

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

**OFFICER-INVOLVED SHOOTING 053-19**

| <b>Division</b> | <b>Date</b> | <b>Duty-On (X) Off ( )</b> | <b>Uniform-Yes (X) No (X)</b> |
|-----------------|-------------|----------------------------|-------------------------------|
|-----------------|-------------|----------------------------|-------------------------------|

|        |          |  |  |
|--------|----------|--|--|
| Newton | 11/19/19 |  |  |
|--------|----------|--|--|

| <b>Officer(s) Involved in Use of Force</b> | <b>Length of Service</b> |
|--------------------------------------------|--------------------------|
|--------------------------------------------|--------------------------|

|           |                    |
|-----------|--------------------|
| Officer A | 6 years, 8 months  |
| Officer C | 15 years, 2 months |

**Reason for Police Contact**

A citizen flagged down Sergeant A and directed him/her to a man with a knife. Officers located the Subject, who was holding a large kitchen knife in his right hand. The Subject ran toward an officer while holding the knife, resulting in an Officer-Involved Shooting (OIS).

| <b>Subject</b> | <b>Deceased (X) Wounded ( ) Non-Hit ( )</b> |
|----------------|---------------------------------------------|
|----------------|---------------------------------------------|

Subject: Male, 47 years of age.

**Board of Police Commissioners' Review**

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

In accordance with state law, divulging the identity of police officers in public reports is prohibited, so the masculine pronouns (he/she, his/her, and him/her) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on October 20, 2020.

## **Incident Summary**

On November 19, 2019, Witness A was driving her vehicle when she observed the Subject, walking north on the west sidewalk. According to Witness A, the Subject lifted the front of his shirt and appeared to be scraping his abdomen with a large kitchen knife. Witness A described the knife as being approximately twelve inches in length.

According to Witness A, the Subject was looking back and forth and appeared to be acting paranoid. The Subject's behavior caused Witness A to believe that he may be under the influence of narcotics. Witness A observed many pedestrians in the area, including children walking to school, and feared for their safety. Witness A continued driving south, at which time she observed a police vehicle and decided to report the incident.

Sergeant A was driving a marked police vehicle when he/she observed Witness A, waving her hands frantically and honking her horn. It was apparent that Witness A was trying to get his/her attention; therefore, Sergeant A parked, adjacent to the Newton Community Police Station (CPS). According to Sergeant A, Witness A informed him/her that the Subject was walking in the street, armed with a large knife, and that she feared that he was going to harm someone.

Sergeant A broadcast to Communications Division (CD), advising that he/she was on a citizen flag-down. Sergeant A inquired if there were any radio calls generated for a man with a knife. CD informed Sergeant A that there were no current calls related to that incident.

CD broadcast, for units to respond for a man with a knife, and asked Sergeant A if he/she was equipped with a Beanbag Shotgun or 40mm Less Lethal Launcher (LLL). Sergeant A advised CD that he/she was not equipped with either tool; however, was going to check the area and would request an additional unit if necessary.

According to Sergeant A, he/she advised Witness A that he/she was going to check the area for the Subject. Sergeant A negotiated a U-turn and drove north at a slow rate of speed. According to Sergeant A, there was heavy vehicle and pedestrian traffic at that time and there were children in the area walking to school.

Sergeant A observed a woman standing at a bus stop. Sergeant A pulled his/her vehicle to the east curb, with the intention of contacting the woman, to see if she had observed the Subject. Before Sergeant A had the opportunity to speak with the woman, Witness A pulled along the driver's side of his/her vehicle.

Witness A advised Sergeant A that the Subject was close to a nearby intersection. According to Sergeant A, he/she inquired about the Subject's attire, at which time Witness A informed him/her that the Subject was wearing a hat, a blue shirt and black shorts. Sergeant A negotiated a U-turn and drove south toward the location provided by Witness A.

Meanwhile, Detective A and Officers A and B, were at the police station when they heard Sergeant A's initial broadcast. They were all working on administrative duties at the time of the incident and were attired in plainclothes. According to Officers A and B, they did not hear any patrol units responding to Sergeant A's location. Aware that Sergeant A was working alone, they were concerned for his/her safety and decided to respond. Due to Sergeant A's close proximity to the station, the officers responded on foot.

Neither Detective A, or Officers A and B donned raid jackets, body armor or a tactical vest with ballistic protection as they responded to assist Sergeant A.

Officer C was working the front desk when he/she observed Detective A and Officers A and B run downstairs from the Detective Squad Room area. According to Officer C, they advised him/her that a supervisor requested back-up for a man with a knife. A review of Newton Division's police radio broadcasts determined that Sergeant A did not request a back-up during his/her initial broadcast.

Officer C noted that the detective and officers were not equipped with TASERs and/or less-lethal options; therefore, he/she decided to respond with them. Detective A, along with Officers A, B, and C went out into the street; however, they did not see Sergeant A.

Officer A broadcast to CD, asking for an updated location for Sergeant A, which Sergeant A provided.

Officer A advised CD that he/she was Code Six in the area with Officer B. Sergeant A heard Officer A's broadcast; however, was unaware that the detective personnel were on foot.

According to Officer A, it was not feasible for them to go back to the station, grab their car keys and obtain a police vehicle. Therefore, they decided to walk one block north toward Sergeant A's location.

Sergeant A then observed the Subject in the mouth of a north-south alleyway and activated his/her BWV. According to Sergeant A, the Subject looked at him/her and then walked northbound through the alley. As the Subject walked north, he looked back in Sergeant A's direction, then reached toward his front shorts pocket as if he were hiding an object. Sergeant A positioned his/her vehicle near the mouth of the alley and monitored the Subject as he continued to walk north in the alley.

According to Sergeant A, the Subject continued walking north, and as he did so, the Subject repeatedly looked back in Sergeant A's direction, while fidgeting with his front waistband area. Sergeant A followed the Subject in his/her vehicle, driving north in the alley at a slow rate of speed.

The Subject walked to a nearby street. Sergeant A stopped his/her vehicle, at which time the Subject looked in his/her direction. Sergeant A initiated contact with the Subject through the open driver's side window of his/her vehicle. According to Sergeant A, his/her intentions were to assess the situation, try to determine if a crime

had occurred, and request additional resources if necessary. As captured on BWV, Sergeant A asked the Subject what he had in his waistband. According to Sergeant A, the Subject mumbled something unintelligible and walked away.

According to Sergeant A, the Subject was sweating, scratching himself, moving back and forth, and kept adjusting his waistband area. The Subject's demeanor caused Sergeant A to form the opinion that he was either under the influence of an unknown substance or suffering from mental illness.

Detective A and Officers A, B, and C arrived at the location provided by Sergeant A; however, they did not see Sergeant A. Officer A broadcast to CD, asking for an updated location.

Sergeant A advised CD that the Subject was walking north and provided an updated location. Sergeant A also provided a description of the Subject.

According to Officer A, there were still no patrol units responding to Sergeant A's location; therefore, the officers decided to continue their response on foot.

According to Sergeant A, he/she looked south and observed Detective A and Officers A, B, and C approaching his/her location on foot. Sergeant A turned south to pick up the officers. As he/she did so, Sergeant A's BWV was deactivated. According to Sergeant A, he/she was unaware that his/her BWV was deactivated and believed it was recording throughout the entire incident.

Sergeant A pulled to the curb and picked up Detective A and Officers A, B, and C. As he/she did so, Sergeant A utilized his/her rearview mirror to maintain a visual of the Subject, who continued to walk in a northerly direction. According to Sergeant A, the Subject repeatedly looked back in his/her direction and began walking at a faster pace.

Officers A and B sat together on the front passenger seat, while Officer C was seated on the rear driver's side and Detective A on the rear passenger's side of the vehicle. Just prior to entering the police vehicle, Officer C activated his/her BWV.

Sergeant A negotiated a U-turn and drove north. As captured on Officer C's BWV, Sergeant A advised the officers and detective that Witness A reported that the Subject was armed with a knife.

Meanwhile, security video captured the Subject walking near a group of pedestrians on the sidewalk. As the officers approached in their vehicle, Officer B observed the Subject holding a large butcher knife in his right hand.

Sergeant A observed the Subject standing on the sidewalk, next to a female street vendor. Sergeant A also observed pedestrians in the area and was concerned for their safety. Sergeant A pointed in the Subject's direction and identified the Subject. According to Sergeant A, there was not enough time to formulate a tactical plan with Detective A and Officers A, B, and C as they drove north, due to the Subject's proximity to their location.

Aware that the Subject was potentially armed with a knife and was displaying symptoms of being under the influence of an unknown substance, Sergeant A was concerned for the safety of the citizens. With public safety in mind, Sergeant A believed they needed to take immediate action and decided to initiate contact with the Subject. Sergeant A stopped the police vehicle in the roadway, facing north, partially blocking the number one lane for southbound traffic. Sergeant A yelled to the Subject to stop.

According to Sergeant A, the Subject looked in his/her direction and removed a large knife from his right pocket. The Subject then placed the knife back into the same pocket. According to Sergeant A, the female street vendor began backing away from the Subject. The Subject then ran in a northwesterly direction through a parking lot.

Officers A, B, and C exited the vehicle. As Detective A exited the vehicle, he/she broadcast to CD that he/she was Code Six on the back-up.

According to Witness B, she was walking north on west sidewalk, pushing her one-year-old child in a stroller. She observed the Subject running north on the sidewalk behind her, pursued by police officers. According to Witness B, the Subject was reaching into his pockets as he fled. According to Witness B, she heard citizens in the area say that the Subject had a knife; however, she did not observe the Subject holding a weapon.

As the Subject approached the north side of the parking lot, he began to slow down. Believing the situation could rise to the level where deadly force was necessary, Officer A unholstered his/her pistol and held it in a two-handed, low-ready shooting position, with the muzzle pointed in a northwesterly direction toward the Subject.

Officer B knew the Subject was armed with a knife and believed there was an imminent threat of injury or death to him/her and his/her partners. Therefore, he/she unholstered his/her pistol and held it in a two-handed, low-ready shooting position with the muzzle pointed toward the Subject.

The Subject turned in a clockwise direction and faced toward Officers A and B. As captured by security video, the Subject was holding a large knife in his right hand. Officer A ordered the Subject to get down and drop the knife. The Subject did not comply with Officer A's commands.

According to Officer A, in order to identify himself/herself as a police officer, he/she used his/her left hand to tuck in the front right side of his/her shirt, exposing his/her badge. Officer A held his/her pistol in his/her right hand with the muzzle pointed toward the Subject. Officer A said he/she pointed at his/her badge in an exaggerated manner to direct the Subject's attention to it. According to Officer A, the Subject looked in the direction of his/her badge/waistband area with a blank stare.

According to Officer C, he/she observed the Subject holding the knife as he ran toward the parking lot. After exiting the vehicle, Officer C unholstered his/her pistol and held it in his/her right hand with the muzzle pointed toward the ground. Officer C and Detective A walked to the west sidewalk. Officer C then holstered his/her pistol and

unholstered his/her TASER with his/her left hand. According to Officer C, he/she unholstered his/her TASER because he/she observed the other officers with their pistols drawn and knew that the lethal option was covered.

According to Detective A, the Subject appeared to be under the influence of an unknown substance and was not complying with Officer A's commands. Detective A observed the Subject holding a knife in his right hand and swinging it around. According to Detective A, the Subject was highly agitated. Detective A thought the Subject was going to either take a hostage or try to stab somebody. Believing the situation could escalate to the point where lethal force was necessary, Detective A unholstered his/her pistol and held it in his/her right hand as he/she jogged through the parking lot.

As the Subject walked backward in the parking lot, Officers A and B walked north on the west sidewalk with their pistols drawn. Detective A and Officer C ran in a northwesterly direction through the parking lot.

Simultaneously, Sergeant A drove north and activated his/her BWV as well as his/her overhead emergency lights and siren, then Sergeant A stopped his/her vehicle in a crosswalk. According to Sergeant A, he/she repositioned his/her vehicle to this location to provide a position of advantage and/or cover for the officers while they waited for additional resources to arrive at scene; however, this was never communicated to the other officers.

Sergeant A, while seated in his/her police vehicle, requested back up, a 40mm LLL, and a beanbag shotgun. He/she advised CD that the Subject was running and was armed with a knife.

The Subject continued running north on the west sidewalk. According to Officer A, he/she observed a group of citizens standing on the sidewalk north of the Subject's location and was concerned for their safety. Officer A was also aware of a school located a short distance from their location, and due to the time of morning, knew there would be heavy pedestrian traffic in the area.

Officer A and Detective A holstered their pistols and followed the Subject on foot, followed in turn by Officers B and C. According to Officer A, his/her intentions were to maintain a visual of the Subject and ensure that he did not approach any children and/or take a hostage. Officer C informed his/her colleagues that he/she had the TASER ready.

The Subject abruptly stopped running, then turned and faced south, toward the officers. As captured by Officer C's BWV, Detective A unholstered his/her pistol, held it in his/her right hand and pointed the muzzle in a northerly direction toward the Subject. According to Detective A, he/she advised the Subject to drop the knife or he would be shot. The Subject did not comply with Detective A's command.

According to Officer A, the Subject looked directly at him/her, then removed a knife from his waistband area. Officer A stopped in the number two lane of the roadway and unholstered his/her pistol, which he/she held in a two-handed shooting position, with

the muzzle pointed in a northerly direction toward the Subject. As captured by BWV, the Subject began walking in a southerly direction toward Officer A, while holding the knife in his/her right hand. Officer A yelled for the Subject not to come at him/her.

The Subject then ran toward Officer A while continuing to hold the knife in his right hand. The blade of the knife was pointed backward and parallel to the Subject's forearm. As the Subject ran toward Officer A, Officer A backed up in a westerly direction and ordered the Subject to stop multiple times; however, the Subject did not comply.

According to Officer A, he/she believed the Subject was going to kill him/her. In defense of his/her life, Officer A fired five rounds at the Subject in a north to northeasterly direction from an approximate distance of 12 feet. The Subject was struck by gunfire and fell to the ground.

According to Officer A, he/she conducted a quick assessment between each shot he/she fired. Officer A ceased firing when the Subject stopped and began falling to the ground. Officer A estimated that the Subject got to within approximately three to five feet of him/her before collapsing.

Officer A was cognizant that there were pedestrians in the area and was concerned for their safety. According to Officer A, just prior to firing his/her first round, he/she looked behind the Subject to see if any citizens were in his/her background. Officer A observed a box truck behind the Subject and felt confident that the background was clear.

Officer C observed the Subject run toward Officer A, transitioned the TASER into a two-hand shooting position, and pointed it in a northeasterly direction toward the Subject. As the Subject advanced toward Officer A, Officer C fired the TASER at the Subject, in an easterly direction.

Immediately following the OIS and TASER activation, the Subject fell to the ground, landing on his right side. As captured by Officer C's BWV, as the Subject fell, he dropped the knife, which landed in the street.

According to Officer C, the Subject was clearly injured as a result of the OIS. Officer C was able to see both of the Subject's hands, and noted they were empty. Officer C was unaware of the knife's whereabouts and did not want to allow the Subject the opportunity to reach into his pockets and/or waistband area. Therefore, Officer C decided to approach the Subject to take him into custody. Detective A advised Officer C that he/she would provide cover for Officer C.

Detective A and Officer A kept their pistols drawn and provided cover for Officer C as he/she made his/her approach. Officer C approached the Subject from behind, placed both of his/her hands on the Subject's upper back area and rolled him onto his stomach. Officer B holstered his/her pistol and also approached the Subject. Officer C then handcuffed and searched the Subject with the assistance of Officer B.

Sergeant A was still seated in his/her vehicle at the time of the OIS. Sergeant A heard gunshots and observed the Subject fall to the ground. Sergeant A broadcast a help call, advising that shots had been fired. Sergeant A then immediately requested a Rescue Ambulance (RA) for the Subject, and additional units to assist with traffic control.

Los Angeles Fire Department (LAFD) personnel arrived at scene and rendered aid to the Subject. The Subject succumbed to his injuries and was pronounced dead at the scene.

**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 |
|------------|-----------------------|----------------------|----------------------------------|-------------------------|------------------------------------|
| Sergeant A | No                    | Yes                  | No                               | No                      | No                                 |
| Officer C  | Yes                   | Yes                  | Yes                              | N/A                     | N/A                                |

Officer A was not equipped with BWV because Detective Bureau had not been provided with this equipment at the time of this incident. The BOPC recently sent a report to the City Council itemizing the cost of providing this equipment to Detective Bureau.

**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

**A. Tactics**

The BOPC found Sergeant A, Detective A, and Officers A and B’s Tactics to warrant Administrative Disapproval. The BOPC found Officers C’s Tactics to warrant a Tactical Debrief.

**B. Drawing and Exhibiting**

The BOPC found Detective A, and Officers A, B, and C’s drawing and exhibiting of a firearm to be In Policy.

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

The BOPC found Officer C’s less-lethal use of force to be In Policy.

**D. Lethal Use of Force**

The BOPC found Officer A’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), which states that:

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

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

Law enforcement officers are authorized to use deadly force to:

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

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

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

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

## **A. Tactics**

### Tactical De-Escalation Techniques

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

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

**Planning** – Sergeant A was notified by Witness A that she had observed the Subject in possession of a large knife, in addition to appearing either under the influence of a narcotic or suffering from a mental illness. Due to Sergeant A's belief of having a limited number of patrol personnel available in Newton Patrol Division, Sergeant A planned on attempting to locate the Subject to determine if a crime had been committed, and should the need arise, to request additional resources. Through the direction of Witness A again informing Sergeant A of the Subject location, Sergeant A was able to locate and follow the Subject. As the Subject continued to walk, Sergeant A observed Detective A and Officers A, B, and C approaching his/her location. Sergeant A picked up Detective A and Officers A, B, and C in his/her police vehicle where Sergeant A informed them of the Subject's clothing description and that the Subject was possibly armed with a knife; however, there was no plan created as to how responding personnel were to handle the incident. According to Sergeant A, the incident was fluid and there was no time to create and discuss a tactical plan with the additional Department personnel.

The BOPC concluded that while this was a rapid and fluid incident, Sergeant A had the opportunity to develop a tactical plan as he/she searched for, located, and followed the Subject. The BOPC noted, that while there were Newton Patrol Division officers involved in other duties, Newton Patrol Division had multiple additional geographic patrol divisions in a close proximity to assist either with this incident or to assist in general patrol functions as Newton personnel attended to this incident. Sergeant A also had the ability to develop and communicate a tactical plan after he/she picked up Detective A and Officers A, B, and C in his/her police vehicle and drove towards the Subject's location. The BOPC would have preferred and expected that Sergeant A, a tenured supervisor, had developed a basic tactical plan prior to making contact with the Subject. Additionally, once Sergeant A had additional Department personnel with him/her, the BOPC would have preferred Sergeant A to have slowed down the intensity of the incident and communicated a tactical plan. This would also include designating roles which included an assigned contact officer, Designated Cover Officer (DCO), and less-lethal force options.

Detective A and Officers A, B, and C, who were working administrative and front desk duties inside the station, exited the station to assist Sergeant A. As they exited to assist Sergeant A with what they believed was a man with a knife, Detective A and Officers A and B had not donned their ballistic vests. In addition, Officer B was not in possession of an extra magazine or a set of handcuffs, and Officer C who was in full police uniform was also not in possession of his/her baton. According to Officer A and B, they immediately responded due to Sergeant A working alone, Sergeant A's proximity to the station, and not hearing that additional Department personnel were responding to his/her location. According to Detective A, and Officers A, B, and C no plan was created or discussed as they responded to the Sergeant A's location. Additionally, as they located and entered Sergeant A's police vehicle, no plan was discussed as to how they were going to handle the incident nor was it discussed as the incident unfolded. Officer C attempted to coordinate with the other officers, as he/she designated himself/herself the less-lethal cover officer with a TASER. According to Detective A and Officer B, there was no time to create or implement a plan due to the exigency of the incident.

The BOPC concluded that while this was a rapid and fluid incident, Detective A and Officers A, B, and C were expected to take the time afforded to them to form a plan and designate clear roles and responsibilities for handling an incident, which includes donning their ballistic vests and being in possession of all their required equipment when expecting to make contact with a possibly armed individual. The BOPC noted that while the responding officers' concern for Sergeant A's safety while working alone and investigating a man with a knife is commendable, it did not alleviate their responsibility to adhere to Department policies. In this case, they created the exigency for themselves in their response. The BOPC would have preferred that Detective A and Officers A, B, and C had slowed down, evaluated the incident, and created a tactical plan among themselves and with Sergeant A.

**Assessment** – Sergeant A assessed the information provided by Witness A regarding the Subject's behavior and the danger he posed to the community. Sergeant A then took into consideration the information he/she had garnered from

roll call of multiple Newton Patrol Division officers assisting a multiple individual arrest, and Newton Patrol Division units in court. As a result, he/she made the decision to assess the incident to determine if the Subject was still in the area before requesting additional resources. Sergeant A located and monitored the Subject, where he/she made the determination that the Subject was either under the influence of an unknown substance or suffering from a mental illness. It also appeared that the Subject was concealing an object in the front waistband of his shorts.

As Sergeant A continued to monitor the Subject, he/she observed numerous community members in the area. Sergeant A also observed Detective A and Officers A, B, and C approaching his/her location to assist him/her with the Subject and drove his/her police vehicle to their location to pick them up. As they entered the police vehicle, Sergeant A observed Officer C dressed in full police uniform and in possession of a TASER, and Detective A and Officers A and B were wearing their detective duty belts. Sergeant A drove the police vehicle to where the Subject was located and observed the Subject remove a knife from his pocket and then place the knife back into his pocket. Sergeant A notified Detective A and Officers A, B, and C that he/she had observed the Subject in possession of a knife. Sergeant A continued to assess while relocating his/her police vehicle as Detective A and Officers A, B, and C exited his/her police vehicle and made contact with the Subject. Sergeant A then initiated a back-up request. Upon hearing Officer A discharge his/her service pistol, Sergeant A upgraded his/her request to an "officer needs help" call. Subsequent to the OIS, Sergeant A assessed the immediate need for a RA and his/her need to isolate Officer A. He/she also assessed the need for additional Department personnel and resources to assist in containing the scene.

The BOPC concluded that while Sergeant A made assessments during the incident, most notably the danger the Subject presented to the community, those assessments were not followed by substantive action such as requesting additional resources to assist with the Subject. Sergeant A, a tenured supervisor, would be reasonably expected to contact CD for additional personnel rather than attempt to manage the incident on his/her own.

Detective A and Officers A, B, and C assessed Sergeant A's broadcast to CD and determined that additional personnel should assist Sergeant A due to Sergeant A working alone. Furthermore, no other Department personnel were broadcasting a response to his/her location. Officer C assessed that as plainclothes officers were exiting Newton CPS, they did not have a less-lethal option with them. Officer C made the determination to assist the plainclothes officers because he/she had a TASER. After entering Sergeant A's police vehicle, Officer C recognized that he/she would be unable to exit the police vehicle from the rear passenger seat and advised Sergeant A to roll down the rear windows so Officer C could reach the vehicle's exterior door handle and open the door when needed. Upon assessing that the Subject had a knife, and the situation may rise to the use of deadly force, Officers A, B, C and Detective A unholstered and drew their service pistols. Officer C further assessed that lethal force options were already covered, drew his/her TASER as a less-lethal force option, and notified the other officers and detective that he/she had the TASER. Officer B was unholstered at the light post when he/she assessed that

Officer A was moving in front, so he/she came down to a low-ready position with his/her service pistol. Officer C discharged the TASER to protect Officer A after assessing that the Subject was running with a knife in his hand toward Officer A.

While still in possession of a knife, the Subject turned towards Officer A and began to charge Officer A. Officer A assessed his/her background and determined his/her background to be free from community members. He/she also observed a box truck behind the Subject. As the Subject continued to advance, Officer A articulated his/her assessment that the Subject presented an imminent threat of death or serious bodily injury to him/her and discharged his/her service pistol. As the Subject continued his advance, Officer A assessed that the Subject was an imminent threat of death or serious bodily injury to himself/herself and again discharged his/her service pistol. Officer A fired a total of five rounds. Officer A made assessments between each round and ceased firing his/her service pistol after assessing that the Subject had collapsed.

The BOPC concluded that while Sergeant A, Detective A, and Officers A and B made some assessments throughout the incident, these assessments were not shared or communicated, and a tactical plan was not formed. The BOPC would have preferred they had worked as a team guided by Sergeant A and not as individuals.

**Time** – Sergeant A was afforded some time to create a tactical plan and request additional resources after he/she met with Witness A, searched for, located, and eventually began following the Subject.

According to the FID investigation from the time Sergeant A picked up Detective A, and Officers A, B, and C in his/her police vehicle to the time Detective A, and Officers A, B, and C exited the police vehicle, 40 seconds had elapsed. During this time, Sergeant A informed Detective A, and Officers A, B, and C of what the Subject was wearing and that he/she had been informed by Witness A that the Subject was in possession of a knife. Officer C verbally communicated and designated himself/herself as a less-lethal cover officer.

According to Sergeant A, the incident was rapidly unfolding where immediate action was needed, and there was no time to create a tactical plan.

The BOPC concluded that while the Subject was a danger to the community, there was sufficient time to develop and communicate a basic tactical plan and designation of roles, i.e. contact, cover, lethal, and less-lethal options. Additional resources should have been requested to include additional less-lethal munitions and a shield to create a stand-off distance. The BOPC noted that Detective A, and Officers A, B, and C created the exigency in their response. The BOPC would have preferred Sergeant A had taken more of a leadership role, created a tactical plan, and discussed the plan with all Department personnel involved prior to making contact with the Subject.

**Redeployment and/or Containment** – As the Subject continued to travel north through the parking lot, the officers believed the situation to be rapidly unfolding and

attempted to keep containment on the Subject. As the Subject charged Officer A from the north in a slightly south easterly direction, Officer A redeployed in a south westerly direction in order to create distance.

Officer B moved towards the light post for cover and Detective A moved towards the building to take a barricaded position on the northwest corner as the Subject moved into the street.

**Other Resources** – Sergeant A placed himself/herself Code Six and inquired to CD if a radio call had been generated in the area for a man with a knife. Sergeant A was advised that no call had been generated. In response, CD broadcast for Newton units to respond to for a man with a knife, and asked Sergeant A if he/she was equipped with a Beanbag Shotgun or a 40mm LLL. Sergeant A broadcast that he/she was not in possession of either less-lethal force option and informed CD that he/she would check the area and request additional units if he/she deemed the need necessary.

Due to the nature of Sergeant A's broadcast of a man with a knife, the absence of additional personnel responding, and Sergeant A's close proximity to Newton Community Police station, Detective A, and Officers A, B, and C responded from the station as additional resources to assist Sergeant A.

While Officers A, B, C and Detective A were engaged with the Subject, Sergeant A requested a back-up. Immediately following the OIS, Sergeant A broadcast an officer needs help call, requested a RA, and also requested additional resources to assist in controlling to the scene.

The BOPC was critical of Sergeant A's decision to decline additional resources offered to him/her from CD as part of policy and procedure. Sergeant A's lack of request for additional less-lethal force options and personnel, including a ballistic shield, and not utilizing or considering the Air Unit, limited available options. The BOPC also noted as Detective A, and Officers A, B, and C joined Sergeant A, the onus did not entirely land on Sergeant A and that any Department employee, no matter their rank or position, could have requested additional resources. The BOPC recognized Officer C's identification of the need for less-lethal force options prior to and during his/her response. In addition, Officer C demonstrated active communication and leadership by announcing the utilization of the TASER in an attempt to de-escalate and preserve life. The BOPC would have preferred the aforementioned additional resources had been requested and utilized prior to making contact with the Subject.

**Lines of Communication** – Sergeant A provided his/her initial Code Six location to CD but did not update his/her location until prompted by Officer A's requests. Sergeant A attempted to make verbal contact with the Subject while Sergeant A was seated inside of his/her patrol vehicle. Sergeant A discussed the Subject's actions and provided a description of the Subject to Officers A, B, and C and Detective A. Sergeant A also advised the officers and detective that the Subject may have a knife in his possession. As the incident progressed, Sergeant A broadcast a backup request and upgraded that request to an "officer needs help" call.

Upon hearing Sergeant A's initial broadcasts, Detective A, and Officers A, B, and C communicated with each other and made the decision to leave the station to assist Sergeant A. Officer A utilized CD to locate Sergeant A; however, no other discussions occurred among the personnel until they were picked up by Sergeant A. Once inside of the police vehicle, Officer C directed Sergeant A to roll down the police vehicle's rear windows to provide access to open their doors and exit.

As Detective A, and Officers A, B, and C exited the police vehicle, multiple commands were given to the Subject in an attempt to convey to him the importance of dropping the knife and to not approach officers. Officer C, recognizing that lethal force options were deployed, drew his/her TASER and yelled that he/she had a less-lethal force option available to inform the other personnel at scene. Subsequent to the OIS, Detective A, and Officers A, B, and C communicated with each other to take the Subject into custody.

The BOPC concluded that communication among all Department personnel at scene, including with CD, were minimal. The BOPC was critical of Sergeant A's limited communications with CD, delaying requests for additional personnel and equipment upon becoming aware that the Subject was in fact in possession of a knife.

The BOPC also noted Detective A's, Officers A, B, and C's lack of communication amongst each other. The BOPC noted that Officer C had realized that he/she and Detective A would be useless in the incident if they were locked in the back of a police vehicle wherein he/she directed Sergeant A to roll down the police vehicle's windows which would provide them access to exit and assist. Officer C also loudly announced that he/she had his/her TASER drawn and took over the role of less-lethal force option. The BOPC would have preferred that Sergeant A and Detective A, and Officers A, B, and C had utilized their Department radios to relay information, not only to each other, but for all Department personnel in the area to hear and have situational awareness.

- During its review of the incident, the following Debriefing Topics were noted:

**1. Tactical Communication/Tactical Planning** (*Substantial Deviation, without Justification – Sergeant A, Detective A, Officers A and B*)

Upon being flagged down by Witness A, Sergeant A obtained limited information about the Subject's actions. Sergeant A did not obtain the Subject's description until he/she was flagged down by Witness A in the second contact; furthermore Sergeant A did not obtain Witness A's contact information. Sergeant A believed patrol resources were limited or otherwise occupied and when CD broadcast an additional request for a Beanbag or 40mm LLL equipped unit, Sergeant A informed CD that he/she would investigate and request resources if needed. Sergeant A did not request additional units or Air Support Division (ASD) to assist him/her in locating the Subject.

According to Sergeant A, upon locating the Subject, he/she followed the Subject and observed the Subject making furtive movements towards his waistband as if the Subject was hiding an object. Sergeant A twice attempted to initiate verbal contact with the Subject while seated inside his/her police vehicle and had to be prompted by responding officers for an update of his/her location. Sergeant A estimated his/her distance to be approximately 50 to 100 feet away from the Subject when Sergeant A attempted to initiate those contacts. Sergeant A did not request a back-up or direct resources into the area to set-up containment. Sergeant A observed Officers A, B, and C approaching him/her on foot. Sergeant A stated he/she utilized his/her rearview mirror to maintain a visual on the Subject, who continued to walk northbound. Sergeant A stated that there was not enough time to formulate a tactical plan with Detective A and Officers A, B, and C due to the Subject's close proximity to their location. Sergeant A did provide the officers and detective with a description of and the information about the Subject provided to him/her by Witness A. Sergeant A's further directed them to the Subject upon observing him. However, Sergeant A did not actively take a lead, develop a tactical plan, designate roles, or discuss objectives when he/she picked up the officers and detective.

When Detective A and Officers A, B, C exited the police vehicle to deploy on and contain the Subject, Sergeant A remained inside of the police vehicle and repositioned it. Sergeant A did not communicate his/her intentions or plans to the officers and detective when they exited. According to Sergeant A, he/she repositioned his/her police vehicle, so it could be used as cover and as a de-escalation tool until additional units responded with either a Beanbag Shotgun or 40mm LLL.

Sergeant A did not request a back-up or additional resources until Detective A had advised CD that he/she was present in the area of the back-up request. Sergeant A upgraded the back-up request to a shots fired, officer needs help call, exited his/her police vehicle, and requested a RA after the OIS. Sergeant A also requested additional resources for traffic control and post-OIS scene management.

The BOPC noted that Sergeant A should have taken more time to obtain additional resources by utilizing the radio, assumed the role of Incident Commander (IC) rather than initiate contact with the Subject, developed a plan to direct incoming resources, and have pieced together the previous radio call involving a man with a knife that matched the Subject's description. Although Sergeant A was well intentioned by deciding to assess the situation prior to requesting resources, his/her complacency was a factor. Sergeant A should have requested a back-up upon locating the Subject so that if resources were unavailable, he/she could get the needed assistance from other areas.

The BOPC discussed that supervisors were expected to actively lead and implement de-escalation protocols to provide officers additional time and options. Sergeant A believed the Subject was armed and Sergeant A had responded to a similar radio call with a similarly described Subject, yet throughout this incident, he/she remained in his/her police vehicle, even as the officers and detective had

exited. Had Sergeant A initially requested other less-lethal force options, personnel would have had other tools to be more effective at longer distances when dealing with weapons other than firearms, thereby, allowing officers the ability to seek cover at greater distances and reducing their exposure to armed individuals.

Based on the totality of the circumstances, the BOPC determined that Sergeant A's actions were a substantial deviation, without justification, from approved Department tactical training.

According to the FID investigation, Detective A, Officers A and B were at the police station working on administrative duties and attired in plainclothes when they heard Sergeant A's initial broadcast. As they were exiting the station, Officer C, who was assigned to the front desk, joined the plainclothes attired officers and Detective A followed shortly thereafter.

According to Detective A they did not have time to discuss a plan or tactics when they responded on foot or were inside Sergeant A's police vehicle. Detective A was unable to exit the police vehicle until Officer B opened the rear passenger door from the outside. As Detective A exited the vehicle, he/she did broadcast to CD that he/she was Code Six on the back-up; however, as he/she deployed on the Subject, he/she did not communicate a plan or tactics with the other officers.

The BOPC discussed that Detective A did not communicate a plan or discuss tactics with the others while inside the police vehicle or when responding on foot to assist Sergeant A. Detective A was unable to exit the police vehicle due to the overall lack of planning and communication.

Based on the totality of the circumstances, the BOPC determined that Detective A's actions were a substantial deviation, without justification, from approved Department tactical training.

According to Officer B, he/she and Officer A had worked together for approximately six months. They discussed that while engaged in field activity, Officer A would be the contact officer and he/she would handle radio communications. In this incident, they did not discuss a tactical plan while responding to Sergeant A's location on foot. Officer A did ask for an update of Sergeant A's location when they could not find him/her. Officer A said they did not discuss a plan, but he/she heard someone say, "TASER." There were no tactical discussions among the officers, detective, or sergeant upon entering Sergeant A's police vehicle. According to Officer B, Officer A got into the front passenger seat of the police vehicle, and he/she sat next to him/her in the front passenger seat. Officer B said there was no time to plan because the incident happened quickly.

According to Officer B, he/she observed the Subject holding a large knife in his hand; however, he/she did not inform the others because he/she believed they had also observed the Subject in possession of the knife. Officer A was not designated as the contact officer, but stated he/she assumed that role. Officers A

and B did not request a back-up or other additional resources. According to Officer A, he/she gave the Subject commands to drop the knife and to get on the ground. Officer B also stated that Officer A told the Subject to drop the knife, but the Subject did not comply.

The FID investigation revealed that Officers A and B entered and shared the front passenger seat of Sergeant A's police vehicle, while Officer A and Detective C were seated in rear passenger seats.

The BOPC noted that Sergeant A did not request additional units or a back-up unit to respond to the incident. The BOPC noted that Officers A and B did not communicate their roles and Officer C designated himself/herself as a less-lethal cover officer. In addition, the BOPC noted that Officers A and B had knowledge that there was a Subject who was armed with a knife, yet they did not implement a plan, designate roles, or discuss a tactical response while on foot or seated inside of the police vehicle. Officers A and B should have taken a few moments to prepare and although they may have expected the supervisor to take on that role, in the absence of such, they should have had those discussions. The BOPC also noted that Officers A and B did not communicate a plan or discuss tactics for this incident when responding on foot or while inside the police vehicle. While Officer A did communicate with the Subject, there was no discussion of less-lethal force options or designated roles. As the officers were requesting an updated location for Sergeant A, there was sufficient time to develop a plan and communicate. The overall lack of discussion among the officers caused the BOPC concern.

Based on the totality of the circumstances, the BOPC determined that Officer A's and B's actions were a substantial deviation without justification from approved Department tactical training.

According to Officer C, when he/she observed the plainclothes personnel exiting the station, he/she recognized they did not have any less-lethal options and notified the other desk officer that he/she would be responding with those officers. Upon locating Sergeant A and entering his/her police vehicle, Officer C recognized that the rear doors of the police vehicle did not open from the inside and pre-planned his/her exit from the vehicle by communicating with Sergeant A to roll down the rear windows, so he/she could open the vehicle's door handle from the exterior. As they exited the police vehicle to deploy on the Subject, Officer C observed there were no additional less-lethal options deployed, so he/she drew his/her TASER and announced his/her role twice to the other officers as the incident unfolded. In addition, Officer C was cognizant of the need to preserve the evidence at the OIS and on his/her own initiative, began placing paper markers in those areas, as well as cautioning others to be mindful of the evidence in the area.

The BOPC noted that Officer C demonstrated active leadership and analysis such as that expected of a supervisor during a critical incident. Officer C demonstrated situational awareness during the incident such as recognizing the potential need for less-lethal force options when the officers attired in

plainclothes were exiting the station. Officer C planned ahead and communicated with Sergeant A to roll down the rear passenger vehicle windows so he/she could access the exterior door handle to open the door. Officer C also holstered his/her service pistol and drew his/her TASER when he/she did not observe a less-lethal force option had been deployed upon locating the Subject. The BOPC noted that Officer C also had the presence of mind to deploy the TASER from a safe distance. In addition, Officer C also began to manage the preservation of the evidence at the scene of the OIS.

Based on the totality of the circumstances, the BOPC determined that Officer C's actions met with the expectations of Department tactical training.

**2. Required Equipment** (*Substantial Deviation, without Justification – Detective A, Officers A and B*)

The FID investigation revealed that Detective A was working a plainclothes assignment at the station and was not wearing or in possession of his/her body armor or a ballistic vest as required when conducting field-related enforcement activities.

According to Detective A, he/she heard Sergeant A on the radio and believed he/she was requesting an additional unit or back-up request for a man with a knife. As Detective A continued to listen to the radio, he/she did not hear additional units responding to assist Sergeant A. Detective A observed Officers A and B leave the office to assist Sergeant A. Detective A made the decision to accompany them without donning his/her body armor to assist Sergeant A. After exiting the station, Detective A located Sergeant A, who was not involved in an exigent circumstance or in the presence of the Subject at the moment. Detective A got into the right rear passenger seat of Sergeant A's police vehicle.

The BOPC noted that it was commendable that Detective A was monitoring the radio and wanted to respond and assist Sergeant A; however, he/she should have had taken the time to don a ballistic vest, at a minimum, along with a raid jacket. When plainclothes details were involved in field enforcement or activity likely to have contact with one or more suspects, they were required to wear a ballistic vest or body armor. The BOPC considered that personnel working in a geographical area had potential for coming into contact with suspects. In addition, the knowledge and information in the broadcast indicated the Subject had a knife. Detective A should have taken a few moments to prepare himself/herself by donning some type of ballistic protection for safety, and preferably a raid jacket to increase his/her visibility.

The BOPC weighed the safety concerns the situation presented and were also guided by Department policy. In considering the facts of this incident and acknowledging that each case must be evaluated individually, the BOPC determined that Detective A substantially deviated, without justification, from approved Department policy and training.

The FID investigation revealed that Officers A and B were assigned to a plainclothes detail inside Newton CPS and were not wearing or in possession of their body armor or a ballistic vest.

Officers A and B were listening to their radios when they heard Sergeant A go Code Six in reference to a call involving a man with a knife in front of the police station. Officer B ran outside because he/she believed there was a threat and was concerned for Sergeant A's safety. Officer A left the station with Officer B because he/she believed Sergeant A requested an additional unit for a man with a knife and did not hear additional Department personnel responding to assist Sergeant A.

Believing Sergeant A was in need of immediate assistance, Officers A and B exited the station without donning their body armor. In addition, Officer B was not in possession of one extra fully-loaded magazine for his/her service pistol and did not have a pair of handcuffs as required in a plainclothes assignment. Officers A and B located Sergeant A who was not involved in an exigent circumstance or in the presence of the Subject. Officers A and B got into the front passenger seat of Sergeant A's police vehicle to assist Sergeant A with contacting the Subject.

The BOPC acknowledged the consistency in Officers A and B's statements in that they believed Sergeant A needed assistance. In addition, as discussed by the BOPC with respect to Detective A, it was commendable that Officers A and B were monitoring the radio and wanted to respond and assist Sergeant A; however, the officers should have taken the time to don a ballistic vest, at a minimum, along with a raid jacket. When plainclothes details are involved in field enforcement or activity likely to have contact with one or more suspects, they are required to wear a ballistic vest or body armor. Furthermore, Officer B's lack of an extra magazine and a set of handcuffs were also a concern. The BOPC considered that personnel working in a geographical area had potential for coming into contact with suspects. In addition, the knowledge and information in the broadcast indicated there was a Subject with a knife. Officers A and B should have taken a few moments to prepare by donning some type of ballistic protection for safety, and preferably a raid jacket to increase his/her visibility.

The BOPC weighed the safety concerns the situation presented and were also guided by Department policy. Based on the totality of the circumstances, the BOPC determined that Officers A and B's actions were a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:
  1. **Situational Awareness (Updating Status)** - The FID investigation revealed that as Sergeant A was contacted by Witness A, Sergeant A placed him/herself Code Six at an inaccurate location. Upon completion of their conversation, Sergeant A left the location and proceeded to search for the Subject without updating his/her status, leading to responding Department personnel being unable to locate

Sergeant A and required them to make additional requests to CD for Sergeant A's updated location. Sergeant A located the Subject, who was walking, and he/she began to follow and attempted verbal contact with the Subject. Sergeant A was reminded that the purpose of updating his/her location is to advise CD and officers in the area of his/her location and the nature of the field investigation should the incident escalate and necessitate the response of additional personnel.

As the incident progressed and Department personnel made contact with the Subject, Detective A broadcast that he/she was Code Six on the back-up without a location; however, CD advised that no back-up request had been generated. Detective A was reminded to update his/her location status.

- 2. Personal Protective Equipment** – The FID investigation revealed that after the OIS occurred, Officers B and C, aware that the Subject was bleeding, handcuffed and searched the Subject without donning gloves. Officers B and C were reminded of the importance of utilizing personal protective equipment to prevent exposure to blood and other bodily fluids.
- 3. Maintaining Control of Equipment (TASER)** – Subsequent to the OIS and Officer C discharging his/her TASER, Officer C removed the TASER cartridge and attempted to re-holster his/her TASER to take the Subject into custody; however, Officer C missed his/her TASER holster causing the TASER to fall to the ground approximately seven feet, from where the Subject was on the ground. Officer C was reminded to maintain control of less-lethal devices.
- 4. Identifying Police Attire** – Responding Newton personnel were not appropriately attired, i.e. polo shirt, jeans, sweater, which could lead to confusion and misidentification by the public or other Department personnel. Detective A and Officers A and B were reminded of the importance of being recognizable by the community as well as other Department personnel while outside of a Department facility in order to mitigate confusion from the community and limit the possibility of misidentification. When possible, officers are advised to either don a Department raid jacket or display a Department badge or identification card in an area that is clearly visible.
- 5. Preservation of Evidence** – Neither Sergeant A nor Sergeant B took control of the post-OIS scene or declared themselves as IC to establish order. Several personnel were depicted on BWV walking through the evidence and scene. As a result, Officer C placed cards over the casings while warning personnel not to disturb the evidence. Sergeants A and B were reminded of the importance of taking charge of an incident and preserving the integrity of the scene for FID investigators.

## **Command and Control**

Sergeant A met with the witness and obtained information with regard to the possible location of the Subject. Rather than broadcast the information and coordinate with responding resources, Sergeant A advised CD that he/she would

request additional resources, if necessary. Sergeant A located the Subject and drove Detective A, and Officers A, B, and C to the Subject's location. Sergeant A did not develop or communicate a tactical plan with the detective and officers. Sergeant A remained inside of his/her police vehicle after Detective A, and Officers A, B, and C exited and began to interact with the Subject. Throughout the entire incident and until after the OIS occurred, Sergeant A remained inside of his/her police vehicle, attempting to place it in a tactical position. The BOPC would have preferred that Sergeant A coordinate with the personnel at scene and take control of the tactical incident.

Once the OIS occurred, Sergeant A did not declare him/herself the IC.

Although scene management was somewhat lacking after the OIS, Sergeant A did initiate some coordinated efforts at the scene until additional resources arrived. Sergeant A directed Sergeant B to be responsible for the separation and monitoring of Officer A and to obtain a Public Safety Statement (PSS) from Officer A. Involved and witnessing personnel at scene were not separated and monitored initially by Sergeant A or Sergeant B. The BOPC would have preferred that Sergeant A clearly communicate with Sergeant B to eliminate any confusion.

The actions of Sergeant A were not consistent with Department supervisory training, nor the BOPC's expectations of a field supervisor during a critical incident.

Sergeant B responded to the incident after the OIS. Upon arrival, Sergeant B met with Sergeant A who directed him/her to separate, monitor, and obtain a PSS from Officer A. Sergeant B obtained a PSS from Officer A and began to attempt to control the incident. Sergeant B requested additional supervisors to respond, started to direct traffic control resources, and broadcast the location of the Command Post (CP). Sergeant B did not coordinate with Sergeant A on the designation of the role of the IC. The BOPC would have preferred that Sergeant B had coordinated with Sergeant A in transitioning the management of the incident and that Sergeant B make a formal declaration as the IC. The securing of the location of the incident was delayed, allowing personnel to walk into the location. Once the scene was stabilized, Sergeant B transported Officer A to Newton CPS.

The actions of Sergeant B did not meet the BOPC's expectations as a supervisor responding to a critical incident. The BOPC determined that Sergeant B would benefit from attending the Tactical Debrief with the inclusion of a discussion on Command and Control.

## **B. Drawing/Exhibiting**

- **Officer A (two occurrences)**

### First Occurrence

According to Officer A, he/she had received information from Sergeant A that the Subject was walking up to people while armed with a knife. Officer A observed the Subject and came to the belief that the Subject was under the influence of narcotics.

Based on the belief that the Subject was in possession of a knife, was approaching people, had his hand still in his waistband, and was ignoring officers' commands. Officer A believed that the tactical situation could escalate to a point where deadly force would be necessary. Officer A unholstered his/her service pistol.

### Second Occurrence

According to Officer A, after the Subject stopped running and Department personnel again made contact with the Subject, Officer A drew his/her service pistol a second time as he/she observed the Subject's hand in his waistband and not complying with commands. Officer A believed the Subject was going to hurt someone or possibly take a hostage as the Subject still had a knife in his possession. The Subject turned around and squared up against the officers. Officer A drew his/her service pistol as he/she believed that the tactical situation could rise to the point where deadly force may be justified.

- **Officer B**

According to Officer B, he/she observed the Subject holding a butcher knife in his hand and in a close proximity to pedestrians where he could possibly slash someone or take someone hostage. Officer B drew his/her service pistol as he/she believed the Subject posed an imminent threat of injury or death to himself/herself, his/her partners, and to the community.

- **Detective A (two occurrences)**

### First Occurrence

According to Detective A, he/she observed the Subject in close proximity to people, where the Subject was swinging his arms around while holding a knife in his hand. Detective A noted the Subject appeared under the influence as the Subject looked aggressive, was sweating profusely, and was walking with clenched fists. Detective A opined the Subject was in a state of agitated delirium. Based on his/her observations, Detective A drew his/her service pistol to protect the people that were near the Subject and believed the situation was going to escalate to one involving the use of deadly force.

According to the FID investigation, Detective A momentarily holstered his/her service pistol as he/she and Officers A, B, and C followed the Subject.

### Second Occurrence

According to the FID investigation, the Subject abruptly stopped running, then turned and faced south, towards the officers. Detective A unholstered his/her service pistol, held it in his/her right hand and pointed the muzzle in a northerly direction towards the Subject. Detective A did not recall drawing his/her service pistol a second time during this incident. According to Detective A, he/she advised the Subject to drop the knife or he would be shot. The Subject did not comply with Detective A's command.

- **Officer C**

According to the FID investigation, after Officer C exited the police vehicle, he/she unholstered and drew his/her service pistol, holding it in his/her right hand while pointing it towards the ground. Officer C did not recall drawing his/her service pistol during the incident. According to Officer C, while he/she was inside of the police vehicle he/she was aware that the Subject was armed with a knife. Upon exiting the patrol vehicle, Officer C observed the Subject holding the knife as the Subject ran towards a parking lot.

In this case, the BOPC conducted a thorough evaluation of the reasonableness of Detective A, and Officers A, B, and C's drawing and exhibiting. Officer A drew his/her service pistol in response to the information he/she had received from Sergeant A of the Subject being in possession of a knife and walking up to community members with the knife, in addition to Officer A's own observations wherein he/she believed the Subject to be under the influence of a narcotic. Officer B drew his/her service pistol after he/she observed the Subject to be in possession of a knife and in close proximity to community members where he could slash someone or take a hostage.

Detective A drew his/her service pistol after he/she observed the Subject in close proximity to numerous people while he was in possession of a knife, which the Subject was swinging violently in the air. The BOPC noted that while Detective A only recalled drawing his/her service pistol on the first occurrence, during the second occurrence, Detective A was still engaged in an active tactical situation where the Subject was still in possession of a knife and in close proximity to Detective A.

Officer C momentarily drew his/her service pistol as he/she exited the police vehicle and observed the Subject in possession of a knife. The BOPC noted that Officer C was unaware that he/she momentarily drew his/her service pistol during this incident. Officer C had been informed by Sergeant A that the Subject was in possession of a knife as they approached the Subject's location, and upon encountering the Subject, Officer C observed the Subject to be in possession of a knife, wherein he/she momentarily drew his/her service pistol, holstered his/her service pistol, and then drew his/her TASER upon assessing the need for a less-lethal force option to engage the Subject. The Subject was reasonably believed to be carrying a knife and eventually produced a knife when he observed officers. In response, officers drew their service pistols.

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

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

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

- **Officer C** – (One TASER activation)

According to Officer C, he/she observed that the Subject was running while in possession of a large knife. The Subject began to charge toward Officer A. In an attempt to stop the Subject from violently assaulting Officer A, Officer C discharged his/her TASER.

In this case, the BOPC conducted a thorough review of the investigation and considered several factors in evaluating the reasonableness of Officer C's use of less-lethal force.

The Subject was armed with a knife and posed a danger to the community as well as to Officer A. Officer A attempted numerous times to verbally communicate with the Subject to drop the knife and gain compliance; however, the Subject ignored the commands and escalated the incident as he turned towards Officer A and made himself an immediate threat of violence or physical harm to Officer A by charging at Officer A while still in possession of the knife. The Subject attacked and posed an imminent threat to Officer A. Officer C did not have time to provide a verbal warning to the Subject prior to the discharge of the TASER because the Subject unexpectedly and quickly closed the distance on Officer A. Officer C utilized a reasonable level of force to overcome the Subject's violent actions.

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

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

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

- **Officer A** – (pistol, five rounds)

According to Officer A, the Subject looked straight at him/her. While doing so, the Subject, in a rapid motion, took the knife out from his waistband, focused on Officer A, and began to charge at Officer A. The Subject took large steps as the Subject was running towards Officer A. Officer A was in fear of being stabbed and killed by the Subject. Officer A provided commands to the Subject not to approach Officer A. The Subject disregarded Officer A's commands and continued his rapid advancement towards Officer A. Officer A stated that the Subject was not showing any indication that he was going to stop. Officer A assessed his/her background and focused on his/her front sight. Officer A was cognizant that there were pedestrians and children in the area and was concerned for their safety. According to Officer A, just prior to firing his/her first round, he/she looked behind the Subject to see if any people were in his/her background. Officer A observed a box truck behind the

Subject and felt confident that his/her background was clear. In fear that the Subject was going to stab or kill him/her, Officer A side-stepped away from the Subject and fired what he/she believed was three to four rounds at the Subject. Officer A conducted a quick assessment between each shot he/she discharged. Officer A observed the Subject falling to the ground and ceased firing as the Subject collapsed approximately three to five feet away from Officer A.

In this case, the BOPC conducted a thorough review and considered several factors in evaluating the reasonableness of Officer A's use of lethal force. The BOPC noted that the incident was dynamic and a rapidly unfolding situation wherein Department personnel were attempting to detain the Subject, who appeared to be under the influence of an unknown substance, was armed with a knife, and posed a threat to people, including children who were walking to school and who were in close proximity to the Subject.

The BOPC noted that Officer A provided multiple verbal commands to the Subject in an attempt to de-escalate the situation. The Subject disregarded Officer A's commands and instead escalated the situation by charging towards Officer A, closing the distance, and, according to Officer A, creating fear in Officer A of being stabbed or killed. Officer A made a split-second decision to protect him/herself from the deadly threat. Officer A redeployed away from the Subject and discharged five rounds as the Subject continuously moved at a rapid pace towards him/her. The BOPC noted that despite the Subject moving towards Officer A, Officer A continued to move away from the Subject, maintaining a distance of approximately 12 feet.

The BOPC assessed each round discharged by Officer A and noted that while Officer A discharged a total of five rounds, Officer A articulated that he/she made continuous assessments. Officer A ceased fire when the Subject no longer posed a threat.

The BOPC also noted Officer A's awareness of his/her background while he/she discharged his/her service pistol. According to Officer A, he/she was aware of the box truck in his/her background and the rest of the area to be free of community members or bystanders.

As such, based on the totality of the circumstances, the BOPC determined, that an officer with similar training and experience as Officer A would reasonably believe that 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 A's lethal use of force to be In Policy.