the officers. Officer C observed the Subject's actions and yelled "shotgun!" to notify his fellow officers. This caused the Subject to turn and point the firearm in the direction of Officer C. Believing he was about to be shot, Officer C fired one round at the Subject to stop his actions.

According to Officer C, he observed the Subject holding the shotgun and aiming it towards the officers who had retreated. Officer C yelled, "shotgun" and then lit up the Subject with his light. The Subject turned towards Officer C and saw the weapon pointed at him. Officer C thought that the Subject was going to shoot him, so he fired his rifle at the Subject.

The BOPC determined that it was objectively reasonable for Officer C to believe that the Subject was armed with a shotgun and posed an immediate threat of death or serious bodily injury. Accordingly, an officer with similar training and experience under like circumstances would reasonably perceive the manner in which the Subject exited the door and pointed his shotgun at the officers and himself, was consistent with an individual preparing to shoot. Therefore, the use of lethal force was objectively reasonable and within Department policy.

In conclusion, the BOPC found Officer C's lethal use of force to be in policy.