

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

OFFICER INVOLVED SHOOTING 008-07

Division Date Duty-On (X) Off () Uniform-Yes (X) No ()
Rampart 01/22/2007

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	6 years, 7 months
Officer B	1 year, 10 months
Officer E	10 years, 7 months

Reason for Police Contact

Officers A and B responded to a report of an assault with a deadly weapon. After talking to witnesses about the incident, Officer A requested additional units. Officers C and D, along with Officer E, responded to assist. The officers contacted Subjects 1, 2, and 3 inside an apartment. Subject 3 became combative and the officers subdued and handcuffed him. After he was handcuffed and partially searched, Subject 3 was moved into the common hallway. Officer C guarded Subject 3. While still handcuffed, Subject 3 produced a handgun and shot Officer C. Officers A, B and E responded to assist Officer C. Officers A, B and E shot Subject 3.

<u>Subject</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
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Subject 3: Male, 24 years.

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 BOPC of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission. The following incident was adjudicated by the BOPC on December 4, 2007.

Incident Summary

On January 21, 2007, Witnesses A, B, C and D (father, mother, and two teenage daughters, respectively) were living in an apartment in Los Angeles.

Witnesses A and B drove Witness C to a local high school to visit her friends. They dropped Witness C off and drove back to their apartment.

Subject 1 and Subject 2 contacted Witness C as she loitered in the vicinity of the high school and asked her about purchasing some marijuana. Subjects 1 and 2 had been in the area since noon, panhandling and smoking marijuana.

As the trio walked down the street they encountered Subject 3. Subject 1 and Subject 3 were passing acquaintances. On this evening, Subjects 1 and 2 purchased marijuana from Subject 3. The group, which now included Subject 3, walked to a liquor store and Subject 3 bought them some beer. Subjects 1, 2 and 3 smoked marijuana and drank beer, while Witness C consumed only beer.

Witness C called Witness B and asked if it would be permissible to bring Subjects 1, 2 and 3 home for a short visit. Witness C was told it was permissible to bring the three of them with her; however, only for a short visit. Witness C and the three subjects traveled to Witness C's apartment complex.

Witness A was asleep when Witness C and her companions arrived. Subjects 1, 2 and 3 were introduced to Witnesses B and D. Witness C, and Subjects 1, 2 and 3 entered Witness C's bedroom, closing the door behind them.

For the next several hours, Witness C, and Subjects 1, 2 and 3 drank beer, listened to music, and chatted on the Internet. Subjects 1, 2, and 3 also smoked marijuana. From time-to-time, these four were joined by Witness D.

Witness C then informed Witness B that Subjects 1, 2 and 3 wanted to spend the night. Witness B reluctantly agreed to letting them stay; however, she warned Witness C they would need to keep the noise down.

A short time later, Witness B entered Witness C's bedroom and told Subject 1 that he and his friends had to leave the apartment. Subject 1 shouted profanities at Witness B and told her they would not leave.

Because of Subject 1's aggressive behavior, Witness B was in fear for her and her family's safety. Witness B woke Witness A, and together they walked to a payphone in order to call the police for assistance.

Posing as a concerned neighbor, Witness B contacted the Los Angeles Police Department (LAPD) Metropolitan Communications Dispatch Center (CD) 911 Emergency. She advised the Emergency Board Operator that three men, one of whom was armed with a knife, were in her neighbor's apartment and were

threatening the female occupant. According to Witness B, her deception was designed to protect her family.

CD initiated a broadcast of a possible assault with a deadly weapon (ADW) in progress.

Officers A and B monitored the broadcast and responded to the location.

When Officers A and B arrived at the front of the apartment complex, Witnesses A and B met them. Witness B revealed her initial deception to the officers and informed them that it was her family that actually needed police assistance.

Officer A decided to request and wait for an additional unit prior to dealing with the subjects inside the apartment.

Officers C, D, and E acknowledged the call and drove to Officers' A and B location to provide assistance.

Officer A briefed Officers C, D and E in the courtyard of the apartment complex. The officers formulated a tactical plan to contact the subjects, detain them, and determine if a crime had occurred.

Witnesses A and B accompanied the officers to the second floor landing of their apartment building. The witnesses provided a key to their apartment to Officer B. The witnesses were directed to stay behind a fire door located at the north end of the north/south hallway.

The officers found the north-facing door to the apartment closed, but unlocked. The officers opened the door, announced their presence, stating, "Los Angeles Police Department," and entered the cramped apartment.

Note: The apartment was small, with one bedroom and one bathroom. The living room served as an additional bedroom. Two mattresses had been placed on the living room floor in order to provide sleeping accommodations for Witnesses A, B and D.

Officers A, B, C and E moved down the hallway towards the bedroom while Officer D remained in the living room with Witnesses C and D. As the four officers walked down the hallway they saw the bedroom door was closed. Directly across from the bedroom was the bathroom. The bathroom door was open and the room was dark. Officer B unholstered his pistol, and holding his flashlight and pistol, searched the bathroom, ensuring there were no subjects inside.

After his search, Officer B advised the other officers there were no subjects in the bathroom. Officer C knocked on the closed bedroom door. After a few seconds passed, Subject 3 opened the bedroom door.

The subjects were moved down the hallway towards the living room area. Subject 3 was turned over to Officer A. Subject 3's hands were clasped behind his head and gripped by Officer A. As Officer A attempted to search Subject 3, Subject 3 began to struggle. Officer A simultaneously grabbed the back of Subject 3's shirt with his left hand and Subject 3's right arm with his right hand and forced him to the ground in a prone position, with Officer A landing on top of Subject 3. Subject 3 thrashed his body from side to side and raised his upper body off the ground by pushing himself in an upward direction with both hands. Officer A punched Subject 3 one time on the right side of his face, at which time Subject 3's upper body collapsed to the floor. As Officers C and D approached, they observed Subject 3 kicking with both legs as Officer A was lying on top of him. In an attempt to restrain Subject 3, Officer D wrapped both arms around Subject 3's legs and placed his bodyweight on them. Officer C applied firm grips to Subject 3's left arm and without resistance, moved it to the small of his back. Subject 3 was then handcuffed without further incident.

Officer B handcuffed Subject 1 and Officer E handcuffed Subject 2. Witnesses C and D were not handcuffed and remained seated in the living room area.

Officer D was told by Officer A to search Subject 3. As Officer A held Subject 3's handcuffed hands, Officer D conducted a partial search of Subject 3, from the waist down. Officer D removed a folding knife from Subject 3's trouser pocket. Because Subject 3 was lying prone on the floor, Officer D conducted a partial search of Subject 3's crotch area and a very limited search of Subject 3's upper torso.

As this search by Officer D unfolded, Subject 3 verbally challenged and swore at the officers in the apartment. As Subject 3 continued to verbalize, Officer D removed a large amount of currency from Subject 3's trouser pocket. At this point Officer A made a decision to remove Subject 3 from the apartment in order to prevent Subject 3's behavior from agitating Subject's 1 and 2, and to establish better control of the situation.

Officer A told Officer C he was going to move Subject 3 into the outside hallway so Subject 3 would no longer be able to agitate the other occupants of the apartment. Officer C agreed with this strategy and accompanied Officer A and Subject 3 into the hallway.

Note: The officers' search of Subject 3 had not been completed when Subject 3 was moved to the hallway.

Officers A and C placed Subject 3 facedown in the east/west hallway, east of the apartment doorway, with Subject 3's head facing in an easterly direction. Prior to leaving the apartment, Officer A directed Officer D to assist with searching and interviewing the remaining occupants of the apartment.

The door to the apartment remained partially open and Officer E could see Subject 3 and Officer A in the hallway from his position inside the apartment.

Officer A informed Officer C that he believed Subject 3 had attempted to either retrieve or conceal a weapon inside the apartment during the struggle and he (Officer A) was going back inside to search.

Officer C stayed with Subject 3 in the east/west hallway, and the door to the apartment remained partially open. Officer C sat Subject 3 up and placed him in a seated position opposite the apartment doorway. When in the seated position, Subject 3's back was against the north hallway wall and his legs were straight out in front of him.

Note: Subject 3, who was 5 feet 8 inches tall, and weighed 132 pounds, was wearing a long sleeved, hooded sweatshirt (size 2 XL) that had pockets on either side of the zipper line. Beneath his sweatshirt, Subject 3 was wearing a long sleeved tee-shirt.

Subject 3 spoke to Officer C as Subject 3 sat in the hallway. Officer C was standing directly in front of Subject 3. Suddenly, Subject 3 brought his right knee up and began to rise off the ground by pushing up with his right leg. Officer C stepped towards Subject 3 with the intent of placing his hands on Subject 3 and keeping him from getting to his feet. Subject 3 rotated his body in a counter clockwise direction and brought his handcuffed hands to the right side of his body. Officer C saw that Subject 3 was holding a handgun in his right hand.

Note: Subject 3 was in possession of a .357 Magnum six-shot revolver with a 2" barrel. The revolver was loaded with .357 cartridges.

As he lunged towards Subject 3, Officer C believed he heard two gunshots. He recalled feeling an impact in his stomach area and his upper right chest.

Officer C grabbed Subject 3's right wrist with his left hand, simultaneously reaching for his own holstered pistol. As Officer C and Subject 3 struggled, they fell towards Officer C's left side. When Officer C gripped his holstered pistol, he immediately realized that one of the initial gunshots had damaged the pistol's handle.

The struggle reached the north/south hallway that led to the stairwell. Officer C, believing his own pistol was inoperable, released his grip and placed both of his hands on Subject 3's wrists.

Both Officer C and Subject 3 fell into the north/south hallway, with Subject 3 falling onto his back and Officer C landing on top of him. Subject 3 fired one additional round at Officer C and stated, "You're going to die, you're dead."

The officers and occupants inside the apartment heard the gunshots in the hallway. Officers A, B, D and E unholstered their pistols.

Note: In order to ensure the safety of Subject 1 and Subject 2, Officer E moved them to the rear bedroom.

Prior to exiting the apartment, Officer E told Officer D to guard Subjects 1, and 2 and Witnesses C and D. Officer B moved to the doorway of the apartment and looked left and right into the hallway. He did not observe Officer C or Subject 3, but heard a struggle coming from the north/south hallway. Officer B, followed by Officers A and E, moved to the intersection of the east/west, north/south hallway. Officer B carefully maneuvered around the corner, followed by Officers A and E. Officer C could hear the other officers coming to his aid and he shouted to them, "Shoot him. He's got a gun. Shoot him."

Officers A and B noted Subject 3's body was canted onto his left side, his arms still handcuffed behind his back and extended to the right side of his body, while pointing a handgun at Officer C. Officer B, in immediate defense of Officer C's life, approached and fired two shots to Subject 3's head. Simultaneously, Officer A approached and fired one shot to the back of Subject 3's head.

Officer E observed Officer C and Subject 3 wrestling for control of a handgun and heard Officer C yell that Subject 3 had shot him. In immediate defense of Officer C's life, Officer E approached and fired one shot to Subject 3's head.

Note: Subject 3 sustained four gunshot wounds to the head and was fatally injured.

Note: Officer C sustained a through-and-through gunshot wound to his upper right torso. A second round fired by Subject 3 struck Officer C in the lower right panel of his ballistic vest. This round resulted in an abrasion to Officer C's lower right abdomen. A third round fired by Subject 3 ricocheted off Officer C's badge. Either the second round fired by Subject 3, or an additional round, struck Officer C's holstered pistol and disabled it.

After the last shot was fired and the revolver dropped out of Subject 3's hands, Officer C fell back into a seated position and yelled, "I'm shot, I'm shot." Officer A kicked the revolver away from where Subject 3 was lying and Officers B and E moved Officer C to a seated position in the east/west hallway. Officer A put out a help call, "Shots fired, officer down."

Officers A, B and E saw that Officer C was struck by gunfire and immediately took life saving measures. Officer E exited the building and obtained a trauma kit from responding units. Officer E propped open the security doors so that medical personnel and responding officers could enter the building.

From inside the apartment, Officer D heard the gunshots and decided to move Subject 1 and Subject 2 from the bedroom into the living room with Witnesses C and D in order to maintain better control of the four.

Officer A, who had holstered his pistol, returned to the apartment to assist Officer D with the subjects. As Officer A entered the apartment, he saw that Subject 1 was trying to get to his feet. Because of what had transpired with Subject 3, Officer A perceived an elevated threat from the handcuffed Subject 1. In order to overcome Subject 1's efforts to rise, Officer A kicked at Subject 1's chest/chin area in order to prevent him from doing so.

A rescue ambulance (RA) staffed by Firefighters A and B, responded to the scene and immediately assessed Subject 3 as deceased. The firefighters were directed to Officer C, where they began to administer emergency medical treatment. Officer C was subsequently transported to a hospital, where he was treated for his injuries.

An additional RA, staffed by Firefighters C and D, later responded and completed an Emergency Medical Service Report documenting the assessment made by Firefighters A and B that Subject 3 was deceased.

Note: An examination of Subject 3's pistol revealed the cylinder contained five discharged cartridges and one live cartridge with a primer strike.

Note: A Gunshot Residue (GSR) Test conducted on Subject 3's hands revealed the presence of many highly specific particles of GSR on both hands. This test result indicates that Subject 3 may have discharged a firearm, had his hands otherwise in an environment of GSR, or received these particles from an environment source.

Note: A Combined Deoxyribonucleic Acid (DNA) analysis performed on Subject 3's revolver revealed there was a mixture of multiple individuals' DNA on the revolver, including Subject 3's.

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/Holstering 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 adopted the following findings.

A. Tactics

The BOPC found Officers A, C and D's tactics to warrant formal training.

The BOPC found Officers B and E's tactics to warrant divisional training.

B. Drawing and Exhibiting

The BOPC found Officers A, B, D and E's drawing to be in policy.

C. Non-Lethal Use of Force

The BOPC found Officers A, C and D's non-lethal use of force to be in policy.

D. Lethal Use of Force

The BOPC found Officers A, B, and E's lethal use of force to be in policy.

Basis for Findings

A. Tactics

There were several instances of prudent decision-making and sound tactics during the initial stages of the officers' investigation of the ADW call. Officers A and B arrived at the location, interviewed Witness B and, after an assessment of the situation, an additional unit was appropriately requested. Officers C, D and E responded to the request. Officer A disseminated the information he obtained and a tactical plan was devised to contact and detain the subjects. Witnesses A and B provided a key for the apartment to the officers. The officers then proceeded to the second floor of the apartment building. At the front door to the apartment, Officers A and B positioned themselves on the east side of the door, while Officers C, D and E lined up on the west side of the door. The unlocked door was pushed open and Officer B appropriately announced their presence as they passed the threshold of the apartment.

There were also instances of tactical shortcomings. Prior to entering the apartment, obtaining a location layout from Witnesses A and B would have better facilitated the clearing process. Once the officers entered the location, they encountered Witnesses C and D in the living room area, one of whom indicated the subjects were in a rear bedroom. Officer D was directed to monitor the females and the remaining officers proceeded down a hallway to the east side of the apartment. Officer B entered a bathroom located directly across from the

bedroom, and after ensuring it was unoccupied, holstered his service pistol and remained just inside the bathroom doorway. Officers A, C and E positioned themselves in the aforementioned order, adjacent to the closed bedroom door and prepared to make contact with the subjects. Once the subjects were located in the bedroom, the roles of the entry team were not clearly delineated, as there was no officer providing cover when the bedroom door opened and the subjects exited.

Subject 1 and Subject 2 were handcuffed without incident; however, Subject 3 turned and ran toward the living room area and a non-categorical use of force occurred.

Once Subject 3 was handcuffed and lying in a prone position, Officer A directed Officer D (a probationary officer with seven days of field experience) to initiate a search of Subject 3. During the search, Subject 3 verbally challenged and swore at the officers, and failed to comply with their commands. Officer D's search of Subject 3's waistband, legs, groin and the front pockets of his sweatshirt resulted in the recovery of a folding knife and a large sum of United States currency. In order to prevent Subject 3's behavior from agitating Subjects 1 and 2, and to establish better control of the situation, Officer A brought Subject 3 to a standing position and, along with Officer C, escorted Subject 3 out the front door and into the hallway of the apartment building. Officer D had not completed his search of Subject 3 when Officer A intervened and moved Subject 3. Officer C, Officer D's training officer, had witnessed Officer D's partial search of Subject 3. Officer A, who ultimately made the decision to remove Subject 3 from the apartment before Officer D had finished his search, also witnessed the search. As such, Officers A, C and D should each have been aware that the search of Subject 3 was incomplete when he was moved from the apartment to the hallway.

The BOPC noted that, having moved Subject 3 to the hallway, Officers A, C and D did not ensure that the search of Subject 3 was completed. Additionally, the search did not adhere to the sequence as trained by the Department.¹

After escorting Subject 3 into the hallway, Officer A returned to the apartment, leaving Officer C alone in the hallway with Subject 3. It would have been tactically superior for the door to have been propped open, or for two officers to have been assigned to guard Subject 3.

After gunfire erupted in the hallway, Officer B moved to the doorway of the apartment and looked left and right into the hallway. He did not observe Officer C or Subject 3, but heard a struggle coming from the north/south hallway. Officer B, followed by Officers A and E, moved to the intersection of the east/west, north/south hallway. Officer B carefully maneuvered around the corner, followed by Officers A and E.

¹ Department training dictates that a search of a subject should take the following sequence: lower back area, rear waistband, rear pockets, chest and stomach area, groin area, legs and feet.

When Officers A, B and E exited the apartment, they left Officer D alone with the two additional subjects as well as the two females. This could have caused Officer D to have been outnumbered, had the two subjects become uncooperative. Additionally, Officer D momentarily stood in the doorway with his back facing the subjects. Although it is understandable that Officer D was concerned about the welfare of his fellow officers, his primary assignment at the time was maintaining control of the two subjects inside the apartment.

Officers A, B, and E noted that Officer C was struck by gunfire and immediately took life saving measures. Officers A and B removed Officer C's shirt and vest and applied direct pressure to his wounds until personnel from the Los Angeles Fire Department arrived at scene. Simultaneously, Officer E exited the apartment building and obtained a Department issued trauma kit from responding personnel. In addition, Officer E had the presence of mind to establish and maintain an ingress and egress route to ensure the timely response of medical personnel, by propping security doors open and appropriately posting officers.

The BOPC noted that Officer C displayed maturity and extreme courage as he attempted to disarm Subject 3 after sustaining a life threatening injury. Officer C's critical decision-making and self-discipline allowed him to survive and he is to be commended for his response to this threat.

The BOPC found the tactical shortcomings noted relative to the performance of Officers A, C, and D, and most notably their failure to complete the search of Subject 3 once he was moved to the hallway, to warrant formal training.

The BOPC found Officers B and E's tactics to warrant divisional training.

Drawing and Exhibiting

The BOPC noted that Officer B responded to a radio call of an ADW in progress. Upon his arrival, he was informed that three males, one possibly armed with a knife, were refusing to leave the witnesses' apartment. As Officer B entered the apartment, he drew his service pistol. The search progressed through the living room and down a hallway. Officer B entered a bathroom and after ensuring it was unoccupied, holstered his service pistol.

As Officers A, B, D and E were conducting their preliminary investigation inside the apartment, they heard gunshots emanating from the hallway and subsequently drew their service pistols.

The BOPC determined that Officers A, B, D and E had sufficient information to believe the incident had escalated to the point where deadly force may become necessary.

The BOPC found Officers A, B, D and E's drawing to be in policy.

Non-Lethal Use of Force

The BOPC noted that as Officer A held onto Subject 3's hands, which were clasped behind his head, preparing to facilitate the handcuffing process, Subject 3 broke free and ran toward the living room area. Officer A simultaneously grabbed the back of Subject 3's shirt with his left hand and Subject 3's right arm with his right hand and forced him to the ground in a prone position, with Officer A landing on top of him. Subject 3 thrashed his body from side to side and raised his upper body off the ground by pushing himself in an upward direction with both hands. Officer A punched Subject 3 one time on the right side of his face, at which time Subject 3's upper body collapsed to the floor. As Officers C and D approached, they observed Subject 3 kicking with both legs as Officer A was lying on top of him. In an attempt to restrain Subject 3, Officer D wrapped both arms around his legs and placed his bodyweight on them. Officer C applied firm grips to Subject 3's left arm. Subject 3 was then handcuffed without further incident.

The BOPC found Officers A, C and D's non-lethal use of force to be in policy.

Following the removal of Subject 3 from the apartment, Officer C guarded Subject 3 in the hallway. Officer C sat Subject 3 up into a seated position, with Subject 3's back against the north hallway wall, opposite the doorway to the apartment. Officer C then observed Subject 3 raising his right knee and begin to rise up from the ground by pushing up with his right leg. Officer C placed his hands on Subject 3's upper torso in an attempt to push him back to a seated position. Simultaneously, Subject 3 rotated his body in a counterclockwise direction, bringing his hands to his right side while holding a handgun. Subject 3 then fired two rounds at Officer C, knocking him rearward. Officer C regained his footing, crouched down and grabbed Subject 3's wrists with both hands. Unable to gain control of Subject 3's handgun, the struggle continued westbound down the hallway. As Subject 3 raised himself off the floor, Officer C tackled him to the ground in a prone position with Officer C landing on top of him. Subject 3 canted his body onto his left side, extended his arms to the right side of his body, attempting to point the handgun at Officer C. Officer C attempted to force Subject 3's torso onto the floor with his bodyweight while fighting for control of the handgun.

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

After the Officer Involved Shooting (OIS), Officer A returned to the apartment to assist Officer D. As Officer A entered the apartment, he observed Subject 1 attempting to push himself off the floor and into a standing position. Officer A delivered a front kick to Subject 1's chest/chin area and he subsequently returned to a seated position. While this level of force is not typically warranted when dealing with a handcuffed subject, the BOPC determined that based on the totality of the circumstances, the force utilized by Officer A was appropriate as he

faced a need to immediately control Subject 1. Given that Subject 1's associate, Subject 3, had just shot an officer while similarly restrained, it was reasonable for Officer A to perceive an elevated level of threat from the handcuffed Subject 1 as he rose up. The BOPC determined that it was reasonable that Officer A utilized this level of force.

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

Lethal Use of Force

The BOPC noted that after hearing shots fired, Officers A, B, and E exited the front door of the apartment and observed Subject 3 in a prone position with Officer C lying on top of him. Officers A and B noted Subject 3's body was canted onto his left side, his arms still handcuffed behind his back and extended to the right side of his body, while pointing a handgun at Officer C. Officer B, in immediate defense of Officer C's life, approached and fired two shots to Subject 3's head. Simultaneously, Officer A approached and fired one shot to the back of Subject 3's head.

Officer E observed Officer C and Subject 3 wrestling for control of a handgun and heard Officer C yell that Subject 3 had shot him. In immediate defense of Officer C's life, Officer E approached and fired one shot to Subject 3's head.

The BOPC determined that Officers A, B and E reasonably believed that the subject presented an immediate threat of serious bodily injury or death.

The BOPC found Officers A, B and E's use of lethal force to be in policy.