

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

**OFFICER-INVOLVED SHOOTING – 043-19**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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77 <sup>th</sup> Street	8/19/2019		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Sergeant B	23 years, 11 months
Officer K	21 years
Officer N	8 years, 9 months
Officer Q	21 years, 8 months
Officer U	18 years, 9 months
Officer W	25 years, 1 month
Officer X	11 years, 5 months
Officer Y	15 years, 9 months

**Reason for Police Contact**

Officers responded to a neighbor dispute radio call. The officers arrived at scene and learned the Subject had assaulted two of his neighbors. The Subject subsequently entered his residence, refused to comply with the officers' commands to exit, resulting in a barricaded suspect situation. Metropolitan Division (METRO), Special Weapons and Tactics (SWAT) officers responded to the scene, breached the front door, and entered the residence. While inside the residence, an officer believed the Subject pointed a handgun at him/her, resulting in an Officer-Involved Shooting (OIS).

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject: Male, 65 years of age.

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the

report and recommendations of the Chief of Police; and the report and recommendations of the 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 28, 2020.

### **Incident Summary**

The incident began when a Communications Division (CD) operator received a 911 call from Victim A, who stated that his neighbor attempted to throw a metal object at him as he was in front of his residence.

CD broadcast the call to any available 77<sup>th</sup> Street unit. 77<sup>th</sup> Street Division Police Officers A and B responded to the call. The officers were in a marked black and white police Sports Utility Vehicle (SUV) with emergency equipment. The officers responded to the call as a priority call (Code Two) and did not activate the vehicle's emergency equipment. While en route to the call, they discussed the nature of the call and tactics.

Officers A and B arrived on scene, indicated their status and location (Code Six), via the Mobile Data Computer (MDC), and activated their Body Worn Video (BWV) cameras as they met with Victim A in front of his residence. Victim A told the officers that he was crossing the street when his neighbor, later identified as the Subject attempted to hit him with a wooden stick and metal chair. According to Victim A, he was able to get away from the Subject with the assistance of his neighbor. As Officers A and B were interviewing Victim A, the officers' BWVs captured the sounds of the Subject yelling derogatory comments at the officers from inside his residence.

Officer B requested an additional unit and supervisor to respond. In the interim, the officers completed an Investigative Report, titled "Assault with a Deadly Weapon."

Officers C and D responded to the additional unit request. As the officers were responding, Officer A called Officer C and requested they respond with breaching tools.

Officer A contacted the neighbor just east of the Subject's residence to gather additional information. The neighbor identified himself as Victim B and informed Officer A that he had also been assaulted by the Subject earlier that day. Victim B stated that earlier in the day he arrived at his residence and the Subject threw a baby walker at him, which struck him. The Subject then attempted to throw a metal chair at him and threatened to shoot him in the head. A second Investigative Report titled, "Assault with a Deadly Weapon," was completed.

Sergeant A, along with Officers C and D, arrived at scene and were briefed by Officer A. Sergeant A directed Officer A to request an Air Unit and additional units to block eastbound and westbound traffic. Officer C called the Mental Evaluation Unit (MEU) to obtain any background information on the Subject. According to Sergeant A, he/she

assumed the role of Incident Commander (IC). In addition, Sergeant A's BWV captured him/her advising the officers at scene that he/she spoke with the 77<sup>th</sup> Street Division Watch Commander (WC) prior to his/her arrival.

Officer A's BWV captured his/her telephonic contact with Lieutenant A, who was assigned as the 77<sup>th</sup> Street Division WC and provided Officer A with the details of the incident and incident number.

In response to the additional units request, numerous other 77<sup>th</sup> Street uniformed Patrol Division police officers began to arrive at scene to assist with the incident.

According to Officer A and Sergeant A, while they were at scene additional neighbors began to exit their residences and provide further information about the Subject.

Sergeant A's BWV captured an exchange of information between him/her and an unknown male, who Sergeant A believed was a neighbor, who was moving his parked car. Sergeant A was informed by the unknown male that the Subject lived with his mother; however, he had not seen her for a while. According to Sergeant A, he/she was concerned for the safety of the mother and believed that a welfare check was necessary.

Shortly thereafter, Victim B told Officer A in the presence of Sergeant A that the Subject lived in the residence alone. Victim B also stated that the Subject's mother used to live with him, but was now deceased.

Officer B utilized the Public Address (PA) system from a black and white police vehicle parked just east of the Subject's residence and made several requests for him to exit and surrender. During these requests, the Subject was ordered to exit his residence with his hands up. Officers at the scene attempted to gather additional information while calling the Subject out of his residence and setting up containment.

Officer A and Sergeant A had a conversation with Victim B, at which time he told them that the Subject had threatened to shoot him. Victim B further stated he believed the Subject was a war veteran and believed the Subject was capable of shooting him. Victim B stated he had not seen the Subject with a gun. In addition, Victim B stated he previously made a battery report against the Subject.

Sergeant A's BWV captured his/her phone call to Lieutenant A, briefing him/her that the Subject threatened to shoot one of the victims. Sergeant A explained the circumstances of the incident and his/her concern for the welfare of the possible mother who may be in the residence. According to Sergeant A, Lieutenant A directed him/her to contact Metropolitan Division and 77<sup>th</sup> Street Area Detectives for further assistance in obtaining background information on the Subject and his residence. Sergeant A contacted METRO, SWAT, Officer in Charge (OIC), Lieutenant B and advised him/her of the crimes that had occurred which included the Subject's threat of shooting his neighbor, as well as the fortified porch area of the Subject's residence.

According to Sergeant A, Lieutenant B advised that the circumstances did not meet the criteria for SWAT to respond.

Meanwhile, according to Officer B's BWV, he/she contacted 77<sup>th</sup> Street Area Detectives to ascertain if there were any handguns or want/warrants associated with the Subject or his residence. According to Officer B, he/she was provided with a possible name and no further information.

Officer C conducted a want/warrant check on the name provided and learned the individual named did not return to the target location. Officer C called MEU to inquire about any prior contacts with the Subject and the location address. According to Officer C, he/she was advised there were no contacts or history for the named suspect at that location.

According to Officer E's BWV, he/she utilized binoculars and obtained the license plate of a vehicle parked in the driveway. Officer E provided the information to Officer F so he/she could run the plate on his/her MDC. According to Officer F's BWV, he/she discovered the vehicle was registered to the Subject. Officer F conducted a California Consolidated Criminal History Reporting System (CCHRS) for the Subject, which revealed his date of birth, a residence address, and a booking photo image.

According to Officer D's BWV, Officer A gave him/her a field interview card containing the Subject's information. Officer D then contacted MEU and learned that on a prior date, the Subject assaulted a neighbor, that the Subject was a veteran that suffered from "PTSD," and that the Subject previously had a .38 caliber handgun registered to him, that had been seized and destroyed.

According to Officer D's BWV, he/she advised Officers A and B regarding the Subject's PTSD and the pistol that had been seized and destroyed in the presence of Sergeant A.

Sergeant A's BWV captured him/her call Lieutenant A to update him/her on the incident. Sergeant A advised Lieutenant A that the name of the Subject did not return with any warrants or additional weapons in his name and that METRO was not responding based on the circumstances that he/she provided to Lieutenant B. Lieutenant A advised Sergeant A to obtain further advisement from 77<sup>th</sup> Street Area Detective A. According to Sergeant A's BWV, he/she called Detective A and explained the circumstances of the investigation to him/her. During their conversation, Detective A verified they completed a signed IR and advised Sergeant A they could arrest him and attempt to "take the door."

Officer A utilized a police vehicle Public Address (PA) system and resumed attempting to order the Subject out of his residence multiple times. Officer A directed the Subject to come out of the house with his hands up. The Subject did not comply or respond to Officers A's commands.

Sergeant A's BWV captured the formulation of a tactical plan to approach the residence. This plan involved Sergeant A along with Officers A and C assembling an arrest team of officers to approach and attempt to make entry into the Subject's residence. According to Sergeant A, they had a felony crime and probable cause for arrest.

As part of the tactical planning of the arrest team, Sergeant A assigned officers specific roles, while Officer C requested an Air Unit for containment. Officer A requested that Officer E deploy his/her Urban Police Rifle (UPR) and provide cover for the arrest team. According to Officer E's BWV, he/she took a position behind a parked vehicle along the curb across the street from the Subject's residence.

An Air Support Division Air Unit arrived overhead and provided aerial support by requesting additional units and directing officers in containment positions around the residence.

A tactical team formed a linear formation that consisted of Officer D, designated as the point officer. Officer D obtained and deployed a Department-issued ballistic shield and unholstered his/her service pistol with his/her right hand. Officer D held his/her pistol with his/her right hand (finger along the frame) over the ballistic shield he/she was holding with his/her left hand. Officer A stood behind Officer D and unholstered his/her service pistol. Officer A held it in a two-hand low ready position (finger along the frame). Officer B was positioned behind Officer A and deployed a "Halligan bar" pry tool, followed by Officer F who deployed a "Ram." Officer G unholstered his/her service pistol and held it in a two-handed, low ready position (with his/her finger along the frame) and lined up behind Officer F. Officer C was designated as the communications officer and lined up behind Officer G. Officer C unholstered his/her service pistol and held it in a two-handed, low ready position (with his/her finger along the frame). Officer H followed Officer C and deployed a beanbag shotgun. He/she held it in a in a two-handed, low ready position (with his/her finger on the safety). Officer I unholstered his/her pistol and held it in a two-handed, low ready position and positioned himself/herself near a window at the northeast corner. Sergeant A, who was designated as the IC, was positioned at the end of the formation. The officers approached the Subject's residence in a single line formation from the residence east of the Subject's.

When the officers reached the front door, Officers B and F attempted to breach the front door; however, they were unsuccessful. Officer A yelled commands to the Subject to come out with his hands up. Officer A's BWV captured the Subject yelling, "Hey get out of my house, get out of here!" As Officer A continued to give commands for the Subject to open the door, the BWV further captured the Subject state, "Hell no, I'm going to get my gun!"

According to Officer A, when he/she heard the Subject threaten to shoot the officers, he/she informed the arrest team of what the Subject said and directed them to move back to cover. After hearing the Subject's threat, Officer F placed the Ram down on the ground, unholstered his/her service pistol, and held it in a two-handed, low-ready

position. Officers then moved away from the front door of the residence and redeployed two houses away from the Subject's residence.

Officers C, F, G, H, I, and Sergeant A remained on the porch area two houses away while Officers A and B redeployed to the side of the street behind a parked vehicle with their service pistols held in a two-handed, low ready position. Officer A continued to yell commands for the Subject to exit his residence with his hands up. Moments later, Officers D's BWV captured him/her walk to his/her police vehicle and retrieve a Department issued shotgun. Officer D redeployed to one property east of the Subject's residence and handed the shotgun to Officer F for him/her to deploy on the Subject's residence. At that point, Officer F positioned himself/herself on the porch area and utilized the stucco wall and porch support pillar to maintain a visual and point on the Subject's residence.

Sergeant A's BWV captured him/her contact METRO for a second time to inform them that the Subject threatened to shoot officers in the face and that patrol resources had containment set up around the residence. According to Sergeant A's BWV, a series of calls were made between METRO, 77<sup>th</sup> Street Area Detectives, and the WC. During the conversations, according to Sergeant A's BWV, Lieutenant B advised him/her to have officers on containment place a spike strip in front of the Subject's driveway if feasible. Lieutenant B also requested that 77<sup>th</sup> Street Area Detectives author a search warrant for the Subject's residence.

In the meantime, Sergeant A established a Command Post (CP) and assigned a tactical frequency for the incident.

As the officers-maintained containment of the Subject's residence, Officer A continued to make multiple requests over the PA system for the Subject to exit. Officer A's BWV captured audio of the Subject yelling back at him/her. In addition, as Officer E was deployed with his/her UPR behind a parked vehicle north of the Subject's residence, the Subject was heard yelling, "I'm gonna shoot you in the head, get that gun out of my face," or "I'm gonna shoot you in the head!"

During the time Officer E was deployed with his/her UPR, Officer A broadcast for Officer J to respond and relieve Officer E. Officer J relieved Officer E and deployed his/her UPR behind a parked vehicle along the north curb across the street from the Subject's residence.

Lieutenant C arrived at the CP and was briefed by Sergeant A. Lieutenant C relieved Sergeant A of his/her role and assumed the role of IC, as the incident continued to unfold. 77<sup>th</sup> Street Area Commanding Officer (CO), Captain A arrived at the CP and assumed the role of IC from Lieutenant C for the duration of the incident.

Sergeant A's BWV captured him/her directing the officers positioned to the east of the Subject's residence to don their ballistic helmets. In addition, Sergeant A directed

officers to conduct evacuations of residents in every direction around the Subject's residence.

Sergeant A's BWV captured him/her conclude a call with Lieutenant B and confirm that SWAT would respond to handle the incident as a barricaded suspect based on the threat the Subject made of being armed with gun and refusing to exit his residence. According to Sergeant A, he/she was advised by Lieutenant B, that detectives assigned to METRO discovered the Subject had two possible handguns registered to him.

Sergeant A's BWV captured him/her assessing the deployment of the spike strip to the Subject's driveway. At that time, Officers A and C advised Sergeant A that the Subject was seen in the second story window. According to Sergeant A, there was not a safe approach to deploy the spike strip.

Lieutenant B notified SWAT personnel of the call-out via email. The assigned SWAT personnel responded from an off-site training facility. Lieutenant B briefed the responding SWAT team members via email as to the nature of the crime, the Subject's background information along with a photograph of him, the weapons registered to him, and the circumstances of the Subject being barricaded.

SWAT personnel and equipment began to arrive at the CP. The SWAT personnel deployed to the exterior of the residence and were attired in dark blue utility uniforms, tactical vests, gas masks, and ballistic helmets. Unless otherwise noted, each officer was armed with a Department-approved rifle carried on their persons in a tactical sling, each carried a Department-approved handgun, and was equipped with BWV.

According to Lieutenant B, his/her duty as the SWAT OIC was to work in conjunction with the IC, providing options and recommendations in concurrence with METRO's CO to resolve the critical incident. Tactical recommendations of the SWAT OIC would only be initiated with the approval of the IC. Sergeant B was designated as the squad leader, while Officer K was assigned as the assistant squad leader.

A Crisis Negotiation Team (CNT) was established with Sergeant C designated as the OIC. The other members of the CNT included Officer L and a Behavioral Sciences Services Section (BSS) Psychologist.

Also present at the scene were two Los Angeles Fire Department (LAFD), Tactical Emergency Medical Support (TEMS) Fire Firefighter/Paramedics (FF/PM), both of whom were part of a contingent of trained FF/PM's who deploy with SWAT assets during tactical operations to render immediate medical aid to injured citizens and police personnel.

After obtaining a briefing of the incident, Sergeant B and Officer K began to develop their tactical plan, which included removing patrol officers who were in containment positions and replacing them with SWAT personnel. At that time Sergeant B, along with

Officers K and M, accessed the backyard of the first residence west of the Subject's residence to inspect the rear of the Subject's residence.

Following the preliminary inspection, Sergeant B's BWV captured him/her, along with Officers K, N, O, P, Q, and R, assembling another team and utilizing the Ballistic Engineered Armored Response Counter Assault Tool (BearCat) vehicle driven by Officer R to scout the surrounding area of the Subject's residence. Officer K assigned the following officers in yards adjacent to the Subject's for containment purposes: Officers O and P were deployed to the west side, Officers S and T were deployed to the southeast side and two 77<sup>th</sup> Street uniformed officers were deployed to the south side. Officer K advised them to hold their containment position until further direction from SWAT personnel.

An additional BearCat was positioned in the street to the east of the Subject's residence. This BearCat contained Sergeant C and Officer L as the CNT component, with Officer U positioned inside the BearCat hatch as the Designated Cover Officer (DCO). Officers M, V, and W were positioned behind the BearCat designated as the arrest team, while CNT efforts were being conducted. Officer L made numerous attempts to order the Subject out of his residence, utilizing the BearCat PA system; however, the Subject did not comply. During the course of the dialogue, the Subject yelled derogatory comments and made numerous threats to shoot the CNT operators and SWAT officers at scene. Officer U's BWV captured the Subject yell, "I'm going to shoot you in the face!"

After numerous verbal requests for the Subject to exit his residence failed, CNT responded to the CP to update the IC of the Subject's refusal to exit. At that time, CNT operators and the BSS Doctor formulated a plan to audio record a message by the Subject's neighbor, who was standing by at the CP. After making the recording, additional attempts to get the Subject to exit his residence were made by SWAT crisis negotiators. The audio recording of the neighbor was played two times; however, the Subject refused to exit his residence and surrender.

When those attempts proved unsuccessful, Sergeant B and Officer K devised a plan to utilize less-lethal munitions to disable the surveillance cameras affixed to the exterior of the residence. According to Officer K, disabling the cameras would eliminate the Subject's view of the containment units and would potentially initiate a response from the Subject to exit his residence. In addition, during the plan to disable the cameras, Sergeant B devised a contingency gas plan, which included the use of Ferret projectiles containing Oleoresin Capsicum (OC) and Chlorobenzylidenemalononi-trile (CS) gas should the Subject arm himself and return gunfire at the less-lethal munitions. Sergeant B advised Lieutenant B of both plans. Lieutenant B then obtained approval from the IC to implement the plans.

Sergeant B broadcast the tactical/gas plan over the radio to units on containment. The plan was to disable the surveillance cameras first. If no reaction from the Subject was received, attempts would be made to call the Subject out of his residence. If the

Subject was still refusing to exit, the gas plan would be initiated. Sergeant B advised SWAT personnel via radio that the first phase of the gas plan would be initiated via the BearCat hydraulic boom system through a window located at the northeast side of the residence. Sergeant B also advised personnel that if the Subject reacted violently to the cameras being disabled, a contingency plan to utilize Ferret CS gas rounds would be initiated instead of the BearCat boom. As this was occurring, Officer K along with additional SWAT personnel prepared the BearCat hydraulic boom system with CS gas.

Officer K issued a broadcast to initiate the plan to disable the surveillance cameras. Upon hearing the initiate order, Officer S who was standing in the rear yard of the property east of the Subject's residence, fired nine 40 millimeter Less-Lethal Launcher (40mm LLL) eXact iMPact rounds at three separate cameras disabling them all. The cameras were located near the southeast corner of the residence, the east side of the residence and the southwest corner of the residence.

Officer X was standing in the BearCat hatch that was positioned near the northeast corner of the Subject's residence and fired three Beanbag Shotgun Super-Sock rounds, disabling a camera on the north side of the residence. As the rounds were fired, Officer L utilized the PA to advise the Subject that the rounds being fired at his residence were from the officers and they did not want to further damage his mom's house. The Subject did not respond to Officer L or the less-lethal munitions fired at his (the Subject's) surveillance cameras.

Sergeant C advised Lieutenant B that the officers were at an impasse due to the Subject not responding to repeated requests for him to exit the residence and that CNT efforts would cease. At that time, Sergeant B advised Lieutenant B the plan was to move forward with tactical intervention (gas plan) that included the use of chemical agents. The IC concurred with the CNT assessment and authorized the transition to tactical intervention.

Sergeant B's plan was to insert chemical agents into the Subject's residence to persuade the Subject to exit. The chemical agents were to be inserted on the north, east and west sides of the residence. The gas plan included chemical agents being delivered from the BearCat hydraulic boom into the first floor and Ferret rounds inserted into the second floor using the Department-issued less-lethal 37mm or 40mm Penn Arms Multi-launcher. Both methods of gas are deployed with a "fire plan" in place. This plan was approved by the IC. Prior to the gas plan being initiated, a ram-camera was affixed by SWAT personnel to the BearCat hydraulic boom.

Sergeant B broadcast over the radio to initiate phase one of the gas plan. Officer Y drove the BearCat with Officer Z as the front passenger and Officer X as the DCO standing in the BearCat roof hatch. Officer Y inserted the hydraulic boom and ram-camera through a window on the first floor located at the northeast side of the residence and deployed the gas. Sergeant B confirmed with Lieutenant B that the gas was successfully implemented. Following the first deployment of gas, Sergeant B utilized the BearCat PA to advise the Subject that gas had been inserted, they did not want to

hurt him, and he needed to exit his residence. The Subject continued to refuse to exit his residence and yelled at officers.

After the initial deployment of gas on the first floor was deemed ineffective, the second phase of the gas plan was initiated. Prior to initiating the second phase of the gas plan, Sergeant B broadcast the plan to all SWAT personnel at scene. The second phase called for ferret rounds to be fired into each of the accessible openings of the second floor and for Officer M to insert a Tomahawk with CS gas via pole to be introduced.

The second phase of the gas plan was initiated. Officer M was inside of a BearCat, which was positioned in the driveway on the west side of the residence. Officer M utilized a port hole inside the BearCat and placed a CS gas canister inside a Tomahawk that was attached to the end of a fireman's pole and inserted it through a first floor window on the west side of the residence.

Officer S fired a total of four ferret gas rounds, two of which successfully penetrated through a second story window located on the east side of the residence and two failed rounds that struck the window frame of the residence and deflected outside.

Officer N fired two ferret gas rounds through a second story window located on the north side of the residence while positioned behind the BearCat that was parked north of the residence.

Officer O fired six ferret gas rounds through two second story windows located on the west side of the residence while positioned in the backyard one residence west of the Subject's residence.

The officers that were in containment positions around the Subject's residence waited and listened for any evidence that the Subject was affected by the chemical agents and received no response.

Sergeant B's BWV captured him/her requesting the Subject to exit his house and providing warnings that he/she did not want to damage the Subject's house or hurt him. Sergeant B continued to request that the Subject surrender using a PA from the front of his residence. The Subject did not respond to these additional requests/warnings.

Sergeant B advised Lieutenant B that the officers did not have any response from the Subject and told him/her that the Subject closed the second story window he was using to yell at them through. Sergeant B then advised Lieutenant B of his/her plan to utilize the hydraulic boom on the BearCat to breach the Subject's front security and interior door to obtain a visual of the first floor and deploy the ICOR robots.

Officer Y drove the BearCat equipped with the hydraulic boom toward the front security door of the Subject's residence and breached it with the hydraulic boom, creating an opening into the patio area. Sergeant B then utilized the PA to advise the Subject they

had removed his front door and told him to exit his residence. The Subject again did not respond to requests to exit the residence.

Officer Y again drove the BearCat toward the front of the residence to remove the interior front door. As he/she was maneuvering the boom inside the enclosed patio area to breach the interior front door, an unintentional deployment of gas was initiated when the hydraulic boom struck the door. According to Sergeant D's BWV, he/she broadcast on the radio to Sergeant B about the unintentional deployment of gas.

The third phase of the gas plan was broadcast over the radio to all SWAT personnel and then initiated. Officer N fired three ferret rounds through a second story window located on the north side of the residence while positioned behind the BearCat that was parked north of the residence.

Officer W was positioned on the west side of the BearCat that was positioned in the driveway of the Subject's residence. At that time, he/she placed a Tomahawk that contained a CS gas grenade on the end of an aluminum pole and inserted it through a window on the second floor. Following that, Officer M inserted a Recon robot into the same second story window to search the second floor of the residence. Attempts were made to search the second floor with the robot; however, due to debris and clutter inside the residence, the robot was unable to complete the search.

After the deployment of gas, Sergeant B directed TEMS personnel to shut off the main water line to the Subject's residence; however, they were unsuccessful. Sergeant B was advised that the southeast corner of the Subject's residence contained a small addition to the residence, which could provide access to the Subject. As a result, Sergeant B requested permission from the IC and Lieutenant B to deploy Ferret rounds into that structure.

After obtaining approval, Officer S fired two ferret rounds through a window leading into the attached structure to the rear of the main residence. Officer S was positioned alongside a detached garage located in rear yard east of the Subject's residence when he/she deployed the Ferret rounds into that structure.

Absent evidence that the chemical agents were effective, Sergeant B formulated and relayed a plan to enter the residence to clear/search for the Subject using the mini-ICOR robots, followed by METRO K-9, then SWAT personnel. The plan was approved by the IC. Upon making entry, two mini-ICOR robots were used to remotely search various portions of the residence. The robots were being operated by Officers Q and V, who advised Sergeant B of the layout inside of the residence. As the mini-ICOR robots were searching, they became caught up on debris inside the residence and rendered inoperable preventing them from locating the Subject. Sergeant B then moved into the next phase of the plan and directed Officer AA along with his/her K9 dog to enter and search the first floor with SWAT personnel behind him/her.

The SWAT entry team was comprised of Sergeant B and Officers K, N, Q, U, W, X, Y, and Z.

The entry team systematically searched the first floor, however; the Subject was not located. During the search of the first floor, a deadbolt lock was located on a door adjacent to the staircase. According to Officer K, he/she believed the door may lead to a basement. The staircase was located toward the rear of the residence and led to the second floor. According to Sergeant B, the next phase of the search plan was to have an officer deployed to monitor the locked door downstairs, while the mini-ICOR and recon robot went upstairs, followed by the K-9 and team of SWAT officers to search/clear the second floor.

As they searched the second floor, a makeshift curtain was hanging at the top of staircase landing, obstructing their view of the second floor. At that time, high intensity lights were placed in the staircase to illuminate the area while Officers W and X acted as the DCO at the base of the staircase. Officer V then utilized a fireman's pole to pull the curtain down, which allowed the searching officers a view of the second floor, and to simultaneously clear the debris on the landing. The K-9 dog was then deployed to the second floor to search the area along with a recon robot that was being operated by Officer Q. The search was met with negative results. Officer AA recalled the K-9 dog to the first floor, at which time an ICOR robot was deployed to the second floor by Officer V. Officer V utilized the robot camera to obtain a visual layout of the second floor and the robot speaker to verbalize commands for the Subject to exit. Once again, the Subject did not respond to commands to exit.

Sergeant B and Officer K formulated a plan to deploy up the staircase and search the second floor behind the K-9. The officers systematically searched the second-floor rooms without locating the Subject; however, they discovered an attic access point between the walls and the roof's eaves. At that time, Sergeant B discussed the officers' tactical options and formulated a plan to hold on the second-floor access point and address the locked door on the first floor before they moved forward. Officers W and Y held on the second floor while Sergeant B advised SWAT personnel that the plan was to breach the locked door, deploy gas if necessary, followed by deployment of a recon robot, K-9, then SWAT personnel. Sergeant B relayed the plan to Lieutenant B who obtained approval from the IC.

Officers X and Z breached the locked door on the first floor adjacent to the staircase with a sledgehammer and Halligan bar, while Officer Q was positioned as the DCO. Officer Q entered the door after it was breached and cleared a small closet space that provided no access to other rooms within the house. The entry team then planned to do a secondary search of the first floor to confirm the area was clear. Officer K then formulated a plan to have a team of officers search the exterior portion of the residence to verify that there was no access point or crawl space underneath the residence that the Subject could have utilized to escape. Officer AA and his/her K-9 dog, along with Officers Q, X, and Z searched the area with negative results. Officers also searched the small room addition and detached garage located at the rear of the residence and met

negative results. Following the exterior searches, Officer K conferred with Sergeant B to move back to the second floor to address the access point in the eaves.

The entry team moved to the second floor and began to address the attic access point/eaves area.

Officer N's BWV captured him/her positioned inside a walk-in closet off the second-floor west bedroom while Officer W was acting as his/her DCO. The closet had an access point leading into the attic eaves. Officer N utilized a mirror attached to a pole and inserted it into the attic eaves space, while positioned outside the attic opening to search for the Subject; however, he/she was unsuccessful in locating the Subject.

As the tactical plan continued to move forward, Sergeant B devised a plan to deploy an aerosol OC vapor gas canister into the attic eaves to illicit some type of reaction or response from the Subject. The attic eaves opening was accessible from a walk-in closet just off the second-floor west bedroom.

Sergeant B advised Lieutenant B of the plan, who then obtained approval from the IC. Officer N's BWV captured him/her positioned inside the second floor walk-in closet and deploy one OC vapor gas canister by hand into the eaves, while Officer X was positioned as the DCO. Sergeant B then again advised the Subject to exit. The Subject did not respond to the deployment of gas or Sergeant B's command to exit.

Officer N was moved into the northwest corner of the second floor located near the north side of the residence. While standing in the portion of the residence, Officer N observed multiple layers of paper affixed to a wall that covered a large opening. The opening led into another set of eaves in the attic located on the north side of the residence. Officer K advised Officer AA to send his/her K-9 dog into the opening to search for the Subject. The K-9 dog entered the opening and did not locate the Subject.

Officer N again utilized the mirror to search inside the north attic opening, followed by Officer Y with the eyeball camera. Both search methods were unsuccessful in locating the Subject.

As the tactical plan moved forward, Officer V's BWV captured him/her and Officer N access the attic opening to conduct a physical search. While searching, Officer V alerted Sergeant B they located two gun cases, which were camouflage and brown and resembled rifle bags. Officers N and V handed the gun cases containing a rifle and shotgun out of the attic to Sergeant B. As Sergeant B was removing the bags from the attic area, Officer X reported possible contact with the Subject from the second floor bedroom located on the east side of the residence. Sergeant B broadcast that the Subject was possibly located and redeployed to Officer X's location. According to Officer X, as he/she deployed the eyeball camera into the attic opening, he/she observed a piece of insulation being thrown over the eyeball camera.

According to Sergeant B's BWV, he/she devised a plan to redeploy away from the attic opening where Officer X was positioned and attempt to call out the Subject from the doorway of the bedroom. The officers redeployed away from the closet into the bedroom doorway. Officer V then announced to the Subject that the officers did not want him to get hurt. Officer V ordered the Subject to drop all weapons and exit. After he was given multiple commands to exit, the Subject did not comply. Due to the insulation being placed over the camera, the decision was made to deploy a Sting-Ball grenade into the attic opening where it was believed the Subject was hiding. In the event the officers did not receive any reaction from the Subject, the K-9 dog would be sent in to search the area. Sergeant B discussed the plan with Lieutenant B, who obtained approval from the IC.

Officer X threw a Sting-Ball grenade into the attic opening, while Officer N was positioned as the DCO and Officer U were positioned with the 40mm LLL. According to Officer X, he/she threw the grenade around the corner where he/she believed the Subject was hiding, but did not hear any response or reaction from the Subject upon its detonation. After the Sting-Ball grenade was deployed, Officer X utilized the eyeball camera to monitor the area; however, he/she did not hear or observe the Subject.

Sergeant B updated Lieutenant B that the officers did not have any movement from the Subject as a result of the Sting-Ball Grenade and discussed their next tactical option. According to Sergeant B, based on Officer X's observation of insulation being thrown over the camera in the attic, a plan was devised to utilize thermal readers to scan the ceiling of the first floor in an effort to obtain a heat signature of the Subject in the attic. Officer X described the last known location of the Subject to Officer Q who was equipped with the thermal reader. According to Officer X, the Subject was possibly positioned on the west side of the attic approximately eight feet inside from the second-floor closet opening.

Officers Q and U redeployed to the first floor and utilized the thermal readers to scan the ceiling of the area Officer X described to them. After scanning various portions of the ceiling to obtain a heat signature, Officer Q moved into a laundry room that was adjacent to the kitchen. Officer Q discovered a piece of plaster missing from the ceiling and formed an opinion that the Sting-Ball grenade had detonated this area. According to Officer Q, he/she scanned the general area and obtained a heat signature that he/she described as being, "decently small". Upon seeing the heat source, Officer Q advised Officer K via radio transmission that he/she located a heat signature in the ceiling.

According to Sergeant B, after the heat signature had been located in the area of the kitchen, he/she devised a plan to cut a hole in the kitchen ceiling adjacent to the heat signature utilizing an electric chain saw. Once the hole was made, the eyeball camera would be placed into the opening to attempt to locate the Subject. As the officers assessed where to cut an opening in the ceiling, they observed an exhaust fan above the stove. Prior to cutting a hole in the ceiling, Officer K devised a plan to utilize a

fireman's pole to remove the exhaust fan and place an eyeball camera inside to view the attic.

Officer W requested the eyeball camera from the second floor be brought down to the first floor. Officer W removed the exhaust fan with the fireman's pole. As he/she did so, Officer U was deployed to his/her left inside the kitchen, acting as the DCO. Meanwhile, as Officer W was positioned to the right of Officer U near the kitchen doorway, Officer Q was positioned at the southeast corner of the kitchen. According to Officer U, he/she placed his/her rifle in a high-ready position with the stock of his/her rifle underneath his/her right armpit and the muzzle pointed toward the vent opening. Officer U had his/her left hand placed on the forward grip and maintained his/her right finger along the frame of his/her rifle with the rifle selector switch in the safe position. According to Officer U, he/she used this position because the Subject was in a position of advantage with high ground in the attic.

Officer X's BWV captured him/her removing the eyeball camera from the attic opening at the time of the Officer-Involved Shooting (OIS). The eyeball camera extended into the attic space approximately eight feet and was angled slightly from west to east.

According to Officer U, he/she observed the insulation in the attic rise rapidly near the west corner of the vent hole, approximately two-feet inside of the opening. According to Officer U, he/she utilized his/her rifle's mounted light to illuminate the opening and blind the Subject. According to Officer U, he/she observed a metal object which resembled the barrel of a handgun in the Subject's right hand. Believing the Subject was going to shoot him/her or his/her fellow officers, Officer U lowered his/her profile by bending his/her legs, switched the selector switch to fire, and fired one round upward from a standing shooting position. According to Officer U's BWV, he/she could be heard yelling, "Shit, Fucked Up!" After Officer U fired his/her rifle, he/she moved toward the kitchen doorway where Officer W was positioned. Officer K then broadcast that there was movement in the attic and shots had been fired. Following that, on Officer U's BWV, he/she could be heard stating, "Right here, I have movement, right here!" Officer U's single round was fired in a westerly direction, angled upward, from an approximate distance of seven to 12 feet.

Sergeant B and Officer K were standing in the living room adjacent to the kitchen when Officer U fired his/her rifle. According to Sergeant B, he/she believed the Subject fired a single round at the officers and asked if everyone was all right on the first and second floor. Sergeant B then broadcast, "Hey, to all units on containment, everyone inside the location is ok, no one was hit by that round!" Following Sergeant B's broadcast, Officer K advised him/her that it was Officer U who shot. Sergeant B's BWV captured him/her broadcast that the shot was from the officers on the inside and not the suspect. Additionally, Sergeant B broadcast that the suspect made a "movement."

Sergeant B and Officer K briefly discussed their next tactical plan and how to proceed, pending what Officer U observed when he/she fired his/her weapon. Officer K advised

Sergeant B that he/she was concerned about proceeding with the original plan if Officer U observed the Subject with a handgun.

Following their discussion, Sergeant B advised Officer W to take Officer U's position inside the kitchen and have Officer U exit the residence. According to Sergeant B, he/she decided to obtain a partial Public Safety Statement (PSS) in order to determine the entry team's next tactical plan and whether he/she needed to pull his/her team out of the house and get them into armored vehicles.

Sergeant B and Officer U exited the residence and met with Sergeant D. Sergeant B then directed Sergeant D to obtain a partial PSS in the presence of Lieutenant B.

While outside the residence, Sergeant B conferred with Lieutenant B about the tactical plan and his/her intention to remove Officer U from the tactical situation in order to have him/her monitored since he/she was involved in an OIS. Sergeant C then obtained a PSS and admonished/assumed monitoring responsibility of Officer U from Sergeant B.

After handing Officer U off to Sergeant C, Sergeant B returned inside the residence and briefed Officer K regarding Officer U's observations during the OIS. According to Sergeant B, he/she believed the information was critical to feeling safe enough to continue in a very dangerous situation. According to Officer K, "So, when he/she [Officer U] came back in he/she mentioned - - he/she didn't mention anything specific to seeing a gun specifically so we continued on with the same plan." Sergeant B and Officer K further discussed their tactical options beyond their original plan. Sergeant B exited the residence to consult with Lieutenant B and Sergeant D regarding tactics.

After Sergeant B exited the residence, Officer K exited to meet with him/her and Sergeant D. Another discussion regarding the tactical plan and the use of the K-9 was discussed. During their conversation, Sergeant D inquired if they smelled smoke and if their BWV's were off since they were discussing tactics. At that time, Officer K turned off his/her BWV.

Sergeant D broadcast that he/she observed smoke emitting from the upper level. According to Sergeant D, he/she saw an increase of smoke billowing from the roof line and second story vents. Officer Q, still utilizing the thermal imaging device, broadcast that he/she observed smoldering in the eaves and the heat source was expanding.

Lieutenant B broadcast on the SWAT frequency to SWAT supervisors and personnel that the situation was still tactical, and that the Subject remained outstanding. Lieutenant B admonished them and advised them not to discuss the incident until interviewed by FID.

Sergeant B returned inside the residence to move forward with the tactical plan and ascertain the area of the smoke. At the direction of Sergeant B, Officer W cut a hole in the kitchen ceiling while Officer Q was designated as the DCO. Once the hole was made in the ceiling, a high intensity light was utilized to illuminate the opening.

Sergeant B ordered the Subject to exit; however, no response was heard. Officer N's BWV captured him/her utilize a mirror affixed to a pole to view inside the opening, while Officer Q acted as the DCO. The officers did not see or hear the Subject.

Sergeant D broadcast the smoke was growing and the need to implement the fire plan. A brief discussion between Lieutenant B and Sergeants B and D occurred regarding the fire plan. The decision was made to utilize a fire extinguisher to stop the smoldering, followed by sending the TEMS firefighters inside with a fire hose in the event the fire extinguisher did not work. After efforts were made with the fire extinguisher to stop the smoldering, Lieutenant B obtained approval from the IC to send the TEMS firefighters inside with a fire hose to extinguish the smoldering. One of the TEMS FF/PM entered the kitchen, inserted the fire hose into the openings in the ceiling, and applied water. After using the fire hose on the smoldering, the smoke and fire was prevented from growing any further.

The tactical plan moved back to the second floor, where a K-9 dog would be deployed at the opening where Officer X had last seen movement attributed to the Subject. Officer AB, along with his/her K-9 dog, moved to the second floor where the approved plan was to conduct a search utilizing the K-9 off leash in the attic area to locate the Subject. The K-9 dog entered the attic opening while Officers X and AB were deployed as the DCO's. Moments later, the K-9 dog was electrocuted by an exposed live wire inside the attic, causing him to collapse. Officer AB immediately recalled the K-9 dog, who crawled toward him/her approximately 20 seconds later and exited the attic. According to Officer AB, he/she believed the K-9 dog had injuries to his hind legs. Officer AB exited the residence with the K-9 dog and transported him to an emergency veterinarian hospital, where he was examined and released without any visible or long term injuries.

Following the incident, Sergeant D requested the power to be shut off to the residence before proceeding with any further tactics.

Sergeant B developed the next phase of tactics to continue "porting" holes in the kitchen ceiling as well as the walls on the second floor in an effort to locate the Subject. Officer Q was positioned on the first floor covering the kitchen ceiling opening as the DCO, along with Officer L who was positioned at the kitchen doorway. Meanwhile Officers K, N, V, W, X, and Sergeant B were on the second floor. Officer N utilized a fireman's pole to port holes in the bedroom wall while Officer W was acting as the DCO. Officer N inserted an eyeball camera into the attic, cleared the immediate area, and was unsuccessful in locating the Subject. Officer N then moved into the closet area where Officer X initially observed insulation thrown over the eyeball camera and ported a hole in the wall adjacent to the existing opening. According to Officer N, once he/she created the opening, he/she felt some resistance on the fireman's pole and observed the Subject move away from the opening. Simultaneously, Officer W began to yell commands at the Subject to show his hands; however, the Subject did not comply.

Officer V directed Officer N to deploy a less-lethal weapon on the opening along with Officer W. Officer N repositioned himself/herself next to Officer W with the 40mm LLL. Simultaneously, Officer R was positioned as the DCO covering the wall opening inside the west bedroom. Officer V then conducted multiple announcements directed at the Subject, stating they were from the Los Angeles Police Department and advised him to put down all weapons and exit the attic. Officer R advised Officer V that it appeared the Subject was holding a large towel in his right hand and his left hand was clear. Officer V again ordered the Subject to exit the attic, put down any weapons, and to show the officers his hands. The Subject did not reply.

Officer L observed the Subject in the attic eaves above the kitchen ceiling. Officer L yelled commands for the Subject to show them his hands and advised Officer Q of the Subject's location. Officer L also broadcast the Subject's movement to the officers. As this occurred, the officers on the second floor continued to observe the Subject move in and out of their view. At that time, Officers L and Q formulated a plan to utilize a mirror to obtain a visual on the Subject. Officer L inserted the mirror into the eaves and simultaneously illuminated the area with his/her flashlight. Officer L observed the Subject attempting to hide by placing insulation over his head. The Subject began moving throughout the attic, at which time he came in and out of the officers' view. Officer Q requested that an additional officer respond to the kitchen area, at which time Officers M and Y responded. Officer L then observed the Subject momentarily move to the north side of the attic and back toward their location. Officer L's BWV captured the Subject come back to the eaves above them and Officer Q ordering the Subject to show his hands. According to Officer L, the Subject attempted to take the mirror away from him/her and pull it into the attic.

According to Officer Q, he/she believed the Subject tried to take the mirror away from Officer L and utilize the handle to strike him/her. Officer Q placed his/her 40mm LLL in a high-ready position, with the muzzle pointed toward the kitchen ceiling opening. Meanwhile Officer M acted as his/her DCO, and Officer L maintained the mirror in an upright position. Officer Q's BWV captured him/her firing one 40mm Foam round from a standing position toward the Subject with the 40mm LLL.

Officer L broadcast that a 40mm round was fired, and the Subject was coming toward the hole in the kitchen. During a review of Officer Q's BWV, the Subject was heard yelling for the officers to shut up and get out of there. The Subject then moved away from the kitchen opening, out of the officers' view.

Almost simultaneously, Officer N who maintained his/her position on the second floor near the west side of the attic opening, observed the Subject's actions. According to Officer N, he/she observed the Subject trying to grab the mirror from the officer on the first floor. Officer N's BWV captured him/her firing one 40mm Foam round from a standing position toward the Subject's upper/middle torso as he/she was inside the attic with the 40mm LLL.

Officer X entered the east bedroom to assist Officer K, who was deployed as the DCO, covering the access point to the attic on the south wall of the bedroom. Officer X's BWV captured him/her utilizing a fireman's pole to remove a piece of drywall covering the wall, which led to the attic. After making a hole in the drywall, the Subject was visible to officers through the opening. Officers V and X began to yell commands at the Subject to show his hands. Officer X then requested a TASER or 40mm, while Officer V continued to verbalize with the Subject. The Subject continued to ignore the officers' commands to exit the attic and moved out of the officers' view.

Approximately one minute later, the Subject was again visible through the opening. The Subject began to throw insulation at the officers through the opening and refused to comply with their commands. Officer Z then utilized the fireman's pole and began porting holes in the south wall of the east bedroom wall to prevent the Subject from having any further concealment and cover. According to Officer Z, as he/she was creating the holes, he/she felt some resistance on the pole and believed the Subject had grabbed it. Officer Z was able to maintain his/her grip and continued porting openings in the wall.

Officer X's BWV captured him/her deploying a TASER inside the east bedroom. He/she was positioned north of the bed, facing south. Officer X discharged the TASER in "Probe Mode" through the wall opening. According to Officer X, the opening was big enough for him/her to deploy the TASER and obtain an effective activation, but the Subject continued throwing insulation at them. As the Subject was attempting to move west in the attic, the left side of his body was exposed to Officer X.

According to Officer X's BWV, as he/she discharged the TASER, Officer Y was positioned west of him/her and deployed an additional TASER.

According to Sergeant B's BWV, he/she requested a TASER while deployed near the bedroom door of the west bedroom on the second floor. According to Sergeant B, Officer R was positioned as lethal coverage at the port hole in the west bedroom along with Officer W who was providing lethal coverage at the opening into the eaves.

Officer V's BWV captured him/her broadcast to hold the air, and advise they had a TASER deployment, the Subject was down, and moving to the right (west) side. As the Subject moved to the west side of the attic, Officer R was positioned outside an opening in the wall of the west bedroom as the DCO along with Sergeant B who was deployed with a TASER. Sergeant B's BWV captured him/her discharge a TASER in probe mode as he/she was inside the attic on the west side toward the Subject's center body mass, where the Subject's hands were holding the insulation. Sergeant B told the Subject to get up and exit. He/she advised the Subject that he/she did not want to hurt him. At that moment, the Subject began to throw insulation at the officers through the opening and crawled back toward the east side of the attic.

Sergeant B observed the Subject "rocking" back and forth between the two teams and heard a TASER activation from the other side.

Officer X's BWV captured him/her verbalize that the Subject's hands were clear. Meanwhile, inside the east bedroom, Officer V was positioned north of Officers X and Y when his/her BWV captured Officer Y deploy a TASER.

According to Officer Y, he/she observed Officer X discharge the TASER and heard the Subject scream, yet continue to move back and forth. Officer Y did not see the Subject stop. Officer Y reached through the same opening of the wall that Officer X utilized and aimed the TASER at the top portion of the Subject's chest while he was in a crawl position and discharged his/her TASER in probe mode. Officer Y was positioned on the opposite side of the wall, approximately five to ten feet away from the Subject.

Officer Y's BWV was not activated during the time he/she discharged the TASER. According to Officer Y, the BWV camera issued to him/her was being repaired; therefore he/she was issued a loaner camera for the incident. At the conclusion of the incident, he/she discovered his/her BWV had turned off and the battery was drained.

Officer V's BWV captured the Subject lying on his back inside the attic near the opening of the east bedroom. At that moment, Officer K stepped inside the attic, followed by Officer V in an effort to take the Subject into custody. As Officer K was attempting to grab the Subject's arms, the Subject began swinging and flailing his arms. Officer K kicked the Subject's right shoulder with his/her left leg to stop him from swinging his arms.

Officer K did not provide a UOF warning to the Subject prior to kicking him. Officer K indicated during his/her FID interview that a warning was given to the Subject during CNT efforts that tactics could be used that could potentially hurt him.

Officer K then grabbed the Subject's left wrist with both of his/her hands. Officer K repositioned his/her hands where his/her right hand was holding the Subject's left elbow and his/her left hand was holding the Subject's right wrist. Meanwhile, Officer V grabbed the Subject's right bicep and attempted to place it behind his back and handcuff him. As this occurred, the Subject attempted to lift his body up from the ground while swinging his arms.

Officer N's BWV captured him/her deployed with a TASER at the attic access opening off the west bedroom, along with Officer W, who was positioned as the DCO with his/her rifle deployed in a low-ready position. At that time, Officer W entered the attic and stepped to the east side of the attic and had a line of sight on the officers and the Subject. Officer N entered behind Officer W and moved to the south side of the attic and discharged his/her TASER in probe mode toward the Subject's lower mid-section as the Subject rose up to a seated position.

Officer N heard other TASERs being discharged on the left side of the attic and didn't want to use the TASER if the others were being effective.

During Officer N's interview with FID Investigators, he/she indicated his/her TASER was discharged approximately four or five times. Officer N's TASER activation report indicated he/she activated the TASER three separate times, within 29 seconds.

Immediately afterwards, Officers K and V were able to control the Subject's arms and guide him onto his stomach. The Subject continued to resist the officers by moving his body. At this time, Officer N moved forward and grabbed the Subject's left ankle and assisted Officers K and V with controlling the Subject's movement. As the Subject continued to struggle, Officer N activated his/her TASER in "Drive-Stun" mode two separate times to the Subject's left thigh.

Simultaneously, Officer X's BWV captured him/her handing his/her TASER to Officer Y, followed by him/her entering the attic to assist the officers. Officer X then utilized his/her left hand and placed it on the back of the Subject's head as he was rising up.

Meanwhile, Officer W redeployed and moved toward the officers and utilized his/her hands to apply a firm grip to the Subject's ankles.

Simultaneously, Officer X handcuffed the Subject's right wrist, while Officer V handcuffed the Subject's left wrist. The officers secured both hands behind the Subject's back and locked two sets of handcuffs together. Officer V's BWV captured him/her advising the Subject multiple times to stop resisting.

Officer V's BWV captured him/her advise officers that the Subject was handcuffed; however, the wires were wrapped/tangled around him. At that time, Officer W handed Officer N wire cutters, and he/she began to cut away the tangled wires. Officer W advised Sergeant B to request the TEMS respond and administer "Versed" to the Subject; however, Sergeant B was unable to obtain a response from the CP.

Officer V's BWV depicted him/her formulating a plan with other SWAT personnel to lower the Subject from the attic area to the first floor through an opening that was made in the kitchen ceiling. Officer V's BWV captured him/her, and Officers K, N, W, and X safely guide the Subject through the opening to the officers positioned in the kitchen.

According to Sergeant B's BWV, he/she broadcast to the CP that the Subject was being lowered from the attic area. The Subject was successfully lowered down, head first, through the opening and received by Officers L, M, Q, and Z. The officers positioned the Subject upright and escorted him outside to be treated by the TEMS.

According to Officer L's BWV, TEMS personnel approached and assessed the Subject's injuries as he was seated on the sidewalk in front of his residence. According to the FF/PM, he/she observed a welt to the Subject's right triceps area. He/she indicated the Subject was yelling and screaming and possibly in a psychiatric crisis.

The Subject's medical treatment and assessment was relinquished to LAFD FF/PM's. The Subject was placed inside the RA and transported to the hospital because of his

altered state and injuries. Additional 77<sup>th</sup> Street officers responded to the scene to assist LAFD. An officer rode in the back of the ambulance with LAFD personnel and the Subject, as two other officers followed the ambulance in their police vehicle.

The Subject was later booked at 77th Street Regional Jail for Assault with a Deadly Weapon on a Peace Officer.

Force Investigation Division Detectives reviewed all documents and circumstances surrounding the separation, monitoring and the admonition not to discuss the incident to officers prior to being interviewed by FID.

**BWV and DICVS Policy Compliance**

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Officer U	Yes	Yes	Yes	N/A	N/A
Officer W	Yes	Yes	Yes	N/A	N/A
Officer Q	Yes	Yes	Yes	N/A	N/A
Sergeant B	Yes	Yes	Yes	N/A	N/A
Sergeant D	Yes	Yes	Yes	N/A	N/A
Officer K	No	Yes	No	N/A	N/A
Officer X	Yes	Yes	Yes	N/A	N/A
Officer Y	Yes	Yes	No	N/A	N/A
Officer R	Yes	Yes	Yes	N/A	N/A
Officer V	No	Yes	Yes	N/A	N/A
Officer N	Yes	Yes	Yes	N/A	N/A
Officer M	No	Yes	No	N/A	N/A
Officer L	Yes	Yes	Yes	N/A	N/A
Officer Q	Yes	Yes	Yes	N/A	N/A
Officer Z	No	Yes	Yes	N/A	N/A
Officer P	Yes	Yes	Yes	N/A	N/A
Officer S	Yes	Yes	Yes	N/A	N/A
Officer T	Yes	Yes	Yes	N/A	N/A
Officer O	No	Yes	Yes	N/A	N/A
Officer AB	Yes	Yes	Yes	N/A	N/A
Officer AA	No	Yes	No	N/A	N/A
Officer A	Yes	Yes	Yes	N/A	N/A
Officer B	Yes	Yes	Yes	N/A	N/A
Officer D	Yes	Yes	Yes	N/A	N/A
Sergeant A	Yes	Yes	Yes	N/A	N/A
Officer F	No	Yes	Yes	N/A	N/A
Officer I	Yes	Yes	Yes	N/A	N/A
Officer H	Yes	Yes	Yes	N/A	N/A
Officer C	Yes	Yes	Yes	N/A	N/A
Officer G	Yes	Yes	Yes	N/A	N/A
Officer E	Yes	Yes	Yes	N/A	N/A
Officer J	Yes	Yes	Yes	N/A	N/A

## **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). Based on the BOPC's review of the instant case, the BOPC made the following findings:

The BOPC expressed concern whether Officer U's tactical communications immediately following the OIS were a substantial deviation from approved Department tactical training. After discussion, based on the totality of the circumstances, the BOPC determined that while identified as an area for improvement, Officer's U's actions were justified, and not a deviation from approved Department tactical training.

The BOPC also expressed concern whether the TASER use and number of activations were reasonably necessary and in policy. After discussion, based on the totality of the circumstances, the BOPC concurred with the Chief that the TASER use was a deviation from approved Department tactical training, with justification and was in policy.

### **A. Tactics**

The BOPC found by a majority vote of 3-1 that Captain A, Lieutenant B, Sergeants A, B, and D, and Officers K, L, M, N, Q, R, S, U, V, W, X, Y, Z, AA, and AB's tactics to warrant a Tactical Debrief. The single minority vote found that Officer U's tactics warranted Administrative Disapproval.

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

The BOPC found Sergeant A, and Officers K, L, M, N, Q, R, S, U, V, W, X, Y, Z, AA, and AB's drawing and exhibiting of a firearm to be In Policy.

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

The BOPC found Officers K, N, V, W, and X's non-lethal use of force to be In Policy.

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

The BOPC found Sergeant B, Officers N, Q, X and Y's less-lethal use of force to be In Policy.

### **E. Use of Lethal Force**

The BOPC found Officers U's lethal use of force to be In 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), stating 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 the suspect’s 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 him/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**

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

### **1. Tactical Communication**

The OIS involving Officer U occurred immediately after Officer X began retrieval of the Eyeball camera. There were simultaneous actions taken by two teams who were deployed in the same general area, but were operating on two separate floors. Officers Q, U, and W were utilizing thermal readers in the first floor kitchen area and covering an opening they had created when they had previously pulled open a ceiling vent. Officer X was part of the second floor team and proceeded to retrieve an Eyeball camera which was attached to a pole in the general area of the open ceiling vent. Officer W had requested the Eyeball camera be brought down to the first floor; however, the second floor team did not specifically communicate when they would be retrieving the Eyeball camera.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their recognition of an unsafe situation and by working together collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this incident, although Officer W had requested that the Eyeball camera be moved and brought down to be used on the first floor, Officer X only verbally

communicated to Officer N, who was acting as his/her DCO, that he/she would be moving the Eyeball camera. However, Officer X did not specially communicate to the first floor team exactly when he/she would be moving the Eyeball, which was in the same general area that Officer U was covering as the DCO for the first floor team.

The BOPC considered that there were teams operating on two separate floors in an attempt to continue to isolate and contain the area where the Subject was believed to be. Officer W was directed to utilize an electric chain saw to open a portion of the first floor ceiling which would be used to deploy the Eyeball camera and tactical mirrors in an effort to locate the Subject. The BOPC noted that a tactical plan had been communicated to the SWAT officers operating on both floors regarding the intention to cut open a hole in the ceiling and utilize the Eyeball camera through that opening in an attempt to locate the Subject. The BOPC noted that Officer X did have time to communicate to the first floor team prior to removing the Eyeball camera.

The BOPC would have preferred that Officer X had communicated when he/she intended to remove the Eyeball camera which was in the general area that Officer U was covering from the first floor. The SWAT officers' communication regarding the tactical plan they were implementing was effective; however active communication prior to removing the Eyeball camera by Officer X would have allowed for increased coordination between the SWAT officers operating on the two separate floors and reduced any unintended consequences.

Based on the totality of the circumstances, the BOPC determined that while identified as an area for improvement, Officer's X actions were not a deviation from approved Department tactical training.

## **2. TASER Deployment (Multiple Activations / Simultaneous Deployment)**

As SWAT officers located the Subject in the south portion of the attic located on the second floor of the residence, Sergeant B, and Officers N, X, and Y deployed their TASERs multiple times for a total of 28 TASER activations, including simultaneous TASER activations.

The UOFRB considered several factors during their assessment of the use of the TASER and the number of TASER activations by Sergeant B, and Officers X, Y, and N. The UOFRB noted the circumstances and tactics that had been attempted as well as the Subject's refusal to comply with commands to surrender throughout the incident. The SWAT officers had attempted to resolve the incident with only the minimal force necessary by initially establishing verbal communication through CNT. When this tactic failed, the tactical plan then included the utilization of CS gas, robots, OC gas, tactical mirrors, an Eyeball camera, thermal readers, a Sting-Ball Grenade, and 40mm LLL rounds prior to utilizing the TASER. The UOFRB considered that all these tactical options had

been implemented over a seven-hour period and that an OIS occurred as the SWAT officers attempted to locate the Subject in the south portion of the attic on the second floor. The Subject was believed to be hiding in a confined space in the second floor of the residence.

The UOFRB noted the SWAT officers had attempted to utilize all the tactical options they had, which were all ineffective and when visual contact was made with the Subject, he was in an unsearched area of the residence and was believed to be armed. The tactic of leaving cover to approach and make physical contact would place the SWAT officers at a tactical disadvantage. The UOFRB determined that the total number of activations of the TASER were not optimal; however, the tactical situation was extremely challenging as the SWAT officers were in a confined space, could not see the Subject's hands at times, and the floor of the attic was unstable. The utilization of the TASER provided SWAT officers with a tactical advantage in order to facilitate the safe approach of additional officers to make physical contact with the Subject.

Additionally, the BOPC noted the simultaneous TASER activations of Sergeant B and Officers N, X, and Y. The BOPC considered that the architectural layout of the residence hindered the SWAT officers' ability to observe the deployment of each individual TASER in the dynamic and chaotic tactical situation. The deployment and utilization of the TASER was an alternative less-lethal force option, as the tactical situation had made the further initiation of a chemical agent into the environment and the use of impact projectiles a lesser desired option.

In this case, the goal was to handcuff the Subject, which necessitated that the officers place their hands on him. All other tactics employed by SWAT officers to limit the amount of force necessary to take the Subject into custody had already proven ineffective. Due to the Subject's movement, his defiant demeanor, and the possibility he was armed, the Subject was unsafe to approach. Tactics are meant to be conceptual in nature and each tactical situation is unique in that officers must be given flexibility to resolve tactical situations in the field.

In this case, the tactical circumstances presented to the SWAT officers were challenging. Although there is no pre-set limit on the duration or number of times the TASER can be used in a particular situation, it is the BOPC's expectation that the effectiveness of the TASER be continually evaluated by the involved officers, and if necessary, other force options are considered and utilized if possible. Although Sergeant B and Officers N, X, and Y were all attempting to address the immediate threat presented by the Subject, it is the BOPC's expectation that the officers are mindful that simultaneous deployments of the TASER may limit their ability to potentially deploy additional less-lethal force options and effectively assess a suspect's level of compliance.

Based on the totality of the circumstances, the BOPC determined that Sergeant B, and Officers N, X, and Y's actions were a substantial deviation, with justification, from approved Department tactical training.

### **3. Recording PSS**

Sergeant B did not direct Officer U to deactivate his/her BWV prior to providing a partial PSS to Sergeant D. After exiting the Subject's residence, Sergeant B and Officer U met with Sergeant D. Sergeant B directed Sergeant D to obtain a partial PSS from Officer U in the presence of Lieutenant B. In addition, Sergeant B did not deactivate his/her BWV while in the presence of Officer U, as he/she provided the partial PSS to Sergeant D.

### **4. Tactical Planning**

The investigation revealed that due to the electrical power still being on inside of the residence and water being utilized to saturate an area of the attic that had been on fire, a K-9 dog that began to search the attic was affected by an electrical current. While a fire plan had been developed during this incident, it is also important to consult with available resources, including LAFD personnel, and consider fire, water, and electricity concerns as part of the continuing development and modification of the tactical plan. Since this incident, SWAT's default policy is now to turn off the electricity of a structure if water has been introduced into the structure. Concerns related to fire, water, and power are continuing to be topics of discussion when developing tactical strategies prior to presentation to the IC for approval. Special Weapons and Tactics officers were reminded of the importance of thorough tactical planning in order to ensure operational success.

### **5. Non-Conflicting Simultaneous Commands**

The investigation revealed that multiple SWAT officers provided simultaneous non-conflicting commands to the Subject to show his hands and stop resisting. Although the commands were non-conflicting, the officers were reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

### **6. Required Equipment**

The investigation revealed that Sergeant A, and Officers C, F, G, I, J, and Q had their side-handle batons in their police vehicles. Officer C also had his/her Hobble Restraint Device (HRD) in his/her police vehicle. Sergeant A and Officers C, F, G, I, J, and Q were reminded of the importance of having their required field equipment on their person to allow for the availability of additional use of force options during an incident.

## Command and Control

- Sergeant A was the first supervisor to arrive at the scene. Sergeant A assumed the role of the IC at the scene. Sergeant A requested additional units and provided supervisory oversight of the officers at scene. Sergeant A formulated a tactical plan, formed an entry team, and assigned various roles including less-lethal cover. When the entry team was unsuccessful in breaching the enclosed metal mesh front porch and threatened by the Subject, Sergeant A directed officers to move back to cover and made appropriate notifications to SWAT. Sergeant A established the CP and maintained his/her IC role until relieved.

Sergeant D was the secondary supervisor in charge of tactics for the SWAT officers. Sergeant D provided oversight of the outer perimeter surrounding the Subject's residence and directed the implementation of the fire plan when he/she observed smoke emanating from the roof. Sergeant D maintained communication with Sergeant B and Lieutenant B in order to discuss available tactical options and provide additional oversight if necessary.

Lieutenant B received information from Sergeant A, who was at the scene, and determined that the circumstances met the criteria for a SWAT deployment. Lieutenant B notified SWAT officers of the SWAT deployment and the circumstances via email. Lieutenant B arrived at the CP and as the SWAT OIC, advised and approved of SWAT tactics and acted as a liaison between SWAT personnel and the IC. Lieutenant B maintained constant contact with Sergeants B and D to monitor the tactical situation and discussed the options available to propose to the IC.

The investigation revealed that Captain A arrived at the command post and assumed the role of IC. Captain A worked in conjunction with Lieutenant B, who provided options and recommendations in concurrence with METRO's CO to resolve the critical situation. Captain A provided overall oversight and approved SWAT's deployment of the various tactical phases which included verbalization, crisis negotiation, tactical discharges, gas deployment, use of K9 resources to search the residence, and less-lethal munitions.

The BOPC noted all the supervisors responded while the tactical incident was in progress and met the requirements of supervisors during a Categorical Use of Force incident. The BOPC noted numerous positive steps taken by the supervisors at scene including effective tactical communication as well as active oversight and involvement in maintaining control of the tactical situation.

The sergeants adhered to their roles as supervisors and completed their assigned tasks while maintaining effective command and control over the incident. The actions of Sergeants A and D, Lieutenant B, and Captain A were consistent with Department supervisory training and the BOPC's expectations of field supervisors during a critical incident.

The investigation revealed that Sergeant B arrived at scene and was the primary supervisor in charge of tactics for SWAT officers and designated the squad leader. Sergeant B directed SWAT tactics inside of the Subject's residence and provided supervisory oversight over the various teams of SWAT officers deployed to the first and second floors of the residence. Sergeant B also directed the removal of Officer U from the tactical incident following his/her OIS and directed Officer U to provide an abbreviated PSS for officer safety and the determination of which tactical options would be used to proceed forward. Additionally, once the Subject was visually observed in the attic, Sergeant B opted to deploy a TASER and became involved in a less-lethal use of force.

The BOPC considered that Sergeant B had established command and control from the arrival of SWAT personnel at the scene to the point where he/she became involved in a less-lethal use of force involving the use of a TASER on the Subject. The BOPC noted that supervisors, including SWAT supervisors, generally should not become directly involved in the application of a force option during a UOF incident. However, in this unique circumstance, the SWAT personnel were presented with a hostile suspect in a confined environment, with a challenging layout, wet unstable footing, and limited visibility. The Subject had resisted numerous efforts of less-lethal munitions and the introduction of chemical agents. The Subject was believed to be armed and was moving freely in an unsearched area of the attic after an OIS had already occurred involving a SWAT officer.

The BOPC noted that Sergeant B made the decision to utilize a TASER while he/she had visual contact with the Subject due to the difficult layout of the residence, the Subject's movement around the attic, the belief that the Subject was armed, and the rapid pace at which the tactical situation was unfolding. Sergeant B's primary goal was to take the Subject into custody while exposing SWAT officers and the Subject to the least amount of risk as possible.

Sometimes when supervisors involve themselves in utilizing force, they are unable to effectively maintain oversight and control of the officers involved in a tactical situation. The BOPC would have preferred that Sergeant B recognize there was a shortage of SWAT officers on the team covering the west attic entrance; however, the tactical situation was dynamic and fluid. Tactical communication was occurring between the multiple SWAT officers inside the residence and each SWAT officer was given a specific task or area of coverage utilizing lethal or less-lethal cover options.

Based on the totality of the circumstances, the BOPC determined that Sergeant B's actions were a substantial deviation, with justification, from approved Department tactical training. Therefore, the actions of Sergeant B were overall consistent with Department supervisory training and the BOPC's expectations of a field supervisor 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 are intended to be flexible and incident specific, which requires that each incident be looked at objectively and that the tactics be evaluated based on the totality of the circumstances.

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

Although it was determined that Officers A, B, C, D, E, F, G, I, J, and Q would not receive formal findings, the BOPC believed that they would benefit from attending the Tactical Debrief to discuss this multi-faceted incident in its entirety to enhance future performance.

In conducting an objective assessment of this case, the BOPC determined that Captain A, Lieutenant B, Sergeants A, B, and D, and Officers K, L, M, N, Q, R, S, V, W, X, Y, Z, AA, and AB's tactics did not deviate from approved Department tactical training. The BOPC also determined that the tactics utilized by Officer U substantially, and unjustifiably, deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval. Thus, the BOPC found Captain A, Lieutenant B, Sergeants A, B, and D, and Officers K, L, M, N, Q, R, S, V, W, X, Y, Z, AA, and AB's tactics to warrant a Tactical Debrief; and Officer U's tactics to warrant a finding of Administrative Disapproval.

## **B. Drawing and Exhibiting**

- According to Sergeant A, he/she was near the rear of the group of officers he/she had assembled to approach, breach, and make entry into the Subject's enclosed front porch area. Sergeant A initially was to the rear of the tactical formation and was not unholstered. However, as Sergeant A and the group of officers approached the location, Sergeant A drew his/her service pistol at a point when he/she had nobody covering him/her and to provide lethal cover towards a blind spot where the porch was, which potentially could have given the Subject an avenue to ambush Sergeant A and the officers.

In this case, the BOPC conducted a thorough evaluation of the reasonableness of Sergeant A's drawing and exhibiting of his/her service pistol. The BOPC noted that the Subject was identified as a felony suspect of an ADW and Criminal Threats. Prior to Sergeant A and his/her tactical team of officers approaching the Subject's residence to gain entry and take the Subject into custody for the aforementioned crimes, the Subject was verbally hostile towards the officers that had responded to the scene.

The BOPC considered that as Sergeant A was approaching the Subject's enclosed metal mesh front porch with his/her tactical team of officers, he/she observed an area of the enclosed metal mesh that was not contained by lethal cover and believed it was an area that could potentially be used as an ambush point. Sergeant A briefly drew his/her service pistol to cover the specific area of the metal mesh that did not have any lethal cover assigned to it.

Based on the totality of the circumstances, the BOPC determined that a Sergeant with similar training and experience as Sergeant A, 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 Sergeant A's drawing and exhibiting of a firearm to be In Policy.

- According to Officer AA, he/she responded to a SWAT barricaded suspect call to assist in a searching capacity. Officer AA received information that the Subject had two handguns registered to him and had told patrol officers, "get off my property or I'll shoot you all in the face." While at scene, Officer AA also heard the Subject state multiple times, "I have a high-powered rifle. I'll shoot you in the face." Officer AA joined the SWAT search team with his/her K-9 dog in order to assist with the search of the Subject's residence. Officer AA drew his/her service pistol while he/she was assisting with the search to locate the Subject, who he/she believed to be armed and had threatened to shoot officers numerous times.
- According to Officer AB, he/she responded to assist with a K-9 search for a barricaded suspect. Officer AB was informed that the Subject had threatened to shoot patrol officers in the head and had made similar terrorist threats to the SWAT officers. While assisting with searching an uncleared and hidden attic space with his/her K-9 dog, Officer AB drew his/her service pistol since he/she was at the attic opening and in the area of where a threat could pop up.

The BOPC conducted a thorough evaluation of the reasonableness of Officers AA and AB's drawing and exhibiting of their service pistols. The BOPC noted that the METRO K-9 officers at scene had been provided information regarding their deployment to the Subject's residence, including that he had threatened to arm himself with his handgun as well as that the Subject had two handguns registered to him.

The BOPC considered that Officer AA joined the SWAT search team with his/her K-9 dog in order to assist with the search of the Subject's residence. Officer AA drew his/her service pistol while he/she was assisting with the search to locate the Subject, who he/she believed to be armed and had threatened to shoot officers numerous times.

The BOPC considered that Officer AB joined the SWAT search team with his/her K-9 dog in order to specifically assist with searching an uncleared and hidden attic space. Officer AB drew his/her service pistol as the K-9 dog entered the attic area since the opening to the attic was where a potential threat could present itself.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers AA and AB, 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 AA and AB's drawing and exhibiting of a firearm to be In Policy.

- According to Officer U, his/her mission was to check the ceilings from the second floor and the first floor. While utilizing a thermal reader in his/her left hand, Officer U transitioned and drew his/her service pistol due to searching a confined space and in order to have a good field of view in which he/she could utilize the light on his/her pistol. Officer U was searching in a darkened environment and drew his/her service pistol because he/she was utilizing a thermal reader in his/her left hand, and he/she couldn't use the light on his/her rifle system.
- According to Officer W, as he/she searched the Subject's residence, whenever he/she encountered a confined space or needed to access a closet or smaller area, he/she would transition from his/her rifle, to his/her pistol, since it was more conducive to searching in a confined space. Utilizing his/her service pistol in his/her primary hand was more advantageous since Officer W was required to move clothing with one of his/her hands to clear smaller spaces. Officer W stated that he/she utilized his/her service pistol's light to illuminate the area inside of the confined spaces he/she searched and would not have been able to effectively come up with a proper sight picture using his/her rifle due to the limited area.

The investigation revealed that the Subject was determined to be an armed barricaded suspect and numerous SWAT officers were involved in the search of the residence.

As Officers N, V, and X proceeded to search various confined areas of the Subject's residence to locate the Subject, each officer transitioned from his/her primary weapon system and drew his/her service pistol.

The BOPC conducted a diligent and individual assessment of each officer's articulation regarding their decision to draw and exhibit their service pistols.

The BOPC conducted a thorough evaluation of the reasonableness of Officer U's drawing and exhibiting of his/her service pistol. The BOPC noted that prior to SWAT officers arriving at scene, they had been provided information regarding their deployment to the Subject's residence, including that he had threatened to arm

himself with his handgun as well as that the Subject had two handguns registered to him.

The BOPC considered that while CNT officers were attempting to communicate and establish verbal dialogue with the Subject, he became increasingly hostile and threatened to shoot the SWAT officers with both a handgun and a high-powered rifle. Officer U believed the Subject to be armed with his handguns and was aware of the Subject's threats towards the SWAT officers. Officer U transitioned from his/her rifle and drew his/her service pistol as he/she searched the Subject's residence both while utilizing a thermal detection device with one hand and when he/she entered confined spaces.

The BOPC conducted a thorough evaluation of the reasonableness of Officers N, V, W, and X's drawing and exhibiting of their service pistols. The BOPC noted that prior to SWAT officers arriving at scene, they had been provided information regarding their deployment to the Subject's residence, including that the Subject had threatened to arm himself with his handgun, as well as that the Subject had two handguns registered to him.

The BOPC considered that while CNT officers were attempting to communicate and establish verbal dialogue with the Subject, he became increasingly hostile and threatened to shoot the SWAT officers with both a handgun and a high-powered rifle. Officers N, V, W, and X believed the Subject to be armed and were aware of the Subject's threats towards the SWAT officers. Officers N, V, W, and X transitioned from their rifles and drew their service pistols as they searched confined areas of the Subject's residence.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers N, U, V, W, and X, 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 Officer N, U, V, W, and X's drawing and exhibiting of a firearm to be In Policy.

- According to Officer U, while conducting training, Officer U and other members of the SWAT team received information that they would be responding to a barricaded SWAT call. While en route to the location, Officer U was informed of the Subject's name and that he was a barricaded suspect who was wanted for an ADW crime as well as for threatening his neighbor. Additionally, as Officer U arrived at scene, he/she was informed that the Subject had threatened to shoot patrol officers who were at scene, had two handguns that were registered in his name, and was possibly a Vietnam veteran. The Subject stated numerous times that he had weapons and would shoot the officers in the face. Officer U, after being assigned to act as a cover officer on one of the armored vehicles at scene, donned his/her tactical gear and deployed his/her rifle from his/her vehicle based on the fact that the

tactical situation may escalate to the point where deadly force may be used and based on the Subject's statements that he was armed.

In this case, the BOPC conducted a thorough evaluation of the reasonableness of Officer U's drawing and exhibiting of his/her patrol rifle. The BOPC noted that prior to SWAT officers arriving at scene, they had been provided information regarding their deployment to the Subject's residence, including that the Subject was a barricaded suspect and that he was wanted for an ADW crime as well as for threatening his neighbor. Officer U was also informed that the Subject had threatened to arm himself, shoot patrol officers at scene, and had two handguns registered in his name.

The BOPC considered that Officer U was assigned to act as a cover officer on one of the armored vehicles at scene. Officer U donned his/her tactical gear and deployed his/her Department rifle from his/her vehicle because the tactical situation may escalate to the point where deadly force may be necessary based on the Subject's statements that he was armed and intended to shoot officers.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer U, 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 Officer U's drawing and exhibiting of his/her Department rifle to be In Policy.

- The FID investigation revealed that after the Subject was determined to be an armed barricaded suspect, additional SWAT officers responded and relieved 77<sup>th</sup> Street Division officers.

As Officers K, L, M, N, Q, R, S, V, W, X, Y, and Z assumed a position at the location, they deployed their patrol rifles from their police vehicles.

In this case, the BOPC conducted a thorough evaluation of the reasonableness of Officers K, L, M, N, Q, R, S, V, W, X, Y, and Z's drawing and exhibiting of their patrol rifles. The BOPC noted that prior to SWAT officers arriving at scene, they had been provided information regarding their deployment to the Subject's residence, including that the Subject was a barricaded suspect and that he was wanted for an ADW crime as well as for threatening his neighbor. The aforementioned officers were also informed that the Subject had threatened to arm himself, shoot patrol officers at scene, and had two handguns registered in his name. As Officers K, L, M, N, Q, R, S, V, W, X, Y, and Z assumed their assigned tactical positions, they deployed their Department rifles from their police vehicles.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers K, L, M, N, Q, R, S, V, W, X, Y, and Z,

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 K, L, M, N, Q, R, S, V, W, X, Y, and Z's drawing and exhibiting of their Department rifles to be In Policy.

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

- **Officer K – (Front Kick, Firm Grip, Physical Force)**

According to Officer K, he/she entered the attic in an effort to take the Subject into custody. As he/she attempted to grab the Subject's arms, the Subject began swinging his arms in an attempt to punch him/her. Officer K stated that the Subject took a full swing punch towards him/her. Officer K targeted the Subject's abdomen area and utilized his/her right leg to deliver a front kick to the Subject, who was lying in the attic.

According to Officer K, his/her kick had the desired effect of having the Subject stop his attempt to strike him/her (Officer K). Officer K approached the Subject and utilized a firm grip to grasp the Subject's left wrist with both of his/her hands in an effort to control the Subject. The Subject pulled Officer K's hands towards his mouth and attempted to bite Officer K. Officer K repositioned his/her hands where his/her right hand was holding the Subject's left elbow and his/her left hand was holding the Subject's right wrist.

- **Officer V – (Firm Grips, Physical Force, Body Weight)**

According to Officer V, as he/she approached the Subject, Officer V observed the Subject attempt to strike Officer K, and Officer K utilize his/her leg to block the Subject's strike. Officer V immediately moved forward and grasped the Subject's right bicep and right wrist and attempted to place the Subject's arm behind his back. As this occurred, the Subject attempted to lift his body up from the ground while swinging his arms.

According to Officer V, he/she was able to maintain control of the Subject's right arm as the Subject was repositioned to his stomach. The Subject continued to resist the officers by moving his body. Officer V utilized his/her right shoulder to place his/her body weight onto the rear of the Subject's right shoulder in order to control the Subject's movement against the floor.

- **Officer N – (Firm Grip, Wrist Lock, Body Weight)**

According to Officer N, he/she moved up as Officers K and V were making initial contact with the Subject. Officer N grasped the Subject's left ankle and assisted with controlling the Subject's movement.

According to Officer N, as the Subject continued to physically resist, Officer N utilized his/her body weight to assist with controlling the Subject's body against the floor. Officer N then assisted with repositioning the Subject's left arm behind his back and utilized a wrist lock to maintain control of the Subject's left arm so his left wrist could be handcuffed. During this time, the Subject continued to squeeze and grab at anything he could.

- **Officer W – (Firm Grip, Body Weight)**

According to Officer W, he/she moved into the attic with Officer N and utilized his/her hands to apply a firm grip to hold the Subject's ankles down and maintain control of his legs. Officer W utilized his/her body weight to control the Subject's legs as the Subject continued to resist and move around. Officer W stated that the Subject was able to lift him/her up using his legs.

- **Officer X – (Firm Grip, Wrist Lock, Physical Force)**

According to Officer X, he/she stepped into the attic and immediately took control of the Subject's left arm and hand and applied a firm grip and a wrist lock. The Subject continued to resist officers by moving his body and trying to roll over. Officer X shortly thereafter handcuffed the Subject's left wrist and assisted Officer V with linking the handcuffs on the Subject's left and right arms together to complete the handcuffing process. The Subject continued physically resisting and was fighting the officers, even after being handcuffed.

As SWAT officers made physical contact with the Subject, TASERS had been already utilized multiple times and the Subject was lying on his back. Also, the environment had chemical agents already applied into the area in an attempt to have the Subject exit the structure. The Subject continued to be uncooperative with commands to stop resisting and surrender. The officers were working to resolve the incident and take the Subject into custody. The BOPC noted that the Subject continued to refuse to comply and attempted to strike Officer K with his closed fists as Officer K made an effort to grasp the Subject's wrists. Additionally, the Subject attempted to kick his legs and resist the officers. The Subject continued to actively physically resist as SWAT officers utilized non-lethal force to control and overcome the Subject's resistance.

The BOPC considered that the Subject had, throughout the entire incident, refused to comply with the direction of SWAT officers. Even after he was placed into handcuffs, the Subject continued physically resist the SWAT officers and also curse and berate them. The SWAT officers utilized the minimal amount of force necessary to control the Subject's resistance and continued to verbalize to the Subject to stop resisting.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers K, N, V, W, and X, while faced with similar circumstances, would reasonably believe that this same application of non-lethal force would be reasonable to overcome the Subject's resistance.

Therefore, the BOPC found Officers K, N, V, W, and X's non-lethal use of force to be objectively reasonable and In Policy.

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

- **Officer X – (Sting-Ball Grenade)**

According to Officer X, a tactical plan was developed to approach the attic opening where insulation was placed over the Eyeball camera and deploy a Sting-Ball Grenade, which is specifically designed to be deployed in a confined environment, to see if a reaction could be generated from the Subject and have him surrender. Officer X threw it around the corner, and it deployed; however, the Subject did not respond. Officer X did not hear any coughing or indication that the Subject was affected.

In this case, the BOPC conducted a thorough review in evaluating the reasonableness of Officer X's less-lethal use of force utilizing the Sting-Ball Grenade. The BOPC noted the Subject was believed to be concealing himself in the southern portion of the attic and would not respond or comply with commands to surrender. The Subject was believed to be armed with a firearm. Prior to the use of the Sting-Ball Grenade, SWAT officers had deployed CS and OC gas into the area which had no effect on the Subject. A tactical plan utilizing the Sting-Ball Grenade was discussed by Lieutenant B, Sergeants B and D, and Officer K, which was ultimately approved by Captain A, the IC. Officer X deployed the Sting-Ball Grenade once the tactical plan was approved and initiated.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer X, while faced with similar circumstances, would believe that this same application of less-lethal force would be reasonable to effect the Subject's arrest.

Therefore, the BOPC found Officers X's less-lethal use of force utilizing the Sting-Ball Grenade to be objectively reasonable and In Policy.

- **Officer Q – (40mm Less-Lethal Launcher, one foam-round from an approximate distance of approximately 8 feet)**

According to Officer Q, he/she observed the Subject ignore commands as the Subject attempted to grab the mirror away from Officer L. Officer Q observed there were openings in the attic and believed that the Subject could utilize the tactic mirror's telescoping pole to push, punch, and jab officers, potentially causing them to

fall through the ceiling. Officer Q placed his/her 40mm LLL in a high-ready position, with the muzzle pointed towards the kitchen ceiling opening. Officer M acted as his/her lethal cover officer while Officer L maintained the mirror in an upright position. As the Subject returned and attempted to grab the mirror once again, Officer Q fired one 40mm foam round from a standing position towards the Subject with the 40mm LLL aimed at the Subject's abdomen area. Officer Q fired the 40mm LLL to prevent the Subject from arming himself with the mirror which had a long, stiff handle that is attached to it and could be used as a weapon against officers.

- **Officer N – (40mm Less-Lethal Launcher**, one sponge round from an approximate distance of approximately 12.6 feet)

According to Officer N, he/she maintained his/her position on the second floor near the west side of the attic opening. Officer N observed the Subject grabbing at the mirror which was being utilized by officers in an attempt to locate the Subject through the kitchen ceiling opening from the first floor. Officer N observed the Subject aggressively fighting officers down below who were using the mirror. Officer N observed that the Subject was grabbing at the mirror and kind of either trying to pull it in or shove it out. Officer N utilized a narrow window of opportunity in which he/she had a narrow view of the Subject, to fire one 40mm foam round from a standing position towards the Subject's upper/middle torso with the 40m LLL, in an attempt to stop the Subject's aggressive actions.

In this case, the BOPC conducted a thorough review in evaluating the reasonableness of Officers N and Q's less-lethal use of force utilizing the 40mm LLL. The BOPC noted that Officer Q was positioned on the first floor acting as less-lethal cover as Officer L utilized a tactical mirror through the first floor kitchen ceiling opening in an attempt to locate the Subject. Officer N was positioned on the second floor west side attic entrance acting as less-lethal cover. The BOPC considered that both Officers N and Q observed the Subject, who was moving from one side of the attic to the other, grab a hold of the tactical mirror that was being utilized by Officer L from the first floor. Both Officers N and Q observed the Subject attempt to pull the tactical mirror from Officer L's grasp and believed the Subject could then utilize the tactical mirror as a weapon.

Both Officers N and Q nearly simultaneously discharged one sponge round each from their respective 40mm LLL in order to stop the Subject's attempt to grab and arm himself with the tactical mirror. After assessing immediately after they each fired their single round, Officers N and Q observed the Subject cease his attempts to grab the tactical mirror and then observed the Subject move further west into the confined attic space.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officers N and Q, while faced with similar circumstances, would believe that the same application of less-lethal force would be reasonable to protect themselves and others, and to effect the Subject's arrest.

Therefore, the BOPC found Officers N and Q's less-lethal use of force utilizing the 40mm LLL to be objectively reasonable and In Policy.

- **Officer X – (TASER, eleven activations, all in probe mode)**

**First TASER Activation** – One five-second activation in probe mode, from an approximate distance of eleven feet.

According to Officer X, he/she observed the Subject moving back and forth between the west and east sides of the attic. The Subject was attempting to conceal himself, his hands had not been seen yet, and there were still two outstanding handguns that were registered to him that had not been located. The Subject began throwing insulation at Officer X, at which time Officer X utilized his/her TASER in probe mode and targeted the Subject's left side which was the only part of the Subject's body which was visible to him/her. Officer X activated his/her TASER based on his/her determination that the Subject was combative, the Subject was violent, an OIS already had occurred, and two guns were outstanding. Additionally, Officer X believed he/she needed to protect his/her fellow officers, control the Subject's unencumbered movement, and prevent the Subject from possibly arming himself.

**TASER Activations 2 through 11** – Ten five-second activations in probe mode.

According to Officer X, he/she activated his/her TASER ten additional times during the encounter as the Subject continued to fight through each activation. Officer X did not specifically recall each TASER activation, however he/she stated he/she was assessing between each deployment, and he/she was activating his/her TASER in order to attempt to control the Subject's movement by not giving him the ability to lie in wait or to arm himself or anything like that. Officer X noted he/she didn't want to lose sight of the Subject, and wanted to slow or incapacitate the Subject utilizing his/her TASER, recognizing that the only remaining option available to the SWAT officers was going hands-on, which was unsafe due to the Subject potentially being armed or arming himself. Officer X stated that he/she did not have another option at that point other than utilizing his/her TASER since the SWAT officers had exhausted their inventory of deployable equipment. Officer X additionally stated that he/she activated his/her TASER based on his/her fear that the Subject would be able to make his way over to an area where he had one of those two outstanding pistols. Officer X continued to activate his/her TASER in order to slow him (the Subject) down to the point to where officers could safely go hands on with the Subject.

In this case, the BOPC considered several factors during their assessment of the use of the TASER and the number of TASER activations by Officer X. The BOPC noted the circumstances and tactics that had been attempted as well as the Subject's refusal to comply with commands to surrender throughout the incident. The SWAT officers had attempted to resolve the incident with only the minimal force necessary by establishing verbal communication through CNT as well as utilizing CS

gas, robots, OC gas, tactical mirrors, an Eyeball camera, thermal readers, a Sting-Ball Grenade, and 40mm LLL rounds prior to utilizing the TASER. The BOPC considered that all these tactical options had been implemented over an approximate eight-hour period and that an OIS occurred as the SWAT officers attempted to locate the Subject in the south portion of the attic on the second floor.

The BOPC noted the SWAT officers had attempted to utilize all the tactical options they had which were all ineffective and when visual contact was made with the Subject, he was in an unsearched area of the residence, was believed to be armed, and leaving cover to approach and make physical contact would place the officers at a tactical disadvantage. The BOPC considered Officer X's observations that the Subject was attempting to conceal himself, his hands were not visible, and the two handguns registered to him had not been located. Officer X activated his/her TASER in an attempt to control the Subject's movement and prevent the Subject from possibly arming himself. The BOPC noted that Officer X activated his/her TASER an additional ten times as the Subject continued to move unconstrained in order to control the Subject's movement into an unsearched area where the Subject could potentially arm himself. Officer X advised that he/she was assessing through each activation and intended to secure additional time for additional SWAT officers to gain entry into the attic and make physical contact with the Subject.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer X, while faced with similar circumstances, would believe the applications of the TASER to stop the Subject's actions were objectively reasonable.

Therefore, the BOPC found Officer X's less-lethal use of force utilizing the TASER to be objectively reasonable and In Policy.

- **Sergeant B – (TASER, nine activations, all in probe mode)**

**First TASER Activation** – One five-second activation in probe mode, from an approximate distance of 12.5 feet.

According to Sergeant B, he/she observed the Subject through the port that Officer R was covering. Sergeant B observed that the Subject was moving around the attic and began charging towards both him/her and Officer R at a full sprint. Sergeant B was not able to clearly see the Subject's hands and tried to de-escalate the situation and to stop his (the Subject's) advance towards the port they were covering. Sergeant B advised that he/she was focused on the Subject's hands, however, he/she had very little visual because of the gas mask and the port opening he/she was looking through was only one foot by one foot. In addition to the Subject's actions, Sergeant B heard the Subject yelling, "I'll kill you. Get the fuck out of here." Sergeant B utilized his/her TASER in probe mode, targeting the Subject's center body mass in order to stop the Subject's aggressive movement towards him/her and

Officer R and in order to stop what Sergeant B believed was a potential OIS situation.

**TASER Activations 2 through 8** – Seven five-second activations in probe mode.

According to Sergeant B, he/she activated his/her TASER seven additional times during the encounter. Sergeant B did not specifically recall each TASER activation, however, an assessment was done after each activation, and he/she was activating his/her TASER due to the Subject's movement towards him/her and because Sergeant B still could not observe the Subject's hands. Sergeant B gave the Subject multiple commands to stop and advised the Subject that he/she did not want to hurt him, but the Subject refused to comply. Sergeant B observed the TASER forcing the Subject to the ground and having some effect on the Subject's movement. Sergeant B believed his/her TASER activations caused the Subject to collapse and stop for that period of time which allowed Sergeant B time to assess and observe the Subject's actions to determine if additional activations or force were needed. Additionally, Sergeant B's intent was to force the Subject to return to side two (east), because the Subject was not surrendering by any means, and it was going to be necessary for the officers on east side of the residence to initiate physical contact with the Subject.

**Ninth TASER Activation** – One four-second activation in probe mode.

According to Sergeant B, he/she utilized his/her TASER a ninth time, approximately 33 seconds after his/her eighth activation due to him/her hearing other officers state, "Hey, I can't get his arms. I can't get his arms. He's pulling backwards." Sergeant B believed the Subject was actively resisting the SWAT officers who were attempting to handcuff him/her, the attic floor was weakened and could collapse, and observed the Subject's legs start scrunching back up as though it was an attempt to force - - resist arrest and pull back from officers. Sergeant B utilized his/her TASER in order to immediately stop the Subject's resistance as time was a factor in preventing both the Subject and the officers from falling to the first floor. Sergeant B deactivated his/her TASER prior to the complete five second cycle due to observing Officer W about to make physical contact with the Subject's legs.

The BOPC considered several factors during their assessment of the use of the TASER and the number of TASER activations by Sergeant B. The BOPC noted the circumstances and tactics that had been attempted as well as the Subject's refusal to comply with commands to surrender throughout the incident. The SWAT officers had attempted to resolve the incident with only the minimal force necessary by establishing verbal communication through CNT as well as utilizing CS gas, robots, OC gas, tactical mirrors, an Eyeball camera, thermal readers, a Sting-Ball Grenade, and 40mm LLL rounds prior to utilizing the TASER. The BOPC considered that all these tactical options had been implemented over an approximate eight-hour period and that an OIS occurred as the SWAT officers attempted to locate the Subject in the south portion of the attic on the second floor.

The BOPC noted the SWAT officers had attempted to utilize all the tactical options they had, which were all ineffective and when visual contact was made with the Subject, he was in an unsearched area of the residence, was believed to be armed, and leaving cover to approach and make physical contact would place them at a tactical disadvantage. The BOPC considered Sergeant B's statement that he/she activated his/her TASER due to his/her inability to clearly see the Subject's hands, to prevent the Subject's aggressive movement towards himself/herself and Officer R, and to de-escalate a potentially lethal force situation. Additionally, Sergeant B continued to activate his/her TASER in order to attempt to control the Subject's movement and to force him to move back towards the east side of the attic in order for additional SWAT officers to take the Subject into custody. The BOPC noted Sergeant B's last TASER activation was approximately 33 seconds after his/her 8<sup>th</sup> activation and considered Sergeant B's observation that the Subject was struggling with officers and was actively moving his legs to resist officers. Sergeant B utilized his/her TASER in order to stop the Subject's resistance and allow SWAT officers to swiftly gain control of the Subject. The BOPC noted that Sergeant B deactivated his/her TASER prior to the complete five second cycle due to observing Officer W about to make physical contact with the Subject's legs.

Based upon the totality of the circumstances, the BOPC determined that a Sergeant with similar training and experience as Sergeant B, while faced with similar circumstances, would believe the applications of the TASER to stop the Subject's actions was objectively reasonable.

Therefore, the BOPC found Sergeant B's less-lethal use of force utilizing the TASER to be objectively reasonable and In Policy.

- **Officer Y – (TASER, five activations, all in probe mode)**

**First TASER Activation** – One five-second activation in probe mode, from an approximate distance of nine feet.

According to Officer Y, he/she observed Officer X deploy a TASER and activate it at the Subject in probe mode. The Subject was not following any commands whatsoever and was starting to move back out of the officers' view and turned the corner. Officer Y stated that he/she was unable to see the Subject's hands and believed the Subject still may be armed. Officer Y believed that his/her TASER was the only option remaining for him/her to deploy since all other alternatives had been exhausted. Officer Y stated, "We gave verbal commands. We had given warnings. We utilized gas. We utilized other munitions in the SWAT arsenal to come to a peaceful resolution that were ineffective." Officer Y utilized his/her TASER in probe mode to prevent the Subject from moving back and forth in the attic. Officer Y was unable to see the Subject's hands and believed that the Subject may possess a weapon. Additionally, Officer Y knew it was going to take time to continue to break

down the wall separating officers from the Subject and attempt to move into the attic to initiate physical contact with the Subject and take him into custody.

**TASER Activations 2 through 4** – Three five-second activations in probe mode.

According to Officer Y, he/she activated his/her TASER three additional times to stop the Subject's movement and allow time for the actual arrest team to maneuver through that drywall, put hands on, and ultimately, put handcuffs on the Subject. The Subject did not stop moving and Officer Y believed a secondary tasing would be effective to stop the Subject's movement. Officer Y stated, "Between every single tasing, there was a momentary pause." Officer Y continued to assess the Subject's actions. Officer Y noted, he/she continued to give commands for the Subject to stop, however, the Subject did not stop his actions. Additionally, Officer Y stated he/she wanted to stop his (the Subject's) movement from one to the other in order to increase the amount of time additional officers had to create an opening in the wall and position themselves to make physical contact to effect an arrest.

**Fifth TASER Activation** – One five-second activation in probe mode.

According to Officer Y, he/she utilized his/her TASER a fifth time just prior to the actual contact with the Subject. Officer Y observed that the Subject was still not following commands and was not surrendering. Officer Y utilized the TASER one additional time due to the Subject continuing to move around, his refusal to comply with commands, and in order to allow additional officers to make their approach. Officer Y opined his/her final TASER activation caused the Subject to cease his movement and Officer Y observed the Subject was no longer fighting.

The BOPC considered several factors during the assessment of the use of the TASER and the number of TASER activations by Officer Y. The BOPC noted the circumstances and tactics that had been attempted as well as the Subject's refusal to comply with commands to surrender throughout the incident. The SWAT officers had attempted to resolve the incident with only the minimal force necessary by establishing verbal communication through CNT as well as utilizing CS gas, robots, OC gas, tactical mirrors, an Eyeball camera, thermal readers, a Sting-Ball Grenade, and 40mm LLL rounds prior to utilizing the TASER. The BOPC considered that all these tactical options had been implemented over an approximate eight-hour period and that an OIS occurred as the SWAT officers attempted to locate the Subject in the south portion of the attic on the second floor.

The BOPC noted the SWAT officers had attempted to utilize all the tactical options they had, which were all ineffective and when visual contact was made with the Subject, he was in an unsearched area of the residence, was believed to be armed, and leaving cover to approach and make physical contact would place the officers at a tactical disadvantage. The BOPC considered Officer Y's observations that the Subject was not complying with commands to surrender and was continuing to move around in an unsearched area. Officer Y was unable to see the Subject's hands and

believed the Subject may be armed. Officer Y activated his/her TASER in order to control the Subject's movement and allow additional SWAT officers to gain entry into the attic to initiate physical contact with the Subject. The BOPC considered Officer Y's four subsequent activations which were intended to exert some control over the Subject's movement around the attic as additional SWAT officers closed distance with the Subject to take him into custody.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer Y, while faced with similar circumstances, would believe the applications of the TASER to stop the Subject's actions were objectively reasonable.

Therefore, the BOPC found Officer Y's less-lethal use of force utilizing the TASER to be objectively reasonable and In Policy.

- **Officer N – (TASER, three activations, one in probe mode and two in drive-stun mode)**

**First TASER Activation** – One five-second activation in probe mode, from an approximate distance of 7-6 feet.

According to Officer N, he/she observed the Subject swinging at them (officers) violently with his arms as Officers K and V approached the Subject to initiate physical contact and take him into custody. Officer N noted he/she was aware of the prior TASER activations on the Subject, however, had a clear view and believed his/her TASER activation could be effective in stopping the Subject's aggressive actions. Officer N utilized his/her TASER in probe mode based on the Subject's behavior. Officer N observed that the Subject was actively fighting officers who were trying to make contact with the Subject in a confined space in the attic and utilized his/her TASER to allow the officers to gain control of the Subject in order to take him into custody.

**Second and third TASER Activations** – Two five-second activations in drive-stun mode.

According to Officer N, he/she utilized his/her TASER on the Subject's left leg in drive-stun mode due to the Subject still fighting pretty strongly and Officer N's observation that officers were having a difficult time controlling him (the Subject). Officer N advised, as officers were struggling with the Subject, that he/she observed the Subject was ridiculously strong, and multiple SWAT officers were straining to overcome the Subject's resistance. Officer N directed the TASER at the quadriceps area of the Subject leg and observed that it definitely stiffened the Subject's leg and kept him from kicking the officers. However, the Subject continued to resist, causing Officer N to activate his/her TASER one additional time on the muscular part of the Subject's left leg in drive-stun mode to prevent him (the Subject) from further resisting and kicking the officers. Additionally, Officer N noted he/she was able to

feel the muscular rigidity in the Subject's leg as he/she activated the TASER, which prevented the Subject's active attempts to utilize his (the Subject's) leg from bending and kicking the officers. Officer N stated that after the third tasing, his/her assessment was that it would no longer be necessary to tase the Subject and determined that body weight was sufficient for controlling the Subject.

The BOPC considered several factors during its assessment of the use of the TASER and the number of TASER activations by Officer N. The BOPC noted the circumstances and tactics that had been attempted as well as the Subject's refusal to comply with commands to surrender throughout the incident. The SWAT officers had attempted to resolve the incident with only the minimal force necessary by establishing verbal communication through CNT as well as utilizing CS gas, robots, OC gas, tactical mirrors, an Eyeball camera, thermal readers, a Sting-Ball Grenade, and 40mm LLL rounds prior to utilizing the TASER. The BOPC considered that all these tactical options had been implemented over an approximate eight-hour period and that an OIS occurred as the SWAT officers attempted to locate the Subject in the south portion of the attic on the second floor.

The BOPC noted the SWAT officers had attempted to utilize all the tactical options they had, which were all ineffective and when visual contact was made with the Subject, he was in an unsearched area of the residence, was believed to be armed, and leaving cover to approach and make physical contact would place the officers at a tactical disadvantage. The BOPC considered Officer N's observations that the Subject was violently swinging his arms at Officer K, as Officer K was attempting grasp ahold of the Subject's wrist. Officer N activated his/her TASER in order to stop the Subject from striking Officer K and then proceeded to make physical contact with the Subject. The BOPC considered Officer N's two additional TASER activations in drive-stun mode on the Subject's left leg as the Subject physically resisted the efforts of the SWAT officers' attempts to gain control of his arms. Officer N's assessment led him/her to determine that his/her body weight and the physical efforts by additional SWAT officers were sufficient for controlling the Subject after the second drive-stun activation.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer N, while faced with similar circumstances, would believe the applications of the TASER to stop the Subject's actions were objectively reasonable.

Therefore, the BOPC found Officer N's less-lethal use of force utilizing the TASER to be objectively reasonable and In Policy.

#### **E. Lethal Use of Force**

- **Officer U** – (rifle, one round)

According to Officer U, from the onset of the encounter between the Subject with SWAT officers as they deployed around the Subject's residence, the Subject had an angry demeanor and was yelling at officers and stated, "I'm going to shoot you in the face." The Subject advised that he was in possession of a handgun that he was going to use to carry out his threat. Officer U assisted with the search of the Subject's residence. While in the first floor kitchen and acting as the cover officer, Officer U observed the insulation rise rapidly, approximately 10 inches from the attic floor. Officer U utilized the tactical light affixed to his/her rifle to illuminate the open ceiling vent that he/she was covering. Officer U observed the Subject, who appeared to be angry, and Officer U believed the situation was like an ambush concealed position because the Subject was hiding underneath the insulation.

Additionally, Officer U observed a metal object that appeared to Officer U to be like the barrel end or the tip end muzzle area of a handgun in the Subject's right hand. Based on his/her knowledge that the Subject did have registered handguns in his name, as well as the Subject's threats to shoot officers, Officer U believed he/she did not have time to provide verbal commands and felt that both his/her life and the lives of his/her fellow SWAT team members were in danger. Officer U discharged one round from his/her rifle in order to protect himself/herself and his/her fellow officers from any gunfire, which could have resulted in death or any serious bodily injury. Immediately after discharging his/her rifle, Officer U moved towards cover and assessed the tactical situation. Once Officer U assessed and determined that the Subject was no longer visible and an imminent threat, he/she placed his/her weapon on safe.

In this case, the BOPC conducted a thorough review and analysis of the reasonableness of Officer U's use of lethal force. The BOPC took into consideration that while CNT officers were attempting to communicate and establish verbal dialogue with the Subject, the Subject became increasingly hostile and threatened to shoot the SWAT officers with both a handgun and a high-powered rifle. Officer U believed the Subject to be armed and heard the Subject's multiple threats directed to SWAT officers that he was going to shoot officers "in the face."

Additionally, Officer U was provided information that the Subject was possibly a military veteran, and therefore, may have received military training. The residence had already had chemical agents introduced to the environment, to which the Subject continued to refuse to submit to arrest. The BOPC noted the information provided regarding the Subject's background, in conjunction with the Subject verbalizing his hostile intent to kill officers, formed Officer U's belief with regard to the Subject being a potentially dangerous suspect.

The BOPC noted Officer U's assessment that the Subject presented an immediate lethal threat while he/she covered an open vent in the ceiling of the kitchen. Officer U observed the ceiling insulation rise up briefly, exposing the Subject. Officer U stated that he/she observed the Subject pointing a metal object, which he/she perceived as the barrel of a handgun at him/her. Based on having a "split second" to

react, Officer U stated that he/she was unable to move to cover and feared for his/her life. Taking into consideration the information regarding the Subject's military background, his intent to shoot officers, and the Subject's access to handguns, Officer U believed the Subject intended to shoot Officer U and his/her fellow officers. Officer U discharged one round from his/her rifle to defend himself/herself and his/her fellow officers from the deadly threat, and immediately assessed after the OIS. Officer U maintained his/her position as a DCO and communicated to fellow SWAT officers that he/she had been involved in an OIS and that he/she had observed movement in the attic.

The BOPC also noted that Officer U, in response to the imminent deadly threat, discharged one round from his/her rifle. Officer U assessed the incident immediately after he/she fired his/her rifle and ceased fire as he/she observed the Subject appear to move back away from the ceiling vent opening and out of Officer U's view.

Based on a preponderance of evidence and totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer U, would reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury and that the lethal use of force would be objectively reasonable.

Therefore, the BOPC found Officer U's lethal use of force to be In Policy.