

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

**OFFICER-INVOLVED SHOOTING – 039-19**

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

Pacific                      8/14/19

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

Officer A                      3 years, 3 months  
Officer B                      1 years, 10 months  
Officer F                      3 years, 9 months  
Officer G                      2 years, 5 months

**Reason for Police Contact**

Officers responded to a radio call for a screaming man. Upon their arrival, the officers observed the Subject holding a glass bottle and a padlock. The officers ordered the Subject to put down the objects, but he did not comply with their commands. The Subject ultimately picked up a wooden board and advanced toward the officers resulting in an Officer-Involved Shooting (OIS).

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

Subject: Male, 37 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 suspect 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 Office of the Inspector General. The Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on July 14, 2020.

## **Incident Summary**

On August 14<sup>th</sup> at approximately 0930 hours, Witness A stated that she observed the Subject and an unidentified female engaging in possible narcotic activity outside of her residence.

According to Witness A, she approached the pair and asked them to stop the activity. The Subject apologized to Witness A. Witness A reported the incident to the property owner, Witness B. According to Witness A, the Subject had been living outside in the parking area for approximately five months, with Witness B's permission.

According to Witness A, she returned home with her roommate, Witness C, at approximately 1600 hours. Upon their arrival, Witnesses A and C observed Witness B having a conversation with the Subject in the parking area. Shortly thereafter, the Subject started behaving erratically and was drinking from a bottle of liquor. According to Witnesses A and C, the Subject began running around, hitting trashcans, throwing objects and screaming. At one point, Witness A heard the Subject yell, "Call the cops on me; I don't care."

According to Witness B, he granted the Subject permission to store items and sleep in the parking area adjacent to his residence and the Subject had been doing so off and on for approximately one year. On the day of this incident, he was notified by Witnesses A and C that the Subject was using narcotics. Later that afternoon, Witness B heard the Subject shouting in the alleyway. He went outside and discovered that the Subject had been drinking alcohol and appeared to be intoxicated. According to Witness B, he attempted to convince the Subject to lay down and go to sleep; however, his efforts were unsuccessful.

At approximately at 1739 hours, Witness D was inside his residence when he heard a man yelling, "Don't shoot me, don't shoot me." Witness D called 9-1-1 and reported the incident. At the time of the incident, Witness D had a security camera affixed to the exterior of his residence. Witness D observed the Subject jumping up and down, hitting objects, and screaming while running back and forth.

At approximately 1743:42 hours, Communications Division (CD) broadcast on the police radio the call relating to a screaming man at the location.

Pacific Area Police Officers A and B advised CD they would handle the call. Both officers activated their Body Worn Video (BWV) and responded to the location with emergency lights and siren (Code 3).

According to Witnesses A and C, they heard sirens and looked out their kitchen window. According to Witness C, the Subject ran toward the main road, in the direction of the sirens, while holding the bottle of liquor in his hand.

According to Witness B, he heard sirens while he was speaking with the Subject. The Subject heard the sirens and then started running toward the main road. According to Witness B, he tried to dissuade the Subject from approaching the police but he did not follow Witness B's advice and continued running toward the main road.

At approximately 1748:22 hours, Officers A and B arrived at scene. As the officers drove on the main road toward the alley where the Subject was located, their Digital In-Car Video System (DICVS) captured the Subject standing and yelling, which caused them to believe the Subject may be the suspect described in the radio call. Officer B updated his/her status and location (Code Six) via his/her Mobile Data Computer (MDC). According to Officer B, the Subject was standing in the middle of the street, walking in and out of traffic.

Officer A turned left into the driveway leading to the alley. As he/she did so, the Subject approached the driver's side of the officers' vehicle. As captured by BWV, Officer A ordered the Subject to back up. Officer B noted that the Subject was holding a bottle in his hand and advised his/her partner of his/her observations. Officer A negotiated a three-point turn and pulled along the curb of the main road, just south of the alley.

Officer B partially rolled down his/her window, at which time both officers ordered the Subject to back up. Officer A reversed a short distance to create space between themselves and the Subject before placing their vehicle into park.

Officer A exited the vehicle first in order to divert the Subject's attention away from the police vehicle, to allow Officer B the opportunity to exit safely. Officer A walked around the rear of the police vehicle, at which time the Subject walked in a northerly direction. Officer B then exited the vehicle. As captured by BWV, the Subject was holding both a beer bottle and padlock in his right hand. As Officer B exited the vehicle, his/her BWV captured the Subject state, "Hey, you get to kill me today."

Officer A ordered the Subject to put the bottle down multiple times, but the Subject did not comply with his/her commands. Officer A positioned himself/herself on the north side of the alleyway and Officer B positioned himself/herself on the south side. Officer A directed Officer B to request an additional unit and a supervisor.

At approximately 1749:35 hours, Officer B requested an additional unit and a supervisor respond to their location. Sergeant A and Officer C heard the broadcast and advised CD that they would respond.

Police Officers D and E advised CD they were also responding to the additional unit request.

As captured by BWV, the Subject repeatedly asked the officers, "What's a real blunt?" Officer A continued verbalizing with the Subject and advised him the officers just wanted to make sure he was okay. Officer A ordered the Subject to put the bottle and padlock down, but he did not comply with the commands. While speaking with the Subject,

Officer A observed a short brick wall, waist high on the north side of the alleyway. Officer A positioned himself/herself behind the wall, so he/she could utilize it as cover.

The Subject turned away from the officers and walked on down the alley. As he did so, the Subject yelled incoherently and swung the bottle and lock back and forth above his head. Officer A observed citizens standing in the alleyway just west of the Subject and was concerned for their safety. Officer A directed the citizens to go inside their residence. According to Officer A, some of the citizens elected to remain outside.

Officer A wanted to keep the Subject away from the beach, where there was heavy pedestrian traffic. Therefore, Officers A and B walked slowly behind the Subject. Officer A walked along the north side of the alleyway while Officer B walked along the south side.

After walking a short distance, the Subject turned around and walked toward Officer A. Officer A unholstered his/her TASER and pointed the TASER toward the Subject. Nearly simultaneously, Officer B unholstered his/her pistol which he/she held in a two-handed, low-ready shooting position, with the muzzle pointed toward the Subject. According to Officer B, he/she unholstered because he/she thought that the Subject was close enough to his/her partner where the Subject could throw the bottle at him/her and cause injury.

Officer A stepped back and as he/she directed the Subject to put the bottle down, he/she threatened to Tase the Subject. The Subject told the officers not to follow him and questioned whether they thought the TASER would hurt him. The Subject walked past Officer A, toward the main road as Officer A redeployed.

The Subject then walked west along the alleyway and proceeded to pace back and forth. Once the Subject backed away from Officer A, Officer B holstered his/her pistol. Officer A continued giving commands to the Subject to drop the bottle and directed Officer B to request a back-up.

At approximately 1750:15 hours, Officer B broadcast a back-up request and retrieved a 40-millimeter Less Lethal Launcher from his/her police vehicle. Officer B loaded the 40-millimeter launcher and pointed it toward the Subject. Officer B ordered the Subject to put what he was holding down.

The Subject, while still holding the glass bottle in his right hand, retrieved a cardboard box from a nearby trash bin. Officers A and B ordered the Subject to put down the box, but he did not comply with their commands. Instead, he threw the box in Officer B's direction. The Subject then walked toward Officer B while holding the bottle in his right hand at waist level.

Officer A, fearing the Subject was going to hit his/her partner with the bottle, aimed the TASER at the Subject's naval area and fired the TASER from an estimated distance of 15 feet. The TASER was ineffective against the Subject. According to Officer A, he/she

believed the TASER was ineffective because only one dart/prong contacted the Subject's chest area and the other prong missed altogether.

Officers A and B both ordered the Subject to get down on the ground, but he/she did not comply with their commands.

The investigation determined that Officer A did not issue a full use of force warning to the Subject. According to Officer A, the Subject's response when Officer A informed him that he was going to be tased, indicated that the Subject understood what a TASER did and what it could potentially do to him.

Multiple units ultimately responded to this incident. At approximately 1752:10 hours, Officers F and G arrived at scene. Officer G positioned himself/herself on the south side of the alleyway with Officer B, while Officer F stood in the main road, behind Officer A's vehicle. Officer A advised Officers F and G that he/she had already tased the Subject.

Nearly simultaneously, Sergeant A and Officer C also arrived at scene. Officer C broadcast to CD that they were both Code Six upon arrival.

According to Officer G, he/she observed the Subject holding a bottle in a raised, overhead position, as if he intended to throw or strike someone with it. Officer G believed the situation may escalate to the point where deadly force may be justified so he/she unholstered his/her pistol. As captured by BWV, Officer G ordered the Subject to drop the bottle multiple times. The Subject refused.

Officer G was cognizant of the background and noted that there were citizens near the Subject's location. Therefore, Officer G holstered his/her pistol and directed Officer B to fire the 40-millimeter launcher at the Subject. According to Officer B, the Subject was very jumpy and kept moving back and forth, therefore, he/she did not fire the 40-millimeter launcher at that time.

According Officer G, he/she wanted to have as many less-lethal options available as possible. Therefore, he/she retrieved a beanbag shotgun from his/her vehicle and rejoined Officer B. Officer G chambered a round in the beanbag shotgun, and Officer B advised him/her that there were citizens in the Subject's background.

Upon exiting the vehicle, Officer C observed the Subject holding a bottle in his hand. Officer C positioned himself/herself behind the wall on the north side of the alleyway. As captured by BWV, Officer C announced that the Subject was holding a bottle in his hand and unholstered his/her pistol. According to Officer C, he/she observed the Subject with a glass bottle in his hand, and believed that was a weapon that could cause great bodily injury to him/her or his/her colleagues.

Meanwhile, Sergeant A approached Officer A and enquired what was happening. Before Officer A responded, Sergeant A assigned him/her as the designated

cover/lethal officer. Officer A advised Sergeant A that he/she tased the Subject, who was currently armed with a bottle. Officer A believed the situation may escalate to the point where deadly force may be justified. Accordingly, Officer A unholstered his/her pistol, with the muzzle pointed toward the ground.

Sergeant A observed the Subject holding the bottle in his right hand, in a raised position and yelling at the officers. The Subject then picked up a black folding chair and held it in his left hand along his left leg. The Subject's demeanor caused Sergeant A to form the opinion that he was either under the influence of narcotics and/or suffering from mental illness. According to Sergeant A, the officers were not actively communicating with the Subject, therefore, he/she proceeded to give the Subject commands.

Sergeant A was aware that less-lethal options were available, as Officer G had a beanbag shotgun and Officer B was armed with a 40-millimeter launcher. Sergeant A then directed Officer C to retrieve a shield from their police vehicle. Officer C holstered his/her pistol and went to retrieve the shield. Sergeant A was concerned about containment/vehicular traffic, and therefore advised CD that he/she needed units to block the roads east and west of the alleyway from vehicular traffic.

Sergeant A reiterated to Officer A that he/she was the designated as the lethal officer. Officer A acknowledged his/her assignment. Sergeant A asked Officer A for the circumstances of the incident. Officer A advised Sergeant A that he/she tased the Subject, because the Subject threw a box and approached them with a bottle.

Sergeant A wanted to de-escalate the situation before the Subject had the opportunity to attack the officers with the bottle. According to Sergeant A, the officers were all focused on their assignments, the less-lethal and the lethal roles, and nobody was talking to the Subject. Sergeant A believed he/she could establish a rapport with the Subject, and therefore, assumed the role of contact officer. According to Sergeant A, he/she never considered delegating the role of contact to one of the officers at scene.

Sergeant A began verbalizing with the Subject and advised him that the officers just wanted to talk. The Subject walked down the alleyway, and then turned north, out of the officers' view. Shortly thereafter, Officer C returned with the shield and handed it to Officer A.

According to Sergeant A, his/her priority was to ensure that the Subject did not enter any of the nearby residences, jump any fences, or have the opportunity to take a hostage.

At approximately 1753:53 hours, Sergeant A, along with Officers A and C (shield/lethal), Officer B (40-millimeter launcher), Officer G (Beanbag Shotgun), and Officer F, walked west on the alleyway, in an attempt to locate the Subject. Sergeant A walked along the north side of the alleyway, slightly ahead of the officers, followed by Officers A and C. Officer A was holding the shield in his/her left hand and his/her pistol in his/her right hand, with the muzzle pointed toward the ground. Officer C also held his/her pistol in

his/her right hand with the muzzle pointed toward the ground. Officers B, F, and G walked along the south side of the alleyway.

As the officers made their approach, three men were standing on the south side of the alleyway, one of which was later identified as Witness B. Sergeant A asked the citizens if they knew the Subject's location. Two of the men pointed in a northwesterly direction. Officer B then directed the men to enter their respective residences.

The Subject appeared on the north side of the alleyway; still holding a bottle in his right hand. Sergeant A stopped approximately 35 feet east of the Subject's location and began communicating with him. Officer A positioned himself/herself to Sergeant A's left and held the shield in a raised position.

Sergeant A advised the Subject that the officers just wanted to make sure he was okay. Sergeant A ordered the Subject to put the bottle down. The Subject replied that he would be handcuffed if he put the bottle down. Sergeant A assured the Subject that nobody was going to hurt him and asked him to put the bottle down. The Subject picked up a makeshift slungshot that consisted of a blue bandana tied to a metal number eight and walked to the south side of the alleyway

The Subject stood beside a wooden fence that ran north/south and divided the parking areas. The Subject asked Sergeant A, "What's a real blunt dude?" Sergeant A then directed his/her officers to seek cover behind cars and/or structures. Officers A and C redeployed a short distance and sought cover behind a nearby vehicle. Officers B, F, and G moved a little closer to the structures located on the south side of the street. Officers B and G were positioned near the east side of a garage in the alleyway, and Officer F was positioned one house east of them.

Although Officer A was the designated cover/lethal officer, he/she holstered his/her pistol shortly after Sergeant A directed the officers to seek cover.

During this time, a vehicle attempted to drive east on the alleyway. Officer F motioned to the driver to back up, which they did. Officer F broadcast to CD, requesting the next unit at scene block eastbound traffic at the intersection of the alleyway and the next adjoining road to the west. Officers H and I advised CD they would handle Officer F's request and responded to the location with emergency lights and siren (Code Three).

Meanwhile, Sergeant A continued to verbalize with the Subject. The Subject rested his right elbow on top of the wooden fence, while holding the bottle in his right hand, and swinging the slungshot in his left hand. As captured by BWV, the Subject was yelling at the officers incoherently and making erratic movements with his body.

According to Sergeant A, he/she began asking questions directed to officers to assist him/her in determining if the Subject met the criteria for a potential mental evaluation hold. Sergeant A asked the Subject if he wanted to hurt himself today? The Subject responded by aggressively swinging the bottle and appeared to lose his balance, falling

on the ground just west of the wooden fence and out of the officers' view. As the Subject fell, the BWV captured the sound of glass breaking.

Sergeant A and the officers walked a few steps away, at which time the Subject reappeared. Sergeant A positioned himself/herself beside a wall to the east of the alleyway. The Subject rested his right arm on top of the wooden fence and held a piece of the broken bottle in his right hand and the slungshot in his left hand. Sergeant A ordered the Subject to put the bottle down, at which time the Subject threw the bottle on the ground. The bottle landed in the street and shattered, a few feet from where the Subject was standing.

The Subject then walked into the street toward the broken glass. Sergeant A ordered the Subject to stop, but he did not comply with the command. Officer B pointed the 40-millimeter launcher in the Subject's direction and ordered him to back-up. Simultaneously, Officer G pointed the beanbag shotgun at the Subject. The Subject picked up a piece of the broken glass and retreated behind the wooden fence.

Sergeant A provided the Subject with a complete verbal use of force warning for the beanbag shotgun. The Subject replied, "Nah, just kill me." Sergeant A advised the Subject that he/she did not want to kill him. The Subject replied, "I don't want to be around to save the world." Sergeant A attempted to establish a rapport with the Subject by asking his name multiple times. The Subject replied, "What's a real blunt?"

Sergeant A asked the Subject to put down the bottle so they could talk. The Subject refused, believing that he would just be handcuffed. Sergeant A advised the Subject that the officers would only handcuff him while they completed their investigation and offered to take him to hospital. During their conversation, the Subject was moving erratically, swinging the glass shard and slungshot. On a few occasions, the Subject struck the pavement with the slungshot, which emitted metallic sounds.

At approximately 1756:52 hours, Officers H and I arrived at scene and parked their vehicle on the road to the west of the alleyway. They controlled vehicle and pedestrian traffic at the location.

The Subject agreed to drop all the weapons if Sergeant A repeated, "A real blunt is not real." In an attempt to gain the Subject's compliance, Sergeant A repeated the phrase. Even though Sergeant A complied with his request, the Subject did not drop the glass or the slungshot.

Based on the Subject's behavior, Officer F formed the opinion that the Subject was possibly under the influence of narcotics and/or suffering from mental illness. According to Officer F, the Subject was sweating, pacing back and forth, would not make eye contact, would not hold a conversation with the officers. They were unable to build a rapport with the Subject.

During this time, Sergeant B arrived at scene and took a position of cover behind a parked vehicle, to the right of Officer C. Officer C informed Sergeant B that the Subject was armed with broken glass and a metal object (slungshot). Officer C then holstered his/her pistol.

According to Sergeant A, he/she believed he/she had sufficient units at scene and advised CD to downgrade the response of any additional responding units. After Sergeant A completed his/her broadcast, the Subject asked, "Are you calling back-up?" and walked in a northeasterly direction across the alleyway. In response to the Subject's actions, Officers B and G repositioned toward the side of the alleyway and Officer F redeployed and stood beside a garage in the alleyway. According to Officer F, at that time, they attempted to triangulate the Subject.

The Subject, who was still armed with the glass shard and slungshot, started jumping up and down and moved in Sergeant A's direction. Officer C unholstered his/her pistol and took cover behind a brick wall.

Officer G yelled at the Subject to get back. Simultaneously, Sergeant A directed Officer G to fire the beanbag shotgun at the Subject. Sergeant A estimated that the Subject got within approximately 15 to 20 feet of him/her.

The Subject stopped advancing toward Sergeant A and directed his attention toward Officers B and G. The Subject looked in the officers' direction and yelled obscenities while swinging the slungshot. According to Officer G, he/she did not fire because as the Subject was advancing towards them, he did stop approximately 15 to 20 feet away and then slowly started backing up.

At approximately 1757:48 hours, the Subject walked toward his encampment, which was located in the parking area, of one of the residences in the alleyway. The Subject placed the glass onto the ground and picked up a wooden board. The Subject gripped the slungshot in his left hand, while holding the wooden board in front of his body with both hands. The Subject then walked in a southwesterly direction toward Officer F.

According to Officer F, "As soon as the Subject picked up the wooden board and started walking towards my sergeant is when I unholstered my weapon, due to me believing the situation may arise to the point where deadly force may be justified." Officer F unholstered his/her pistol and held it in a two-handed, low-ready position, with his/her index finger along the frame. Officer F pointed the muzzle in a westerly direction, toward the Subject. According to Officer F, he/she did not have any immediate cover available to him/her.

As the Subject crossed the alleyway, Officers B and G began side stepping toward the side of the street. Sergeant A warned the Subject that if he took another step toward the officers, he would be shot with the Beanbag Shotgun. The Subject kept walking at which time Sergeant A stated, "Beanbag him" Officer G replied, "Beanbag ready!"

The Subject crossed to the south side of the alleyway and positioned himself in the parking area just west of a garage in the alleyway. The Subject aggressively side stepped toward Officer F, while holding the wooden board in a raised position. The Subject walked to the southwest corner of the structure, looking in Officer F's direction. According to Officer F, the Subject appeared to be utilizing the structure as cover.

Officer F ordered the Subject to stop and get back multiple times, but he did not comply. Instead, the Subject yelled more obscenities. As Officer F repeated his/her commands for the Subject to get back, the Subject yelled, "No!" and stepped toward Officer F, while holding the wooden board.

According to Officer G, the Subject picked up the wooden board and walked rapidly toward Officer G and Officers B and F. Officer G observed the Subject raise the board above his head as if he were going to swing it. According to Officer G, "And at that point, based on the - - the Subject's actions and the - - the immediate threat of violence, I - - I thought that the suspect needed to be hit with the - - with the beanbag." Officer G aimed the beanbag shotgun at the Subject's naval area and fired one round, also in a westerly direction from an approximate distance of 20 feet. After firing the beanbag shotgun, Officer G cycled the action, chambering a new round.

According to Officer F, "And there is a little uphill incline. And that's where I pretty much set the threshold. If he passes this, he's -- it's pretty much saying that he wants to use his weapon towards us, because if he backs away from his cover, he's no longer going to dip in and out of that. He's coming towards us at that point. I tell him to back off two more times. He takes two more steps towards me. And he has the -- the wooden plank still elevated. And at that time is when I shot approximately two rounds."

As further described by Officer F, "My mindset was that he's -- his demeanor is that he wants to hurt one of us. I'm thinking what they teach us, I know in immediate defense of life, coming toward us, I want to protect me and my officers. If you're an officer holding a -- a shotgun or a beanbag, you don't have access to any other tools. You don't have that time. And in that situation, we didn't have the distance, because we were preventing him from further maybe hurting someone or going to someone's alley. So at that point, I was not able to transition to a Taser. The Taser was already ineffective at that point. So my mentality was I'm going to protect myself and my officers, fellow officers, from this suspect that's been told to back off, put down a piece of wood, and he continues to charge us, leave his cover, and approach us with a wooden object in a position where he could easily swing it towards us." When Officer F was asked whether he/she believed that the wooden object held by the Subject could have caused great bodily injury if it hit someone, Officer F replied, "Yes. Serious bodily injury like concussion, loss of consciousness, extensive -- extensive suturing. I mean, disfigurement, obviously, if you get hit with that piece of wood in the face."

Officer F fired two consecutive rounds at the Subject in a westerly direction from an approximately distance of approximately 12 feet. As a result, the Subject sustained gunshot wounds to his left arm and left thigh; however, he remained standing.

Sergeant A's BWV footage shows the Subject stopping his advance toward the officers and ducking behind the corner of a garage in the alleyway. The Subject then holds the plank in a vertical position with both hands in front of his body, close to his chest. Approximately four seconds later, the Subject takes two small steps towards Officer F, at which time the OIS occurs.

In describing the Subject's actions at the time the OIS occurred, Sergeant B believed that the Subject was holding the wooden board in a manner designed to block the rounds like a shield.

According to Officer B, he/she believed the wooden board the Subject was armed with could possibly have nails protruding from it. He/she feared that if the Subject swung the board, an officer could get stabbed by a nail. According to Officer B, the Subject was behaving violently and made a sudden movement, appearing as if he was going to charge at them with the wooden board. Officer B fired one round from the 40-millimeter launcher, at the Subject from approximately 16 feet.

Sergeant B yelled, "Reload, reload!" at which time Officer B removed the spent cartridge, dropped it on the ground, and placed a fresh round in the chamber.

The deployment of the Beanbag Shotgun, 40-millimeter launcher and the OIS were nearly simultaneous to one another. Officer B did not provide a verbal use of force warning prior to firing the 40-millimeter launcher at the Subject. According to Officer B, he/she previously heard Sergeant A provide the Subject with a use of force warning for either the beanbag shotgun or the 40-millimeter launcher. Officer B believed the warning provided by Sergeant A was sufficient.

Immediately following the OIS, the Subject stumbled backward and retreated in a southwesterly direction. Officer F verbally advised the officers at scene that an OIS occurred. The Subject began walking across the alleyway.

According to Sergeant A, he/she heard two shots, nearly simultaneous to one another, and believed they emitted from the beanbag shotgun and 40-millimeter launcher. Sergeant B observed the beanbag shotgun and 40-millimeter launcher get deployed, however, did not see Officer F fire his/her pistol. Sergeants A and B were both unaware that an OIS had occurred. Sergeant A requested an officer with a TASER and advised Officer G to be prepared to fire the beanbag shotgun again. Officer C holstered his/her pistol and assumed the role of TASER officer.

Officers J, K, L, and M arrived at scene just prior to the OIS. Officer M retrieved their 40-millimeter launcher from his/her vehicle prior to exiting. Officers J, L, and M began walking toward the location as Officer K retrieved a 12-gauge Shotgun from his/her police vehicle. Shortly thereafter, his/her BWV captured the sound of three shots being fired. Officer M then loaded a round into the 40-millimeter launcher and positioned himself/herself on the south side of the alleyway with Officer F.

At approximately 1758:15 hours, Officer F broadcast a help call and advised that shots had been fired.

As the Subject crossed the alleyway, he yelled and dropped the wooden board in the middle of the alleyway. The Subject then picked up the wooden board and walked toward his encampment. Sergeant A directed Officer G with the beanbag to get ready again, and for an officer to be ready with the TASER. Sergeant A then provided the Subject with a verbal use of force warning for a TASER.

According to Officer C, as a de-escalation technique, he/she removed the TASER cartridge from his/her TASER and pulled the trigger, causing it to make a clicking sound (spark check). While the spark check was in progress, Officer G ordered the Subject to get back and drop the board multiple times, but he did not comply.

As Officer K proceeded west on the alleyway, he/she disengaged the safety on the shotgun, then re-engaged it. According to Officer K, he/she was double checking it, to make sure the safety was engaged.

Sergeant B, still unaware that an OIS had occurred, picked up the discharged 40-millimeter cartridge case as well as the beanbag round and discharged beanbag shotshell. According to Sergeant B, he/she recovered these items to preserve them as evidence.

Sergeant A and Officer F continued giving commands to the Subject, ordering him to drop the board and get down on the ground. The Subject did not comply with their commands. Sergeant A advised the Subject that he looked injured and that he/she wanted to take him to the hospital. Officer F observed blood on the Subject's left leg and assumed he had been struck by the gunfire. Officer F recommended that the officers request a Rescue Ambulance (RA) to respond to their location. It was at this approximate time that Officers N and O arrived at the location.

At approximately 1759:17 hours, Sergeant A requested a RA for the Subject, advising that he had been shot with a beanbag shotgun. Officer F immediately informed Sergeant A that an OIS occurred and the Subject had been shot on the leg. Sergeant A advised CD that the Subject sustained a gunshot wound to the leg.

Officer J positioned himself/herself to the left of Officer B and unholstered his/her pistol. According to Officer J, he/she believed based on the tactical situation that it may escalate to the point where deadly force may be justified.

Officer G ordered the Subject to come out with his hands up and directed him to drop whatever was in his hands. The Subject responded by throwing the slungshot into the middle of the alleyway. Officer G asked the Subject to turn around and face away from them. The Subject reached down and picked up an object from the ground. Sergeant A advised the Subject to get down on the ground so they could get him help and provide medical attention.

The Subject moved further north into his encampment and out of the officers' view. Officer F ordered the Subject to step out and walk toward the alleyway. The Subject did not comply with the commands. Officer N approached Sergeant B and asked if he/she would like a police vehicle brought to their location. Sergeant B agreed and directed Officer N to retrieve his/her vehicle.

Officer N drove his/her police vehicle west on the alleyway and parked near parallel to the Subject's position. Officers F, M, and N sought cover behind the driver's side portion of the vehicle. Officer F held his/her pistol in a two-handed shooting position, with the muzzle pointed toward the Subject. Officers J and K sought cover behind the front passenger side door of the vehicle. Officer J held his/her pistol in a two-handed, low-ready shooting position and pointed the muzzle in the Subject's direction, while Officer K held the shotgun in a low-ready position.

Sergeant A continued to verbalize with the Subject, requesting him to walk toward the middle of the alleyway. The Subject then emerged from his encampment armed with a pair of scissors in his right hand. Officer F advised the officers at scene of his/her observations. Officer F ordered the Subject to step out of the parking stall multiple times, but he did not comply.

Sergeant A reiterated to Officer F that he/she was still designated as lethal cover. Sergeant B assigned Officers M and N as the arrest team and directed them to don protective gloves, which they did. Sergeant B advised Sergeant A that he/she had formed an arrest team. The Subject walked further north, out of the officers' view. Officer F advised the officers at scene he/she could no longer see the Subject from his/her position. Officer F continued to verbalize with the Subject, ordering him/her to step out toward the alleyway. During this time, Sergeant C arrived at scene and took a position behind the police vehicle. Shortly thereafter, a police helicopter arrived at scene and assisted with establishing a perimeter.

Sergeant B directed Officer N to reposition the vehicle, in order to provide cover for the officers and enable them to see into the Subject's encampment. Officer N repositioned the vehicle further west. The Subject was standing behind trashcans that were located along the east wall of a residence. Officer F ordered the Subject multiple times to step out of his encampment and walk in the officers' direction. The Subject did not comply and began pacing back and forth.

At approximately 1805:30 hours, the Subject walked toward the alleyway. Officer F ordered him to get down on his knees, but he did not comply. Instead, the Subject began walking west along the north side of the alleyway.

Officer N drove the police vehicle slowly in a westerly direction providing moving cover for the officers. Officer J placed his/her left hand on the open passenger door to hold it open and held his/her pistol in his/her right hand with the muzzle pointed toward the ground. Sergeant A directed Officer A to move to the front with the shield and advised

all the officers to watch for crossfire. Officer A held the shield in his/her left hand and his/her pistol in his/her right hand.

The Subject crossed to the south side of the alleyway. The Subject stood in a parking stall, just east of a garage and faced the officers. The Subject was holding a piece of paper in his left hand and a small glass pipe in his right hand. Officer N parked the police vehicle, diagonally, facing in a southwesterly direction, toward the Subject. The Subject dropped the paper and bent both elbows and placed both hands up, at shoulder level.

Sergeant A ordered the Subject to turn around. The Subject put both arms down by his sides and faced the garage. The Subject was then taken into custody without incident.

At approximately 1807:03 hours, Sergeant A requested that the RA to respond to their location. Sergeant A then identified the involved officers and directed Sergeant C to monitor Officer F and read him/her the Public Safety Statement (PSS) questions.

Lieutenant A and Sergeant D arrived after the Subject was in custody and started coordinating crime scene efforts and post-categorical use of force procedures.

The Subject was transported to hospital where he was treated for his injuries.

**BWV and DICVS Policy Compliance**

OFFICER	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Sergeant A	Yes	No	Yes	Yes	No
Sergeant B	Yes	No	Yes	No <sup>1</sup>	No
Officer A	Yes	Yes	Yes	Yes	Yes
Officer B	Yes	Yes	Yes	Yes	Yes
Officer C	Yes	Yes	Yes	N/A	N/A
Officer F	Yes	Yes	Yes	Yes	Yes
Officer G	Yes	Yes	Yes	Yes	Yes
Officer H	No	No	Yes	Yes	Yes
Officer I	Yes	No	No	Yes	Yes
Officer N	Yes	No	Yes	Yes	Yes

**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

<sup>1</sup> Determined to be the result of defective DICVS equipment.

by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

### **A. Tactics**

The BOPC found Sergeant A's Tactics to warrant Administrative Disapproval. The BOPC found Sergeant B, Officers A, B, C, F, G, H, I, and N's Tactics to warrant a Tactical Debrief.

### **B. Drawing and Exhibiting**

The BOPC found Officers, A, B, C, F, G, H, and I's drawing and exhibiting of a firearm to be In Policy.

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

The BOPC found Officers A, B and G's less-lethal use of force to be In Policy.

### **D. Lethal Use of Force**

The BOPC found Officer F's lethal use of force to be Out of Policy.

### **Basis for Findings**

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Use of Force Policy, Los Angeles Police Department Manual.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in Graham v. Connor, 490 U.S. 386 (1989), which states that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a subject and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an officer compromise his/her or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so. (Tactical De-Escalation Techniques, October 2016.)

## **A. Tactics**

### Tactical De-Escalation Techniques

- **Planning**
- **Assessment**

- Time
- Redeployment and/or Containment
- Other Resources
- Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)

Tactical de-escalation does not require that an officer compromise his/her or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

**Planning** – Officers A and B had worked together one time in the past and had discussed general tactics, contact and cover roles, as well as various use of force situations. During the officers' discussions regarding tactics, Officer A was the designated lethal cover officer while Officer B was designated as the less-lethal cover officer. After making contact with the Subject, Officer A deployed his/her TASER while Officer B deployed his/her 40mm LLL. Officers F and G had worked together for approximately four months and discussed contact and cover roles, with Officer G generally designated as the contact and less-lethal cover officer and Officer F as the lethal cover officer. When Officers F and G arrived at scene, they observed that Officer B had already deployed a 40mm LLL. Officer G subsequently deployed a Beanbag Shotgun and attempted to verbalize with the Subject in an attempt to have the Subject to drop the glass bottle and slungshot he was holding in his hands.

While the officers planned for their initial response to the incident, the BOPC would have preferred that the officers discussed additional tactical plans, such as vehicle placement, utilizing their police vehicle for cover when there was lack of available cover, establishing a perimeter, and requesting an Air Unit in order to more thoroughly prepare for additional outcomes.

Sergeant A arrived at the location and took over the role of contact officer, verbally communicating with the Subject. During this time, there were sufficient personnel to delegate this role so as to allow Sergeant A to focus on planning and managing the incident. Due to the Subject's erratic behavior and movements within the street, the officers were faced with a rapidly evolving tactical incident. The incident may have benefitted from a more detailed plan for the containment of the Subject and deployment of officers by Sergeant A.

**Assessment** – Officers A and B assessed the tactical situation immediately after observing the Subject's erratic behavior as they arrived at scene. As officers attempted to park and safely deploy from their police vehicle, they observed the Subject in close proximity to their police vehicle. Officer A deployed from the police vehicle and distracted the Subject, allowing Officer B to safely exit from the passenger side. Officers observed the Subject speaking in an incoherent manner, his behavior was erratic and aggressive, and he was holding a glass bottle and a padlock. Officers attempted to utilize available cover and verbalize with the Subject

to get him to calm down and put down the glass bottle and padlock. Officer A deployed his/her TASER and warned the Subject that he/she would discharge the TASER as the Subject began to approach him/her in an aggressive manner while holding the glass bottle. Officer A activated his/her TASER in an attempt to de-escalate the encounter and subdue the Subject whom he/she observed raise the glass bottle in a threatening motion.

Officers F and G responded to the scene and assessed the tactical situation. Officer G observed that Officer B had deployed a 40mm LLL and subsequently deployed a Beanbag Shotgun. Officer F maintained his/her role as a communications officer and drew his/her service pistol, assuming a lethal cover role, when the Subject approached Sergeant A, who had arrived at scene, in an aggressive manner. Officers followed the Subject who was moving in an unpredictable manner, at a distance, in order to contain and maintain a visual of him. The Subject armed himself with a wooden board, approached to a minimal distance, and moved aggressively towards the officers.

Officers F (service pistol), G (Beanbag Shotgun), and B (40mm LLL) utilized fire control immediately after firing their weapon systems and assessed whether the Subject's actions were still an imminent threat. The Subject fled and was taken into custody a short time later in an area nearby the OIS.

**Time** – Officers A and B, after arriving at scene, observed the Subject in an extremely agitated state, and attempted to verbalize with the Subject to calm him down and have him drop the glass bottle that he was armed with. Officer A deployed a TASER and Officer B deployed a 40mm LLL in order to have additional tools available to de-escalate the tactical situation. Officer B requested the response of additional resources. Officers F and G arrived, and Officer G deployed a Beanbag Shotgun as an additional de-escalation tool to gain additional time to safely resolve the incident. The Subject's behavior was erratic and unpredictable, as he suddenly and without warning armed himself with a wooden board and moved within close proximity to the officers who were attempting to maintain visual of him and contain him. The Subject abruptly moved towards officers in an aggressive manner while raising the wooden board above his head in a threatening motion. The Subject's actions did not afford the officers any additional time to respond to his deadly actions, which reduced the time they had to respond, and limited their tactical options.

**Redeployment and/or Containment** – After making contact with the Subject, Officers A and B requested additional resources to respond. As Officers A and B attempted to verbalize with the Subject and de-escalate the situation, the Subject proceeded to move backwards in a western direction on the alleyway. The Subject continued to move west after additional resources arrived to assist with the resolution of the incident. Officers A and B directed concerned community members to go inside their residences and began following the Subject west on the alleyway as Sergeant A attempted to communicate and gain the Subject's compliance.

Officers followed the Subject at a distance in order to maintain visual contact and contain him within the alleyway. Officer F requested that an additional unit respond to the west of the alleyway in order to block traffic as well as to prevent the Subject from fleeing further west on the alleyway. Officers H and I responded to the intersection of the alleyway and blocked traffic. Containment of the Subject was maintained on the alleyway between two intersections. Officers B, F, and G were unable to redeploy as the Subject aggressively approached them with a wooden board due to the minimal cover that was available along the alleyway.

The incident may have benefitted from the re-deployment of officers, or a more effective use of cover of deployed personnel. Sergeant A was in the best position to initiate such a redeployment of resources, but had continued to engage in verbal communication with the Subject.

**Other Resources** – After making contact with the Subject, Officers A and B deployed a TASER and a 40mm LLL. Officer B requested that additional resources respond due to the Subject being non-compliant, agitated, and armed with a glass bottle. An Air Unit was requested by CD when Officer B requested a “back-up” unit. Officers G and F responded to assist, and Officer G observed that Officer B had deployed a 40 mm LLL and subsequently deployed a Beanbag Shotgun to have an additional less-lethal option available. Officer C and Sergeant A responded to the location and Officer C retrieved a Ballistic Shield from his/her vehicle and provided it to Officer A who was designated the lethal cover officer. Officer F requested that an additional unit block the intersection of the alleyway to the west, to which Officers H and I responded. The Subject armed himself with a wooden board, refused verbal commands to de-escalate, and raised the wooden board in a threatening manner. Officer B fired his/her 40mm LLL, Officer G fired his/her Beanbag Shotgun, and Officer F fired his/her service pistol in response to the Subject’s deadly threat. Sergeant A requested that an RA respond immediately following the OIS.

**Lines of Communication** – Throughout the incident, officers utilized open lines of communication. Officers A and B initially opened lines of communication with one another as Officer A and B determined contact and cover roles for tactical situations. Officer A opened lines of communication with the Subject upon arrival at scene and attempted to communicate and verbalize with the Subject in order to determine what was occurring and how he/she could assist the Subject. Officer A attempted to de-escalate the situation by advising the Subject to drop his glass bottle and warned the Subject he would be tased. Officer A opened lines of communication with Sergeant A upon his/her arrival at scene by providing information regarding the tactical situation. Sergeant A utilized open lines of communication by attempting to verbalize with the Subject and direct him to comply with commands. Sergeant A attempted to maintain a dialogue with the Subject and verbalize with the Subject in order to have the Subject voluntarily submit arrest and not have any further escalation of force.

The BOPC noted, that due to the unpredictable and agitated demeanor of the Subject throughout this incident, the responding officers were placed in a situation where they were forced to react to the Subject's spontaneous actions. They attempted to ascertain the reason for the Subject's level of agitation and attempted to verbalize with him in order to assist him. However, based on the Subject's increasingly aggressive and hostile demeanor, coupled with him being armed with a glass bottle, slungshot, and later a wooden board, officers were required to react to the Subject's abrupt actions with the limited time they had. Sergeant A attempted to de-escalate the encounter by verbalizing with the Subject and gain his voluntary compliance, however, the Subject refused to do so and suddenly armed himself with a wooden board as officers followed him at a distance. The Subject aggressively approached officers and raised the wooden board above his head in a hostile manner. The aggressive actions and lethal threat presented by the Subject, limited the time and options officers had, and forced them to react to the imminent lethal threat presented to them.

- During its review of this incident, the BOPC noted the following tactical considerations:

#### **1. Use of Force Warning**

Officer A did not provide a complete Use of Force Verbal Warning prior to the deployment of his/her TASER. Officer A stated that it was not feasible to issue a complete verbal warning due to the Subject walking in his/her direction as the Subject yelled incoherently and swung a glass bottle and padlock back and forth above his head. Officer A unholstered his/her TASER stepped back and stated, "Hey, put the bottle down, put the bottle down. I'll tase you." The Subject replied, "Don't follow me! You'll tase me? You think that hurts?" and walked towards Officer A. Officer A then deployed the TASER. Officer A believed his/her abbreviated TASER warning was sufficient due to interpreting the Subject's statement that he understood that the TASER could cause pain.

Officers shall, when feasible, give a verbal warning prior to using less-lethal force to control an individual. In this case, a complete verbal warning was not required due to the Subject's actions of advancing on Officer A with a glass bottle and padlock.

In this case, the BOPC noted that the incident was unpredictable based on the Subject's erratic behavior throughout the encounter. The Subject was in an extremely agitated state and was not coherent in his verbal communication. The Subject was difficult to understand and did not respond to the verbal communication from the responding officers. The Subject asked Officer A, "You think that hurts?" which indicated to the BOPC that the Subject had some familiarity with the nature of a TASER discharge and the language used by the Subject was similar to the verbal warning.

Officer B did not provide a complete Use of Force Verbal Warning prior to the discharging of his/her 40mm LLL. Just moments before Officer B discharged his/her 40mm LLL, Sergeant A conducted a verbal warning with regard to the discharge of a Beanbag Shotgun to the Subject. The BOPC noted that both the Beanbag Shotgun and the 40mm LLL are less-lethal devices which discharge an impact munition. The BOPC determined that the verbal warning to the Subject for the Beanbag Shotgun was sufficient, and an additional verbal warning for the 40mm LLL was not required. The BOPC also noted that both devices were discharged nearly simultaneously.

Based upon the totality of the circumstances, the BOPC determined, that Officers A and B's actions did not substantially deviate from Department standards.

## **2. Utilization of Cover**

The utilization of cover, coupled with distance, enables an officer to confront an armed suspect while simultaneously minimizing his/her exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options. The investigation revealed that at the time of the OIS, Officers B, F, and G did not have the benefit of cover.

Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work to ensure a successful resolution. The ability to adjust to a tactical situation ensures minimal exposure to the officers.

In this case, the BOPC recognized that the incident was unpredictable based on the Subject's erratic behavior throughout the encounter. The Subject was in an extremely agitated state and was not coherent in his verbal communication. The Subject was difficult to understand and did not easily respond to the verbal communication from the responding officers. Sergeant A and the responding officers, in an attempt to maintain visual contact with the Subject who was moving west on the alleyway, began to follow the Subject while keeping their distance. The Subject was acting in an aggressive manner and was initially armed with a glass bottle and later a slungshot and a wooden board. As Officers continued to follow the Subject west in order to maintain their verbal communication and prevent him from endangering community members in the area, Officers B, F, and G were moving west on the south side of the street without the benefit of cover.

The BOPC noted the officers following the Subject on the north side of the street utilized available cover and were providing "cross cover" to the officers on the south side of the street. The BOPC considered there was minimal available cover on the street. As Officers B, F, and G followed the Subject down the street, their options for cover were limited. Also complicating the tactical decision

making was that some of the available cover would have limited the officers' view and their ability to cover various angles of the street.

The BOPC would have preferred for all of the officers to maintain a position of tactical advantage by utilizing cover. The use of cover often results in officers being able to utilize various options as well as providing them with more time to make decisions in the event the Subject presents an imminent threat of death or serious bodily injury. However, this situation was fluid and rapidly evolving and that the Subject's unpredictable actions and movement dictated the officers' movement throughout the incident. Department personnel are expected to be flexible and continually assess their circumstances. In this case, once the encounter with the Subject slowed down in its pace, the supervisor and officers recognized that they would benefit from cover and moved a police vehicle into a position where it could be used for cover.

Based upon the totality of the circumstances, the BOPC determined that Officers B, F, and G's actions did not deviate from Department standards.

- The BOPC also considered the following:

**Tactical Vehicle Deployment** – In this case, the Subject was moving around the area and the officers were faced with vehicular and pedestrian traffic as they were attempting to park and exit their police vehicle. The investigation revealed that Officer A eventually parked the police vehicle, and the Subject, who was erratically moving around the area, began to approach the police vehicle. The BOPC would have preferred that Officer A had placed his/her police vehicle further away from the Subject, who was armed with a glass bottle and padlock, in order to give the officers additional time and distance to assess his actions.

**Simultaneous Non-Conflicting Commands** – The investigation revealed that several officers gave simultaneous commands to the Subject prior to the OIS. Although the commands were non-conflicting, the officers were reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

**Back-Up vs. Additional Unit Request** – The investigation revealed that Officer B requested the response of an additional unit and a supervisor upon learning that the Subject was armed with glass bottle and padlock, was acting erratically, and was not complying with officers' commands. In this case, although Officer B requested additional resources to respond to the incident, a request for backup units would have been more appropriate for this situation. Officer B was reminded of the importance of assessing the level of threat at an incident and appropriately communicating the immediacy of the request for resources.

**Target Acquisition** – The FID investigation revealed that Officer F intentionally aimed his/her service pistol towards the Subject's lower extremities when he/she fired two rounds at the Subject, striking the Subject in the left arm and left thigh.

Officer F was reminded of the importance of target acquisition, background, sight alignment, and sight picture with regards to maintaining combat shooting accuracy.

**Designated Cover Officers (DCOs)** – The investigation revealed that Officer A who was assigned as the DCO, holstered his/her service pistol shortly after Sergeant A directed the officers to seek cover. Officer A was reminded of the importance of the role of the DCO with regard to maintaining a tactical advantage on a suspect.

**Crossfire** – The investigation revealed that to establish containment on the incident, Officers H and I parked their police vehicle blocking the intersection of the alleyway to the west, as per the request of Officer F. Other officers who were deployed and following the Subject were facing west on the alleyway creating a momentary, potential crossfire situation. Officers H and I identified the potential crossfire issue and tactically redeployed to positions of cover. Officers H and I were reminded of the inherent danger of crossfire situations.

**Code Six** – The investigation revealed that Sergeant B and Officers K and L did not go Code Six upon their arrival at the scene of the back-up request. These personnel responded to the location after other officers had begun to deploy on the Subject. According to Sergeant B, he/she recalled going Code Six via his/her MDC upon arrival. According to Officer K, he/she recalled going Code Six by voicing it through his/her hand-held police radio after the incident had been resolved (Code Four). Sergeant B and Officers K and L were reminded of the importance of updating their status so that other units will know their location if they need assistance.

**Shotgun Manipulation** – The investigation revealed that when Officer K deployed his/her Shotgun, he/she disengaged the safety and re-engaged the safety of his/her Shotgun not intending to shoot. The premature disengagement of the safety can lead to an unintentional discharge of a firearm. Officer K was reminded of the importance of proper Shotgun manipulations during tactical situations.

**Beanbag Shotgun Manipulations** – The investigation revealed that Officer G, after discharging one Beanbag round from his/her Beanbag Shotgun, cycled the action of his/her Beanbag Shotgun, which loaded an additional Beanbag round into the chamber. When directed by Sergeant A to prepare the Beanbag Shotgun for deployment immediately following the OIS, Officer G cycled the action of the Beanbag Shotgun again, which ejected a live Beanbag round onto the ground. Officer G was reminded of the importance of proper Beanbag Shotgun manipulations during tactical situations.

**Tactical Communication** – The investigation revealed that when Officer B requested an additional unit, he/she did not advise the responding units that the Subject was armed with a glass bottle or the nature of his/her request. Officer B was reminded of the importance of effective communication during a tactical incident to provide critical basic direction, reduce possible confusion, and improve operational success.

**TASER Deployment (Canted)** – The investigation revealed that Officer A canted his/her TASER to the left in an approximate horizontal motion while discharging his/her TASER. Officer A was reminded that the optimal TASER probe spread can only be achieved utilizing the TASER in the correct vertical position for a target that is vertical.

**Required Equipment** – The FID investigation revealed that Officers F and G were not carrying Oleoresin Capsicum (OC) Spray on their persons at the time of the incident. The FID investigation revealed that Sergeant B, along with Officers, B, C, F, and N did not have their side-handle baton or a collapsible baton on their persons at the time of the incident. The sergeant and officers were reminded to be in possession all of their field equipment during incidents to allow for the deployment of multiple force options to respond to the situation.

### **Command and Control**

It is incumbent upon supervisors at the scene of a critical incident, such as this, to demonstrate and exercise supervision that is consistent with Department supervisory and tactical training.

In this incident, Sergeant A responded, assumed the role of IC, and contacted the primary unit, Officers A and B. After briefly speaking to Officer A and making an initial assessment of the situation, Sergeant A designated officers as lethal cover and less-lethal cover. Sergeant A observed that a primary contact officer had not been established and immediately took on the role of the primary communicator with the Subject.

Sergeant A attempted to gain the voluntary compliance of the Subject by verbally communicating with him and attempting to de-escalate the situation. However, the Subject's behavior and demeanor were extremely erratic, and the ability to verbally communicate with him was hindered by the Subject's unpredictable outbursts and movement.

The BOPC noted that Sergeant A did delegate less-lethal and lethal cover roles and had various options available. Sergeant A also told officers to take cover and attempted to assess the threats to officer safety. However, the BOPC was critical of Sergeant A decision to assume the role of the primary communicator with the Subject for the incident. During the incident, Sergeant A also moved in front of the officers and did not utilize the available cover at scene while he/she attempted to verbally communicate with the Subject. By Sergeant A taking on the primary communicator role and moving in front of officers in an effort to maintain communication with the Subject who was moving in an erratic manner, his/her attention and focus were split, and he/she was unable to effectively monitor and keep control of the overall tactical situation. There were sufficient resources and officers at the location to allow for Sergeant A to delegate the primary

communications role to another officer to allow Sergeant A to focus on managing the personnel, tactics utilized, and deployed force options.

Though Sergeant A actively directed resources at scene, he/she did not reassess the positioning of officers or redeploy the officers to a more tactically advantageous position. These actions were not reasonable and placed the officers in a situation of unnecessary risk. The BOPC would have preferred that Sergeant A had utilized the Air Unit to provide visual containment on the Subject rather than allowing officers to remain in a position of tactical disadvantage without adequate cover.

Additionally, if further supervisory tasks were necessary, the BOPC would have preferred for Sergeant A to delegate those tasks to another supervisor, so he/she could focus his/her attention on the positioning and safety of the officers that responded.

As a result, the BOPC determined that Sergeant A's decision to assume the role of the primary communicator with the Subject, did not allow him/her to effectively maintain oversight and control of the officers that responded to this incident. In addition, Sergeant A took a forward position in front of the officers and began to follow the Subject, which caused the officers to adjust their positioning and follow after Sergeant A and the Subject. By Sergeant A taking on the role of the primary communicator and taking a forward position, he/she allowed officers to remain in a position of inadequate cover, and subsequently cause officers to be unable to hear his/her direction to deploy less-lethal munitions. Sergeant A's actions substantially deviated, without justification, from approved Department supervisory training, and thus warranted a Tactics finding of Administrative Disapproval.

Sergeant B was the second sergeant to respond to the incident. As Sergeant B observed Officer G discharge the Beanbag Shotgun and Officer B fire the 40mm LLL, he/she assessed and directed Officers B and G to reload to ensure that Officers B and G had a fully operational less-lethal force option. Sergeant B developed a tactical plan to take the Subject into custody by formulating an arrest team and utilizing the police vehicle as a mobile cover.

The BOPC deliberated in this matter and acknowledged that Sergeant B had only been a supervisor for two months at the time of the incident. Although Sergeant B was limited in tenure, the BOPC would have preferred for Sergeant B to have taken a more active leadership role and use available resources during the incident. However, due to Sergeant B's limited experience, his/her actions were consistent with Department supervisory training and the BOPC's expectations of field supervisors during a critical incident.

Sergeant C responded to the incident after the OIS had occurred. Sergeant C coordinated with Sergeant A to identify the officer involved. Sergeant C monitored Officer F and obtained a PSS. Sergeant C eventually collected Officer's F's BWV and monitored Officer F until another Sergeant took over monitoring duties.

Sergeant C's actions were consistent with Department supervisory training and the BOPC's expectations of field supervisors during a critical incident.

Lieutenant A and Sergeant D arrived after the Subject was in custody and started coordinating crime scene efforts and post-categorical use of force procedures. Lieutenant A went Code Six and declared himself/herself as the Incident Commander and utilized the established Command Post (CP). Lieutenant A identified the substantially involved officers by the role they took on during the incident, ensured that PSSs were taken from involved personnel, along with the separation and monitoring of personnel. Furthermore, Lieutenant A ensured that there was an inner and out crime scene established, a crime scene log was started, and evidence was identified and collected at scene. Sergeant D responded with Lieutenant A to the CP. Sergeant D verified that there were outside divisional supervisors responding to the CP to help with separation and monitoring with the involved officers. Sergeant D also assisted in separating, monitoring, and obtaining PSSs from involved officers.

The BOPC noted that Lieutenant A and Sergeant D responded to scene after the OIS had occurred and the tactical situation had concluded. BOPC determined that Lieutenant A and Sergeant D's actions with regard to protocols subsequent to a categorical use of force did not deviate from approved Department supervisory training. Therefore, the actions of Lieutenant A and Sergeant D were overall consistent with Department supervisory training and the BOPC's expectations of field supervisors during a critical incident.

These topics were to be discussed at 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.

In conducting an objective assessment of this case, the BOPC determined that Sergeant A's actions were a substantial deviation, without justification, from Department policy and training, thus requiring a finding of Administrative Disapproval.

In conducting an objective assessment of this case, the BOPC determined that Sergeant B, along with Officers A, B, C, F, G, H, I, and N's tactics did not substantially deviate from approved Department policy and tactical training.

Accordingly, the BOPC found Sergeant A's tactics to warrant Administrative Disapproval. The BOPC also found Sergeant B, Officers A, B, C, F, G, H, I, and N's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

- **Officer A**

According to Officer A, he/she had activated his/her TASER in an effort to de-escalate the situation, however it was ineffective against the Subject. Officer B had deployed the 40mm LLL and Officer A assumed the role of the lethal cover officer. Officer A believed the situation may escalate to the point where deadly force may be justified due to the Subject's actions of throwing a box at Officer B and being armed with a glass bottle. Officer A drew his/her service pistol, which he/she held in his/her right hand, with the muzzle pointed towards the ground.

- **Officer B**

According to Officer B, he/she observed the Subject holding a glass bottle, and acting irate. Officer B heard Officer A tell the Subject to put the bottle down and to back up. As the Subject began to walk towards Officer A, Officer B drew his/her service pistol and held it in a two-handed, low-ready shooting position, with the muzzle pointed in a northwesterly direction, towards the Subject. Officer B believed that the Subject was close enough to Officer A to cause injury if he threw the glass bottle.

- **Officer C**

A review of BWV by FID investigators determined that after positioning himself/herself behind a wall on the north side of the alleyway, Officer C drew his/her service pistol. Officer C holstered his/her service pistol when Sergeant A directed Officer C to retrieve the Ballistic Shield from the trunk of the police vehicle. Officer C did not recall drawing his/her service pistol at this time.

According to Officer C, once he/she retrieved the Ballistic Shield, he/she handed the Ballistic Shield to Officer A and drew his/her service pistol. Officer C held his/her service pistol in a low-ready position with his/her finger along the frame as the Subject was still armed with a glass bottle and pacing back and forth presented an active threat to everyone at the scene.

According to the FID investigation, Officer C explained to Sergeant B, who had just arrived at scene, that the Subject was armed with both a broken glass bottle in his right hand and a metal object (slungshot). Officer C then holstered his/her service pistol. A review of BWV revealed that Officer C later drew his/her service pistol and took cover behind a brick wall just east of the alleyway as the Subject, who was still armed with the glass shard and slungshot, started jumping up and down and moved in Sergeant A's direction.

- **Officer F**

According to Officer F, he/she observed the Subject arm himself with a piece of wood and begin walking towards Sergeant A. Officer F believed the Subject may use the wood plank to start hitting them (the officers) and the situation may escalate to the point before deadly force may be justified and drew his/her service pistol.

- **Officer G**

According to Officer G, he/she observed the Subject holding a glass bottle in a raised, overhead position, as if he intended to throw or strike someone with it. Officer G believed there was a substantial risk and the situation could escalate to the point where deadly force may be justified and drew his/her service pistol which he/she held in a two-handed shooting position and pointed the muzzle in a westerly direction toward the Subject.

- **Officer H**

According to Officer H, while conducting traffic control from his/her police vehicle, he/she heard two gunshots and a supervisor broadcast a “help” call over the police radio. Officer H continued to monitor the radio frequency and heard additional information indicating the Subject was walking in the direction of where he/she was conducting traffic control. As Officer H proceeded to redeploy behind a wall, he/she saw that Officer I had deployed a 40mm LLL from their police vehicle. After seeing that his/her partner deployed the 40mm LLL, Officer H transitioned to a lethal force option to cover his/her partner. Officer H unholstered his/her service pistol because he/she felt that the situation might escalate to where deadly force could be used due to the possibility of the Subject running in the officers’ direction.

- **Officer I**

According to Officer I, he/she heard gunfire as well as the broadcast of the sergeant of the “help” call and that shots had been fired. Officer I then drew his/her service pistol, based on hearing gunfire and believing the tactical situation may escalate to the point where deadly force may be justified.

The BOPC conducted an analysis of the circumstances of the incident and the drawing/exhibiting conducted by each officer. In this case of Officers A, B, C, F, and G, the Subject was armed at various times with a bottle, slungshot, and large piece of wood. The officers drew and exhibited their service pistols in response to the Subject’s action and demeanor, which appeared to be agitated and aggressive, while being armed with an improvised weapon. Officer H was designated as a lethal force cover officer for a less-lethal designated officer, while the Subject was armed with an improvised weapon. Officer I heard the sound of gunfire, as well as a broadcast for help, and believed that the situation could escalate to the point where deadly force may be justified.

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

Therefore, the BOPC found Officers, A, B, C, F, G, H, and I's drawing and exhibiting of a firearm to be In Policy.

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

- **Officer A** – (TASER, one five-second activation in probe-mode)

According to Officer A, he/she observed the Subject, armed with a glass bottle in his right hand, throw a box at Officer B. Officer A, believing the Subject was going to hit his/her partner with the glass bottle, aimed the TASER at the Subject's naval area and discharged the TASER. The TASER was ineffective against the Subject.

- **Officer B** – (40mm one round)

According to Officer B, he/she observed the Subject arming himself again with a wood board. Officer B also observed the Subject was armed with a metal object. The Subject was not listening and would not comply with any commands. Officer B observed the Subject by the wall of a house swinging around the wood board, acting very violently. The Subject then made a sudden movement, and Officer B believed the Subject was going to charge the officers with the piece of wood. Officer B discharged one round from the 40mm LLL from a standing position towards the Subject to prevent the Subject, who was armed with a wood board, from charging towards him/her and other officers and striking them with the board.

- **Officer G** – (Beanbag Shotgun, one round)

According to Officer G, the Subject picked up the wooden board and walked rapidly towards him/her and Officers B and F. Officer G observed the Subject raise the board above his head as if the Subject was going to swing it. Officer G believed the Subject's actions indicated an immediate threat of violence and aimed the Beanbag Shotgun at the Subject's navel area. Officer G fired one Beanbag round in order to prevent the Subject's aggressive approach while the Subject was armed with a wooden board.

In this case, the BOPC conducted a thorough review in evaluating the reasonableness of Officer's A's Less-Lethal Use of Force. The BOPC considered Officer A's discharge of the TASER in this incident. The BOPC noted the Subject was in an extremely agitated state, was moving in an erratic manner, and was armed with a glass bottle in close proximity to the officers.

Based on the totality of the circumstances, the BOPC determined, that an officer with similar training and experience as Officer A, while faced with similar circumstances, would believe that the same application of less-lethal force would be objectively reasonable.

Therefore, the BOPC found Officer A's Less-Lethal Use of Force (TASER) to be objectively reasonable and In Policy.

In this case, the BOPC conducted a thorough review in evaluating the reasonableness of Officer's B's Less-Lethal Use of Force. The BOPC considered Officer B's discharging of the 40mm LLL in this incident. The BOPC noted the Subject was in an extremely agitated and aggressive state and moving in an erratic manner, while armed with and swinging a wood board and metal object in close proximity to the officers.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B, while faced with similar circumstances, would believe that the same application of less-lethal force would be objectively reasonable.

Therefore, the BOPC found Officer B's Less-Lethal Use of Force (40mm LLL) to be objectively reasonable and In Policy.

The BOPC conducted a thorough review in evaluating the reasonableness of Officer's G's Less-Lethal Use of Force. The BOPC considered Officer G's discharge of the Beanbag Shotgun in this incident. The BOPC noted the Subject was in an extremely agitated and aggressive state and moving in an erratic manner, while armed with and swinging a wood board and metal object in close proximity to the officers.

Based on the totality of the circumstances, the BOPC determined, that an officer with similar training and experience as Officer G, while faced with similar circumstances, would believe that the same application of less-lethal force would be objectively reasonable.

Therefore, the BOPC found Officer G's Less-Lethal Use of Force (Beanbag Shotgun) to be objectively reasonable and In Policy.

Accordingly, the BOPC found Officers A, B, and G's less-lethal uses of force to be In Policy.

## D. Lethal Use of Force

- **Officer F** – (pistol, two rounds)

In its review of the use of lethal force by Officer F, the BOPC considered the totality of the circumstances encountered by the officer, including the following factors:

- The incident had been ongoing for approximately 10 minutes before the OIS occurred. Officer F was present at the scene for approximately 6 minutes before he/she fired his/her pistol.
- During the time when Officer F was at the scene prior to the OIS, the Subject exhibited behavior consistent with being under the influence of drugs and/or suffering from mental illness. The Subject was not complying with the orders given to him and was behaving erratically. The Subject armed himself with various items, and he repeatedly moved toward officers and then backed away from them. The Subject did not harm any officers with the various improvised weapons he picked up during the course of this incident.
- There was very little cover available to officers at the location of the incident; also, there were no obstacles immediately restricting the officers' ability to move/redeploy.
- The Subject moved toward Officer F and then positioned himself behind the corner of the garage at OIS location. At this time, Officer F was out in the open with no cover. Officer F told the Subject to "get back" numerous times.
- The Subject stayed behind the garage at the OIS location for approximately 4 seconds before he stepped out with the wooden board, which he held vertically in front of him and close to his chest, and took two small steps toward Officer F.
- Officer F did not redeploy during this portion of the incident.
- Officer F had identified a threshold immediately in front of the Subject's position and pre-determined that if the Subject took a step across that threshold, then the Subject could use the wooden board against Officer F and fellow officers and cause serious bodily injury. According to Officer F, "And there is a little uphill incline. And that's where I pretty much set the threshold. If he passes this, he's - - it's pretty much saying that he wants to use his weapon towards us, because if he backs away from his cover, he's no longer going to dip in and out of that. He's coming towards us at that point. I tell him to back off two more times. He takes two more steps towards me. And he has the -- the wooden plank still elevated. And at that time is when I shot approximately two rounds."
- The Subject took two small steps toward Officer F with the wooden board, which he (the Subject) still held in a vertical position close to his own chest and with

both of his hands near the middle of the plank. As the officers positioned alongside Officer F discharged less-lethal rounds at the Subject, Officer F fired two rounds from his/her pistol, striking the Subject in the leg and the arm.

When the Subject paused for approximately 4 seconds behind the corner of the garage at the OIS location, Officer F did not make any effort to redeploy despite having pre-determined that if the Subject stepped over the threshold that Officer F had identified, then the Subject could present a threat of death or serious bodily injury to Officer F and his/her fellow officers. The threshold identified by Officer F was immediately in front of the Subject's position. The factoring of this arbitrary threshold into his/her decision-making as to whether and when lethal force would be warranted was not appropriate, given that Officer F had the option to redeploy and, thereby, increase the distance between himself/herself and the threat that he/she believed the Subject might potentially pose.

The Subject took two small steps toward Officer F while holding the wooden board vertically in front of him. As depicted by video evidence, the Subject's actions with the board at the time of the shooting (holding the board near its middle with both hands, close to his own chest) could not reasonably be perceived as an imminent threat of serious bodily injury or death. While the Subject was clearly resisting arrest, and exhibiting a potential to do so violently, Officer F's decision to use lethal force against him based on these actions was not objectively reasonable and violated Department policy.

Therefore, the BOPC found Officer F's lethal use of force to not be objectively reasonable and Out of Policy.