

Incident Summary

Detective A and Officer A were assigned to investigate a double murder. Their investigation identified Subjects 1 and 2 as the individuals responsible for the murders. Officer A presented the case to the Los Angeles County, District Attorney's Office, which reviewed the case, filed murder charges, and issued felony warrants against Subjects 1 and 2.

A multi-agency task force was created, composed of several Los Angeles Police Department (LAPD) officers and outside agency law enforcement partners, to assist with the subjects' capture. Detective B and Agent A, a federal law enforcement officer, were the lead investigators responsible for the analysis of information obtained through the joint investigation. The task force developed information that led to a possible location for Subject 1. Detective B and Agent A planned and held a briefing regarding an operation to determine whether the subject was at the location, a residence. If confirmation was obtained that Subject 1 was at the residence, Department personnel would be requested to assist. Officer A, as well as various other Department and other agency personnel, attended the briefing.

Following the briefing, Detective B and other personnel responded to the location and took up positions around the residence. Officer A, whose role was to request additional resources if needed, contacted Detective C and requested that he assign his personnel to the location. Those personnel were briefed at the station about their assignment and designated as the arrest team since they were equipped with a marked black and white vehicle. Detective C, along with Officers E, F, G, H, and I, then responded to a nearby location and met with Agent A, who provided a brief update regarding the status of the task force's operation.

Detective B observed a male drive away from the street, in a white SUV accompanied by another male. Officer D followed the vehicle to a nearby business. Personnel were requested to conduct a traffic stop to identify the occupants of the vehicle. The two males were subsequently identified as Subjects 3 and 4. Officers H and I responded and conducted a traffic stop on Subject 4 after he dropped Subject 3 off at the above-mentioned business. Officers A, E, F, and G, in addition to Detective C, assisted them with the traffic stop. Subject 4 was detained without incident and Officer A interviewed Subject 4 about Subject 1's whereabouts.

Subject 4 fully cooperated with Officer A and stated that Subject 1 was inside the residence sleeping on the living room couch. This information was immediately communicated to all the personnel involved in the operation. Detective C made the decision to attempt to call Subject 1 out of the residence. If Subject 1 refused to surrender, the location would be contained and a specialized unit would be notified. Detective C was confident he had sufficient personnel to contain the residence and safely order Subject 1 out.

Officer I used his radio to broadcast that he and his partners had arrived at the location. Detective C requested the officers on the perimeter to close in to get a visual of the residence, and a view of the rear of the property. The additional personnel staged at a nearby intersection to don tactical gear, which included tactical vests and ballistic helmets. Officer G telephoned Air Support Division and requested that an air unit respond to the location to assist with the operation.

Air Support Division personnel responded to assist. They communicated with the officers via radio and advised them of their estimated time of arrival.

While the personnel waited for the arrival of the air unit, some of the officers and outside agency personnel moved in closer to the residence. Officers C and D entered the rear yard of a nearby residence and placed themselves in a position to observe the rear yard of the target location. Agent B moved his vehicle to a nearby corner. Officer A moved to the staging location and maintained custody of Subject 4 inside his vehicle to prevent him from alerting Subject 1 or anyone inside the residence of the police presence.

Meanwhile, Witness A exited the residence and from the sidewalk looked in both directions for any signs of Subject 4. She then returned to her residence and sent Witness B, to search for Subject 4. Detective B observed Witness B exit the location and ride a bicycle toward the area where additional personnel were staged. Detective B requested a unit to detain Witness B. Officer B, with the assistance of Officer A, detained Witness B without incident at a nearby intersection. Witness B confirmed Subject 1 was inside the residence, and Officer B communicated this information to the rest of the units. Witness B was then placed with Subject 4 in the back seat of Officer A's vehicle.

Note: Subject 4 was detained pending an investigation to determine whether he was involved in harboring Subject 1.

A few minutes later, unaware that Subject 4 and Witness B had been detained, Witness A exited the residence and again looked down the street, appearing to use her cellular telephone. Detective B communicated Witness A's actions to the rest of the officers.

Detective C believed the element of surprise for the operation had been compromised and directed the personnel to drive to the residence to surround it and call out Subject 1. Officer H drove the black and white police vehicle, followed by Officers A, B and E, as well as Detective D in their respective vehicles. Detective B requested Agent B to cover part of the containment and Officer B to cover the other portion. As the officers approached, Witness A walked away from the residence.

Simultaneously, the air unit arrived over the residence, and Officer J communicated his observations to the ground units. Officer H drove his black and white police vehicle onto the driveway at the target location and stopped facing the front door of the residence, followed by Officer E. Detective C made contact with Witness A and ordered her to continue walking away from the residence.

When Officer H drove onto the driveway, Agent B donned his ballistic vest, drove his vehicle along the curb, and stopped adjacent to the location. Agent B immediately exited his vehicle, armed himself with his rifle, and a few moments later moved behind a tree located along the property line between the target residence and the residence next door. Agent A also drove in closer to the location.

Officers A and B stopped approximately five residences away from the target location to hold one end of the containment. Officers H and I exited their police vehicle, unholstered their service pistols, and stood behind their open doors. Officer E exited his vehicle armed with his shotgun, which he kept at a low ready position, and took cover behind the driver's door. Officer G exited the vehicle armed with a police rifle, which he kept at a low ready position, and took cover behind the front passenger door. Officer F and Detective C exited their vehicle and took cover behind the trunk of their vehicle. Detective C unholstered his service pistol and maintained it at a low ready position. Officers E, G, H, and I and Detective C stated they drew their weapons because Subject 1 was considered armed and dangerous.

As the officers deployed around the residence, Witness C exited the residence through the front door. Detective C immediately directed her to walk away from the residence and toward him. Detective C holstered his pistol when Witness C approached him. Since the scene was active and Subject 1 was not in custody, Detective C believed it was necessary to protect Witness C. He directed her to kneel down behind the trunk of his vehicle. A few seconds later, Witness D exited the residence carrying an infant in a car seat. Detective C also directed Witness D to the rear of his vehicle. A few seconds later, Detective C believed it was safe for them to walk away from the residence and directed them accordingly.

A few seconds after Witnesses C and D exited the residence, Officer J observed a male (Subject 1) wearing a grey shirt and black pants exit the residence through the rear door. Subject 1 looked up at the air unit and went back inside the residence. Officer J communicated his observations to the ground units. Approximately 30 seconds later, Officer J observed Subject 1 again exit through the rear door.

Subject 1 immediately ran to the corner of the house and then along the side of the property toward a side gate. Officer J broadcast the direction Subject 1 ran and that he was holding his front waistband as if he was concealing something.

Simultaneously at ground level, Officer D observed and recognized Subject 1 exit the rear of the residence and ordered him to get on the ground. Subject 1 ignored Officer D and ran along the side of the house out of Officer D's view. Using his radio, Officer D broadcast Subject 1's direction of travel. From the front of the residence, Officers E, G, H, and I observed Subject 1 reach the side gate and also recognized him. The officers ordered Subject 1 to put his hands up. Subject 1 looked in the officers' direction and immediately ran back away from the gate and out of the officers' view.

From the air, Officer J observed Subject 1 climb over a fence and onto a shed. From there, Subject 1 climbed onto the roof of the property and ran along the roof. Officer J continued to relay his observations to the ground units.

Agent B ordered Subject 1 to stop. Subject 1 failed to comply and ran out of view. Agent B attempted to contain Subject 1 and ran to the corner of the intersection while yelling repeatedly that Subject 1 was on the roof. Officer F followed Agent B to the corner and unholstered his pistol once he observed Subject 1 on the roof. When Agent B reached the corner, he observed Agent A on one side of the street, pointing his pistol at an elevated position.

Agent A observed Subject 1 move along the roof of a residence and ordered him to stop. Agent B observed that Agent A had the side covered and decided to tighten the perimeter around Subject 1. He, along with Officer F, quickly walked along the sidewalk to a cinder block wall that extended from the house to the detached garage enclosing the rear yard.

Agent B and Officer F stood behind the wall and maintained their weapons aimed at Subject 1. Agent B believed he would have better containment from inside the rear yard. He observed a wooden gate that allowed access into the rear yard and quickly walked to the gate and entered the rear yard. He cleared it of any potential threats, then looked up and observed Subject 1 at the crest of the roof. There is no evidence that Agent B communicated or coordinated his redeployment into the rear yard with other officers. Agent B recalled that, upon entering the rear yard, he also believed he was exposed without sufficient cover from the weapon in Subject 1's right hand. Agent B then moved to the corner of the house and aimed his rifle at Subject 1.

Once Agent B positioned himself in the rear yard, Officers H and I redeployed to one corner of the intersection. When the officers reached the corner, they observed Subject 1 on the roof of the garage. With their pistols unholstered and at the low ready, Officers H and I walked behind the cinder block wall and took cover next to Officer F. Agent A remained on the sidewalk adjacent to the garage.

Officers C and D were positioned near the garage when they observed Subject 1 reach the side of the roof. They immediately ordered Subject 1 to get down and noticed he held a cellular telephone with his left hand, which he kept by his left ear as if he was talking on the telephone. Subject 1's right hand was completely secreted inside his right front waistband area. He ignored the officers' orders and walked back to another section of the roof.

Officers F, H, and I, along with Agent B, ordered Subject 1, both in English and Spanish, to get down and to show his hands. Subject 1 failed to comply. Instead, he continued to hold the cellular telephone with his left hand, which at times he would bring up close to his left ear, creating the impression he was talking to someone. Other times, Subject 1 looked down at the cellular telephone's screen and appeared to manipulate it with his fingers as if he was dialing. Subject 1 maintained his right hand inside the right front

section of his waistband. His right hand was pressed against the fabric of his pants which gave the officers the impression he was concealing a weapon. Subject 1 appeared nervous and agitated and constantly looked around, pacing back and forth.

Subject 1 appeared disoriented and as if he was talking to himself. From Officer I's position, he could not understand what Subject 1 was saying but described him pacing back and forth and talking on the telephone. Subject 1 appeared to be upset and responded to the officers' orders by saying, "Fuck you, I don't want to talk."

According to Agent B, the protrusion of Subject 1's right hand inside the pants was a clear threat. He observed Subject 1 place the cellular telephone to his left ear and heard him say, "Hey baby, I'm calling to say goodbye baby."

Note: All of the officers and agents present at this incident were aware of the circumstances of the murder case which involved Subject 1, in addition to the fact a firearm was used during the crime and that he was considered armed and dangerous. The officers were also aware that Subject 1 had made references to obtaining a gun and using it against law enforcement officers.

Subject 1 continued to refuse to comply with the officers' verbal commands. Instead, he quickly moved toward them and moved his right hand, at which point in the officer-involved shooting (OIS) occurred. The following describes the perceptions and actions taken by each of the officers; however, the order in which they are listed does not represent the sequence in which the officers discharged their weapons, since the shooting happened simultaneously:

Note: The OIS was videotaped by an unidentified citizen and was later broadcast on a local channel newscast.

Since Subject 1 refused to comply with the officers' commands, Agent A requested that bean bag be deployed. Officer D responded to the request and retrieved his bean bag shotgun from his vehicle. Officer D handed the bean bag shotgun to Detective B who immediately walked back toward Subject 1. Detective B chambered a round into the bean bag shotgun and immediately Subject 1 walked from one side of the roof to the other. The OIS occurred as Detective B was approaching Subject 1's location.

Officer I initially stood on a small flower bed at the corner of the cinder block wall. This elevated position allowed him to not only observe Subject 1 but to see into the rear yard where Agent B was standing. After a few moments, the bricks of the flower bed collapsed and Officer I moved to the sidewalk next to Officer H. From this position Officer I could still see Subject 1 without obstruction. Subject 1 had his right hand inside his right front pants pocket. Officer I observed what appeared to be the outline of a handgun in the pants fabric and he believed Subject 1 was armed with a handgun inside his pocket. Subject 1, with his right hand inside the right pants pocket, moved his right leg forward and lifted his right hand upward (still inside the pocket). Immediately,

Officer I heard a gunshot and formed the opinion the gunshot came from Subject 1. Officer I believed Subject 1 had lifted his right hand in order to give him an angle to shoot toward the officers instead of shooting down at the ground. In immediate defense of his life and the life of the officers near him, Officer I raised his service pistol, aimed at Subject 1's center body mass, and fired at Subject 1. Officer I believed he fired a total of nine rounds.

Officer I assessed as he fired the rounds and attempted to see if Subject 1 dropped the gun, lifted his hands up or went down. Subject 1 did not go down and although Officer I did not hear any additional shots from Subject 1, he firmly believed Subject 1 had a gun on his person and that he was going to try to shoot the officers again. Officer I indicated that as long as Subject 1 was standing with his right hand concealed, he remained a threat.

Officer I conducted a speed reload while looking at Subject 1 and noticed he had gone down on his stomach, with his right hand tucked under his body. From his position, Officer I could see the right side of Subject 1's body but not his right hand. Officer I believed Subject 1's right hand was outside the pocket and he was trying to push himself up with his forearm. Officer I did not know if Subject 1 had been hit or had dropped down to avoid getting shot.

Officer I stated that he believed the only reason Subject 1 tried to push himself up was to continue to shoot at them. Officer I aimed his pistol at Subject 1's center body mass and fired one additional round. Officer I then heard Officer F yell, "Assess, assess, assess." Officer I assessed, observed Subject 1 was no longer a threat, decocked his pistol and holstered it. After the shooting, since the scene was not secured, Officer I picked up the empty magazine he had dropped and placed it in his tactical vest.

Officer H stood between Officers I and F on the sidewalk looking over the cinder block wall at Subject 1. Officer H indicated that Subject 1 kept his right hand inside his right front pants pocket. Subject 1 held some type of hard object with his right hand and pressed it against the pants causing Officer H to see the outline of the object in the pants fabric. Officer H believed the object Subject 1 held was a small caliber weapon. After failing to comply with the officers' commands, Subject 1 walked toward Agent B. Subject 1 stepped forward with his right leg, leaned his upper body backwards and to his left, and lifted his right hand, while still inside the pocket. At the same time Subject 1 made this motion, Officer H stated that he heard a gunshot emanating from Subject 1's pocket area and observed what appeared to be muzzle flash. In fear for his life and the life of the other officers present, Officer H raised his pistol and fired five consecutive rounds at Subject 1, while yelling at Subject 1 to "stop." He assessed after the fifth round and observed Subject 1 lying down on the roof with his hands still moving.

Officer H was not sure how many rounds he fired; however, he knew his pistol had an ammunition capacity of eight rounds in the magazine and one in the chamber. In the event he had to re-engage Subject 1, Officer H conducted a speed reload and assessed again. At that time, Subject 1 was on his left side with his right hand still moving.

Officer H believed Subject 1 was still armed and still posed a threat so he fired three additional consecutive rounds at Subject 1.

Officer H assessed and observed Subject 1 still lying down on his left side on the roof making no additional threatening movements.

Officer H subsequently picked up the partially loaded magazine he had dropped when he conducted the speed reload. As he did this, a live round ejected from the magazine. Officer H placed the partially loaded magazine in his left rear pants pocket and left the ejected live round on the ground.

Officer F stated that Subject 1 kept his right hand inside his front waistband area and refused to comply with the officers' commands. At times, Subject 1 cursed at the officers who continued to yell orders. Subject 1 then took two steps toward Officer F and said, "Fuck you guys." At the same time Subject 1 leaned back, he pushed his hips forward. Officer F stated that he heard a gunshot emanating from Subject 1 and observed what appeared to be the shape of a handgun underneath Subject 1's waistband area. Officer F formed the opinion Subject 1 had fired at him from a gun he kept in his right hand. Officer F had maintained his pistol pointed at Subject 1 and, when he heard the gunshot, he immediately fired what he believed were ten consecutive rounds at Subject 1.

Note: The investigation revealed that Officer F fired 13 rounds during this initial sequence of fire.

Officer F assessed between the rounds and observed Subject 1 still advancing toward him. Officer F believed Subject 1 was still a threat and was not going down. Officer F conducted a speed reload, assessed, and observed that Subject 1 still standing. Officer F fired what he believed were two additional rounds at Subject 1.

Note: The investigation revealed that Officer F fired five rounds during the second sequence of fire and a total of 18 rounds during the incident.

Officer F assessed the situation and observed that Subject 1 was no longer a threat. Subject 1 fell to his knees, then onto his left side with his right hand tucked underneath his torso. Officer F ordered Subject 1 to show his hands but observed no movement. He heard someone request a rescue ambulance (RA) to respond and then he holstered his pistol.

Agent B was standing in the backyard area using the corner of the residence as cover. He attempted to deescalate the situation by making eye contact with Subject 1 and also tried to reason with him.

Agent B noticed that Subject 1 made another telephone call which appeared not to go through. His facial expression changed, and Subject 1 appeared to become more aggravated. Subject 1 maintained his right hand inside his waistband area as if he was

holding an object. Agent B raised his rifle again and aimed it at Subject 1. Subject 1 made eye contact with him and said, "I'm not talking to you! Fuck you!" Subject 1 made a fast motion with his right hand, leaned his upper torso back and pushed his right hand toward Agent B. Agent B stated that he heard a "pop" coming from where Subject 1 was located. Believing Subject 1 had fired at him, Agent B moved his rifle's selector lever to the semiautomatic function and fired at Subject 1. Agent B fired until Subject 1 was no longer a threat. Believing Subject 1 had fired directly at him, Agent B immediately searched for the impact of Subject 1's round along the wall and surrounding area where he had been standing, but found no bullet impacts.

Note: The investigation revealed that Agent B fired a total of 22 rounds.

After the OIS, Officer G broadcast a request for an RA unit to respond to the scene. Officer J notified the station and requested units to respond to assist securing the scene.

Since Subject 1 was not in custody, the officers maintained their positions until Fire Department personnel arrived and provided a ladder to access the roof. Although Subject 1 was not moving, he was believed to still be armed. Officers A, C, and D, followed by Detective C, climbed the ladder to the roof. Officer A handcuffed Subject 1 and Officer D conducted a quick pat down search for weapons; however, none were located. The paramedics then conducted their medical assessment and determined that Subject 1 was dead.

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 made the following findings.

A. Tactics

The BOPC found Detective C's tactics, along with those of Officers F, H, and I, to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found the drawing and exhibition of a firearm by Detective C, along with the drawing and exhibition of a firearm by Officers F, H and I, to be in policy.

C. Lethal Use of Force

The BOPC found Officers F, H, and I'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. Tactical Planning

In this instance, the three agencies involved in this incident did not have an all-inclusive brief prior to the contacting Subject 1. However, a brief was conducted regarding the surveillance of a location that possibly contained Subject 1. To augment the active personnel, additional personnel were advised during a separate brief that they would assume the role of containment and arrest team if necessary. In the event that Subject 1 refused to submit to an arrest, Detective C would notify a specialized unit regarding a possible barricaded subject.

Operational success is directly related to proper planning, thus minimizing unforeseen obstacles. Detective C was aware of the operations plan as it related to all involved personnel. Furthermore, Detective C directed Officer E to complete an operations plan for all personnel assigned to the incident. Consequently, all personnel assigned to the incident were aware of their designated assignments relative to the apprehension of Subject 1.

In this case, while the BOPC was comfortable that all personnel were briefed and fully aware of the critical roles of the operation, it would have preferred that an all-inclusive brief had taken place to ensure that each involved person was fully aware of the roles and responsibilities of the others.

In evaluating the officers' actions, the BOPC determined that based on the totality of the circumstances, their actions did not represent a substantial deviation from approved Department tactical training. However, Detective C is reminded that communication is paramount to officer safety. Including all personnel assigned to an operation in a single brief ensures that each entity is cognizant of their roles as well as those operating around them.

2. Utilizing Cover

In this instance, the tactical situation was fluid and dynamic. Subject 1 had jumped several fences and climbed onto the roof of a detached garage. With the assistance of the air unit, Officers F, H and I were able to effectively contain

Subject 1. In addition, Officers F, H and I utilized available cover by standing behind a cinderblock wall near Subject 1.

Officers F, H and I were faced with a situation that was rapidly unfolding and responded to Subject 1's attempt to escape by positioning themselves behind a cinder block wall. Subject 1 maintained the advantage by the mere fact that he had a higher vantage point while standing on the detached garage. Officers F, H and I were forced into a position that afforded ample cover while still maintaining a line of sight. This essentially eliminated any opportunity for Subject 1 to jump onto the ground and potentially escape into the residential neighborhood.

In this case, while the officers could have sought better cover relative to Subject 1's position on the roof, the BOPC determined that Officers F, H and I's actions of taking cover behind the cinderblock wall did not represent a substantial deviation from approved Department tactical training. Officers F, H and I utilized the best available option that enabled them to effectively cover, communicate, and contain Subject 1.

3. Command and Control

In this instance, Detective C was the Officer in Charge (OIC) of the tactical portion of the operation. Detective C was instrumental in devising the tactical plan to take Subject 1 into custody after the OIS. Detective C responded to Officers F, H and I's location and verified their status. Detective C was advised by Officers F, H and I that they were involved in an OIS. Detective C separated the involved officers and advised them not to speak to each other. Eventually, Detective C, accompanied by Officers A, C and D ascended the garage roof and took Subject 1 into custody.

Detective C became directly involved ascending onto the rooftop and taking Subject 1 into custody. Although Officers F, H and I were properly separated, the scene was not fully secured. Various tasks required immediate attention. The target location had not been searched and logistical concerns had not been addressed.

In this instance, Detective C did not make required notifications regarding medical treatment. Additionally, the immediate area required canvassing to ensure that the surrounding area did not have any additional victims as a result the amount and angle of the involved officers' gunfire.

In evaluating Detective C's actions, the BOPC would have preferred that Detective C made the necessary notifications. However, based on the dynamic circumstances involved, the BOPC determined that based on the totality of the circumstances, Detective C's actions, relative to command and control, although not optimal, did not represent a substantial deviation from approved Department tactical training.

- The BOPC additionally considered the following:

- Reasonable suspicion

In this instance, a traffic stop was conducted on Subject 4 after he left the location. Subject 4 was cooperative and indicated that Subject 1 was inside the residence. Subject 4 was subsequently detained pending an investigation regarding his involvement regarding harboring a fugitive. Additionally, all occupants of the target location were detained pending the outcome of the harboring a fugitive investigation. The investigation determined there was insufficient evidence to charge any of the individuals with harboring Subject 1. The individuals were released at the conclusion of their interviews.

- Los Angeles Police Department/Outside Agency Protocols

In this instance, Agent B placed himself into the tactical scenario involving a murder subject who was believed to be armed and in a position that potentially left him exposed when an OIS occurred. The involved LAPD officers were unaware of the outside agency's tactical protocol specific to containment, arrest, or their deadly force policy. The integration of various law enforcement personnel into a tactical situation, may create concern regarding possible conflicting tactics and use of force standards and policies. The BOPC fully appreciated the critical relationships between the Department and the various outside law enforcement agencies, and realized the significant value of such joint operations. However, as there is often room for improvement in such joint operations, the BOPC directed that the Department evaluate the processes involved, including the participation in joint Tactical Training and Debrief sessions. Accordingly, the Department will extend an invitation to Agent B to attend the Tactical Debrief for this incident

- Profanity

Witness A stated when she was exiting the residence that an unidentified officer used profanity as he directed her to the ground. In addition, when she was placed at the rear of the police vehicle, the same officer pushed her against the vehicle. The allegations of inappropriate language and being pushed were documented and forwarded to Internal Affairs Group (IAG).

The BOPC directed that these topics 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. Each tactical incident inherently results in considerations for improvement. Each incident must be looked at objectively and the areas of concern must be evaluated based on the totality of the circumstances.

The BOPC recognizes how unique the circumstances involved in this case are, – including the involvement of the outside law enforcement agency in the joint operation. The BOPC considered those circumstances in conducting their review and in making their recommendations. In this assessment, the BOPC believed that all personnel involved worked well together, in a coordinated effort, to locate a wanted homicide subject. Furthermore, their efforts resulted in their successful containment of the subject in a timely manner.

Regarding the tactics of all personnel, the BOPC agrees that there are identified areas for improvement; however, the tactics utilized did not substantially and unjustifiably deviate from approved Department tactical training.

In conclusion, the BOPC found Detective C's tactics, along with those of Officers F, H, and I, to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- In this instance, Detective C, along with Officers F, H, and I, responded to the location of an identified murder subject wanted in connection with a double homicide. The above personnel had previously attended a briefing regarding the operation and the facts surrounding the case.

Furthermore, Detective C, along with Officers F, H, and I, were informed that the weapon utilized in the homicide was a handgun. Consequently, Detective C, along with Officers F, H, and I, arrived at the residence and drew their service pistols.

Officer I

Officer I recalled knowing from past experience that if there was one gun inside a house, there were likely more guns. Officer I unholstered, knowing that Subject 1 was wanted for murder.

Officer H

Officer H recalled that he unholstered his weapon on the initial approach due to the information the officers had on Subject 1. Subject 1 was wanted for two murders. The officers had information that Subject 1 was inside the residence and trying to obtain guns. Officer H believed the situation would lead to a deadly use of force situation.

Officer F

Officer F recalled that he unholstered his weapon, knowing that Subject 1 could come in his direction and that he was dealing with a murder subject.

Detective C

Detective C stated the reason he drew his service pistol was because there was a subject that was wanted for a double murder, and a gun was used in the murder. Also, Detective C indicated that he wasn't sure whether Subject 1 was going to comply and come out or fight or barricade himself.

Based on the totality of the circumstances, the BOPC determined that officers with similar training and experience as Detective C and Officers F, H, and I, faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation might escalate to the point where deadly force may be justified.

In conclusion, the BOPC found the drawing and exhibition of a firearm by Detective C, along with the drawing and exhibition of a firearm by Officers F, H and I, to be in policy.

C. Lethal Use of Force

- **Officer F** (pistol, eighteen rounds)

In this instance, Officer F observed Subject 1 on the rooftop of the detached garage located at the target location. Officer F moved behind a cinder block wall and observed Subject 1 holding a cellular telephone in his left hand while holding his right hand in his waistband. Officer F, with negative results, verbalized with Subject 1 to raise his hands and get off the roof.

Officer F recalled that Subject 1 responded, "Fuck you guys. I'm not getting off." Officer F also noticed that Subject 1 was on the phone. Officer F continued with his commands and formed the opinion that Subject 1 was holding a handgun in his right hand while concealing it inside his waistband.

After a few minutes, Subject 1 moved toward him, Officers H, I and Agent B and simulated a handgun. Simultaneously, Officer F heard what he believed to be a gunshot and formulated the belief that Subject 1 had fired the handgun that was concealed in his waistband at him and Officers H and I, as well as Agent B.

Officer F recalled that Subject 1 had his hand down his front waistband and advanced towards the officers. He simulated a handgun, and Officer F heard the popping sound of gunshots. Officer F indicated he saw the shape of a gun that he believed Subject 1 was holding underneath his waistband and that Subject 1 used the gun to fire one round towards the officers.

Consequently, Officer F fired approximately 10 rounds at Subject 1. Officer F conducted an in-battery speed reload and believed that Subject 1 was still armed and advancing toward him and his partners. Consequently, Officer F fired an additional two rounds at Subject 1.

Officer F recalled that the threat was still coming towards him. Officer F stated that he believed that Subject 1 was still gesturing that he was still armed and a threat to him. Officer F believed that he fired the initial ten rounds, conducted a speed reload and fired the additional two rounds prior to Subject 1 falling onto the roof. Officer F was asked why he stopped firing and Officer F recalled that there was no continuing threat to him, and he saw Subject 1 fall on top of the garage.

The BOPC recognized that discrepancies exist between Officer F's recollection of his sequence of fire and the other available evidence to be considered. Specifically, Officer F believed he fired 10 rounds, conducted a speed reload, and then fired an additional two rounds, totaling 12 rounds fired. However, based on the magazine counts and the casings recovered at scene, it was determined that Officer F fired 13 rounds, conducted a speed reload and then fired an additional five rounds, totaling 18 rounds fired.

A thorough and comprehensive review of the available video footage of the incident appears to establish that Officer F conducted the speed reload after Subject 1 fell to the roof; hence, Officer F fired his last five rounds not as Subject 1 was still standing but rather after Subject 1 had fallen to the roof.

The BOPC's analysis of Officer F's recall is based in part on well accepted and peer reviewed research into memory and recall during deadly force encounters. That research supports that traumatic incidents, such as deadly force encounters, will inevitably result in some degree of memory impairment. The actual impact that stress has on memory may vary from one individual officer to another and may vary depending on their role in the incident or physical position in the tactical environment.

In adjudicating prior CUOF cases, the issue of altered memory and or recall has been critical to the analysis of officer accounts. The BOPC considered this well founded phenomenon when considering the weight of Officer F's statement.

- **Officer H** (pistol, eight rounds)

In this instance, Officer H observed Subject 1 on the rooftop of the detached garage. Officer H issued commands to Subject 1 to raise his hands. Subject 1 failed to comply and kept his right hand in his waistband while attempting to use a cellular telephone with his left hand. Officer H, based on Subject 1's actions formed the opinion that Subject 1 was attempting to conceal a handgun in his waistband area while holding it with his right hand.

Officer H continued to verbalize with Subject 1 for approximately 3-4 minutes when Subject 1 began to walk down the roof toward the direction of Agent B who was positioned in the rear yard. Subject 1, while holding his right hand in his waistband area, leaned back and to the left and immediately heard a gunshot. Based on

Subject 1's movements, coupled with a single gunshot, Officer H surmised that Subject 1 had fired his handgun at him, as well as at Officers F and I and Agent B.

Officer H recalled seeing a movement and muzzle flash. As he was looking at Subject 1, Officer H was in fear for his life and the lives of his partners, so Officer H fired his weapon to stop Subject 1's actions.

Officer H fired five rounds from his service pistol, and Subject 1 fell onto the roof. As Subject 1 fell, he landed onto his left side, facing the officers with his right hand still beneath him. Officer H conducted a speed re-load and assessed the situation. Officer H believed Subject 1 was still armed and was moving his hands around. Based on the movements of Subject 1, Officer H surmised that Subject 1's right hand possessed a handgun and was still moving into a position to reengage Officers F, H and I and Agent B. Consequently, Officer H fired three additional rounds at Subject 1.

Officer H subsequently assessed the situation and determined that Subject 1 no longer posed a threat, so Officer H ceased fire.

The investigation revealed Officer H fired eight rounds during the incident.

- **Officer I** (pistol, nine rounds)

Officer I assumed a containment position on one side of the target location. Officer I observed Subject 1 standing on the roof with his right hand in his pocket. Officer I gave verbal commands in English and Spanish for Subject 1 to raise his hands.

Officer I verbalized with Subject 1 while Subject 1 held a cellular telephone in his left hand. Subject 1 was involved in a telephone call while holding his right hand in his waistband. Officer I opined that Subject 1 was utilizing his right hand to conceal a handgun in his waistband area.

Officer I believed that Subject 1 had some type of weapon and that he was holding onto it because he had sweatpants. Officer I indicated that subjects usually wear belts when they carry guns with sweatpants. Officer I knew Subject 1 had something inside his sweatpants that wasn't a cell phone because he saw the Subject's cell phone. Officer I had observed Agent B deploy to the rear yard of the target location while armed with his rifle.

Based on the above observations made by Officer I, he believed Subject 1 had fired at him, Officers H and F, or Agent B. In defense of his life and the lives of Officers F, H and Agent B, Officer I fired at Subject 1.

Officer I indicated that he could not say whether Subject 1 was aiming at him or at his partner, but he could say that Subject 1 was aiming at the group of officers generally.

Officer I fired eight rounds from his service pistol. Officer I conducted a speed reload and assessed Subject 1's actions. Officer I observed that Subject 1 had fallen onto his left side with his right hand concealed under his body. Officer I believed that Subject 1 was attempting to raise himself into a position where he could continue shooting the handgun at him, Officers F and H or Agent B. Consequently, Officer I fired one additional round at Subject 1.

Officer I observed that Subject 1 discontinued his movements and surmised that the threat posed by Subject 1 had ceased. Consequently, Officer I holstered his service pistol.

- **Agent B** (rifle, 22 rounds)

Regarding the actions of Agent B, an independent assessment of his involvement was conducted by that agency based on the outside agency's policies and procedures. Agent B provided a signed, sworn statement regarding the incident which was made available to the Department.

In reviewing this case with regards to Department personnel, the BOPC conducted a comprehensive and objective assessment of the actions of each officer involved in this incident - in light of the facts known to them (individually) at the time they fired their weapons. The BOPC also reviewed the video recordings of the incident and all information pertaining to the trajectory and impact points as well as other available evidence, including the statement provided by Agent B.

In reviewing the case, the BOPC also considered the findings of the Coroner and content of the Autopsy Report. The Report identified that Subject 1 sustained two fatal gunshot wounds to the head. After a complete review of the evidence including the videos, wound track analysis, movements by Subject 1 and the positioning and perceptions of each officer, the BOPC agreed that it cannot be determined when the fatal rounds occurred or what Subject 1's position was when they were fired. Therefore, the findings and opinions of the Coroner do not refute the available evidence.

Consequently, in assessing the lethal force used by Officers F, H, and I, the totality of the available evidence was evaluated to determine the objective reasonableness of each officers' actions and did not solely rely on the events as depicted by each individual officer. The BOPC agreed that an officer in their individual circumstance, with similar training and experience, would reasonably believe that Subject 1 posed an imminent threat of death or serious bodily injury and would have used deadly force. The BOPC determined that the lethal force used by Officers F, H, and I was objectively reasonable and within Department policy.

In conclusion, the BOPC found Officers F, H, and I's use of lethal force was objectively reasonable and in policy.