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**WHEN GREEN AND BLUE COLLIDE: THE  
RELATIVE SUPERIORITY THEORY AND LAW  
ENFORCEMENT INCIDENTS**

Lenart, Harley J.

Monterey, CA; Naval Postgraduate School

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**NAVAL  
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SCHOOL**

**MONTEREY, CALIFORNIA**

**THESIS**

**WHEN GREEN AND BLUE COLLIDE:  
THE RELATIVE SUPERIORITY THEORY AND  
LAW ENFORCEMENT INCIDENTS**

by

Harley J. Lenart

September 2019

Thesis Advisor:  
Co-Advisor:

Carolyn C. Halladay  
David W. Brannan (contractor)

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**WHEN GREEN AND BLUE COLLIDE: THE RELATIVE SUPERIORITY  
THEORY AND LAW ENFORCEMENT INCIDENTS**

Harley J. Lenart  
Patrol Deputy, Williamson County Sheriff's Office  
BS, Metropolitan State University, 2014

Submitted in partial fulfillment of the  
requirements for the degree of

**MASTER OF ARTS IN SECURITY STUDIES  
(HOMELAND SECURITY AND DEFENSE)**

from the

**NAVAL POSTGRADUATE SCHOOL  
September 2019**

Approved by: Carolyn C. Halladay  
Advisor

David W. Brannan  
Co-Advisor

Erik J. Dahl  
Associate Chair for Instruction  
Department of National Security Affairs

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## **ABSTRACT**

The past three decades have seen a significant increase in suspects using weapons, which had not been readily available to the public, and which are more lethal. When suspects are better armed and more skilled with their weapons and tactics than officers, law enforcement's disparity of superiority leads to death and injury. For example, on October 1, 2017, the Las Vegas Massacre resulted in 58 people killed and more than 850 people injured. The entire incident lasted 10 minutes with the suspect firing more than 1,200 rounds before committing suicide. Retired Admiral William McRaven developed the relative superiority theory and the six principles of special operations. The theory's basis is the need for operators to achieve superiority at a specific place and time by virtue of surprise, speed, and violence of action. This thesis analyzed case studies from the North Hollywood Shootout and the 2009 Pittsburgh officer-involved shooting. The relative superiority theory was applied to each case study and identified successes and failures of law enforcement's response to the incident. The analysis and conclusions support the application of relative superiority theory to future critical law enforcement incidents during which officers may be outgunned or are already in an inferior position.



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## **LIST OF ACRONYMS AND ABBREVIATIONS**

ACLU	American Civil Liberties Union
ATF	Alcohol, Tobacco, Firearms and Explosives Bureau
COIN	Counter Insurgency
CS gas	2-chlorobenzalmalononitrile gas
EMS	emergency medical services
ICE	Immigration and Customs Enforcement
JSOU	Joint Special Operations University
LAPD	Los Angeles Police Department
NIJ	National Institute of Justice
OODA	observe-orient-decide-act
PPD	Pittsburgh Police Department
SWAT	Special Weapons and Tactics

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## EXECUTIVE SUMMARY

We sleep safe in our beds because rough men [and women] stand ready in the night to visit violence on those who would do us harm.

~ George Orwell

In “21st Century Firearms Training,” David Griffith claims, “Criminals are getting smarter, faster, and more deadly than ever before.”<sup>1</sup> When criminals are better armed and more skilled with their weapons than law enforcement officers, their disparity of superiority leads to death and injury.<sup>2</sup> The past three decades have seen a significant increase in suspects using weapons that had not been readily available to the public and are more lethal.<sup>3</sup> Advanced weapon use leads to one crucial point: suspects are increasingly outgunning law enforcement officers. High-powered rifles can engage targets from a greater distance with greater accuracy than handguns. Suspects are learning that conducting attacks in urban areas increases the likelihood of a higher death toll. In this setting, as the Las Vegas incident illustrates, large caches of weapons and high-powered rifles give them an advantage.

Scholars and practitioners alike must not simply equate police work with warfare, as civil-military fusion, also often described as the militarization of the police, imperils democracy, civil liberties, and ultimate police effectiveness. This literature review surveys the dominant scholarship on civil-military fusion to establish the very narrow and specific applicability of McRaven’s battlefield theory to police response to mass shooters. The success of military philosophies being applied to law enforcement operations leads critics to believe that civilian law enforcement is becoming too militarized. Police militarization does not have to be viewed through a negative lens. In the current threat environment, a

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<sup>1</sup> David Griffith, “21st-Century Firearm Training,” *Police* 40, no. 5 (May 2016): 36, <https://search.proquest.com/docview/1792537642/9BAACF21EDD245E6PQ/7>.

<sup>2</sup> Mark Cannon, “Law Enforcement and the Long Gun: Do We Need a New Face in the Fight?” *The Journal of Emergency Medicine* 45, no. 5 (November 2013): 710, <https://doi.org/10.1016/j.jemermed.2013.01.026>.

<sup>3</sup> Jimmy Williams and David Westall, “SWAT and Non-SWAT Police Officers and the Use of Force,” *Journal of Criminal Justice* 31 (2003): 469.



law enforcement agency without some degree of militarization is in jeopardy of being outgunned and outmatched.<sup>4</sup> However, civilian law enforcement can make some well-bounded and thoughtful use of military ideas, equipment, and tactics if it considers the constraints that go with policing fellow citizens in an active community committed to safety.

Law enforcement is facing a disadvantage problem that is similar to military special operation's primary function of overcoming unfavorable odds. Retired Admiral William McRaven developed the relative superiority theory and the six principles of special operations.<sup>5</sup> The theory's basis is the need for operators to achieve superiority at a specific place and time by virtue of surprise, speed, and violence of action. Fire superiority is the firepower of a greater effect, in its accuracy and volume than that of a suspect, which can lead to making possible advances against the suspect without suffering heavy losses. The relative superiority theory can be applied to law enforcement incidents to explain how law enforcement is at a firepower and tactical disadvantage compared to suspects.<sup>6</sup>

This thesis answers the question, how can the relative superiority theory help determine when and how police officers lose or gain superior advantage when they are outgunned by suspects? The main thrust of this thesis is to focus on the safety and tactics of a patrol officer. To answer the research question, the thesis uses a systematic comparative case study method focused on applying the relative superiority theory to each case. The cases include the North Hollywood shootout and a 2009 Pittsburg officer-involved shooting. A comprehensive comparison of these two incidents allows patterns, successes, and deficiencies to be identified. This work does not delve into specific suspect motivating factors nor which interventions may have helped or stopped the incident from happening.

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<sup>4</sup> John Zambri and Usha Sutliff, "Reflections on the Militarization of American Law Enforcement: An Adaptive Consequence to an Irregular Criminal Threat," *Small Wars Journal*, November 18, 2014, 4.

<sup>5</sup> William H. McRaven, *Spec Ops: Case Studies in Special Operations Warfare: Theory and Practice* (Novato, CA: Presidio Press, 1995), 1–2.

<sup>6</sup> McRaven, 4.

The two case studies varied dramatically in terms of who achieved relative superiority and with which principles law enforcement was successful. The stripped findings show that the Los Angeles Police Department was successful in achieving relative superiority and utilizing the six principles during the North Hollywood shootout that resulted in only the two suspects being killed. Conversely, the Pittsburgh Police Department (PPD) did not achieve relative superiority, lost three police officers that day, and only ended the incident once the suspect decided to surrender. The relative superiority principles are crucial in overcoming and subduing a suspect in a critical incident.

Law enforcement administrations, researchers, and trainers should utilize the relative superiority theory and its principles as an analytical model to identify areas of success and failure in patrol response. McRaven claimed the relative superiority theory could be used to predict the future of military special operations warfare.<sup>7</sup> Similarly, applying the relative superiority theory to previous law enforcement incidents will allow the law enforcement community to make educated predictions about the future of law enforcement incidents. The analysis of an incident can also identify areas lacking sufficient training and equipment, such as firepower, as demonstrated in both case studies.

The relative superiority theory should be used as an analytical model to review incidents where the “bullets are already flying” so patrol officers can improve their execution and response to incidents in which they are already at a disadvantage. Instead of prolonging an incident, and possibly waiting for Special Weapons and Tactics (SWAT), patrol officers should learn how to use the relative superiority principles to maximize their probability of success.

Transferring a military theory to the civilian law enforcement realm does not have to be viewed as negative police militarization. The recommendation of using the relative superiority theory, which has traditionally been applied to military special operations, does not cross the line of transforming every day patrol officers into “Robocops.” Utilizing an analytical model to review law enforcement incidents can stay within the confines of the Constitutional rights afforded to American citizens.

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<sup>7</sup> McRaven, 381.

Suspects capitalize on using unconventional techniques and inexpensive measures to confront law enforcement in ways they cannot match.<sup>8</sup> The suspects blur the lines between crimes and acts of war, which leaves the battlespace open between conventional law enforcement and specialized military operations.<sup>9</sup> It is crucial for law enforcement agencies to learn from previous incidents to improve their future patrol response, increase effectiveness, and ensure the safety of patrol officers. McRaven's relative superiority theory is an invaluable tool to achieve these desired outcomes.

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<sup>8</sup> Donald A La Carte, "Asymmetric Warfare and the Use of Special Operations Forces in North American Law Enforcement," *Canadian Military Journal* 2, no. 4 (Winter 2001): 23–32.

<sup>9</sup> La Carte, 25.

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It feels like yesterday when I received the phone call that I was accepted into this exceptional master's degree program. I was beyond shocked that I had been accepted on my first attempt and at such an early point in my career. To this day, I am still in awe of my classmates' professional achievements and their humbleness. It has been an honor and privilege to attend the prestigious Naval Postgraduate School and the Center for Homeland Defense and Security. The indispensable knowledge gained throughout this academically challenging program will help guide my career and contribute to the homeland security field.

I would like to express my sincerest appreciation to all those who have helped me achieve this milestone; this marathon of a journey would not have been made possible without your unending encouragement and support. I would like to thank Commissioner Jeff Long, from Tennessee's Department of Safety and Homeland Security, for always seeing the importance of education and allowing me to apply to this program before he left the Sheriff's Office. I would also like to acknowledge the Williamson County Sheriff's Office and Sheriff Dusty Rhoades. Thank you for allowing me to continue school and being the first Williamson County Sheriff's Office deputy to attend this incredible program.

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Most of all, I thank God and my family. Without my faith, this journey would not have been possible. I pray that my achievements will never be about me but can help save

the lives of others. Dad and Ma, I can never thank you two enough for all the endless support, encouragement, and love you have given me my whole life. Both of you have always been there during my adventurous academic endeavors. I truly cannot describe how much it means to me. Dad, now you can start asking when I am going for my doctorate. I love you both so much! To my brothers, you all have kept me sane, taken my mind off school, and always knew how to make me laugh! Colton, Buddy, I pray your own goals far surpass anything I could ever hope for you. Jack, we may not be blood siblings, but I could never thank you enough for accepting me as your little sister. Most importantly, thank you for reviewing all my admissions essays...since they worked!

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## I. INTRODUCTION

Stephen Paddock peered onto the concert hall across the boulevard from the thirty-second floor of the Mandalay Bay Hotel. The illuminated Las Vegas Strip was a familiar sight for the sixty-four-year-old, who for years walked on the very grounds he looked down ... However, that evening, Paddock would aim to gratify a different kind of zeal.<sup>1</sup>

On this night, Stephen Paddock would not spend hours at his favorite video poker machine, and hoping that the next new deal would make him a big winner. This night, his new zeal would culminate in the Las Vegas Massacre. The terror and violence of his shooting spree was captured in some of the initial 911 calls: “Please send help! Someone has been shot and needs an ambulance,” “People are firing guns everywhere! The whole concert is down on the ground. Just send everyone! There are 100 people down, bleeding out, including my best friend. Please hurry up!”<sup>2</sup>

The Las Vegas Massacre occurred on October 1, 2017, shortly after 10:05 p.m.<sup>3</sup> This incident is the deadliest mass shooting in modern U.S. history, and the media dubbed it “one of the darkest moments in America’s recent memory.”<sup>4</sup> Stephen Paddock had stockpiled 24 firearms in his hotel room, which overlooked the music festival.<sup>5</sup> The arsenal included 14 .223/5.56-caliber AR-15 type rifles, eight .308/7.62-caliber AR-10 type rifles, one .308-caliber bolt-action rifle, and one .38-caliber revolver.<sup>6</sup> Paddock open fired on the crowd of 22,000 people for 10 minutes, which resulted in 58 people killed and another

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<sup>1</sup> Khaled A. Beydoun, “Lone Wolf Terrorism: Types, Stripes, and Double Standards,” *Northwestern University Law Review* 112, no. 5 (March 2018): 1213–1214.

<sup>2</sup> Faith Karimi, “Las Vegas Massacre Documents Detail Horror, Chaos, Victims’ Pleas,” CNN, June 8, 2018, <https://www.cnn.com/2018/05/17/us/las-vegas-shooting-documents-highlights/index.html>.

<sup>3</sup> Clark County Fire Department and Las Vegas Metropolitan Police Department, *1 October After-Action Report* (Las Vegas, NV: Federal Emergency Management Agency, 2018), 1.

<sup>4</sup> Beydoun, “Lone Wolf Terrorism,” 2.

<sup>5</sup> Federal Bureau of Investigation, *Active Shooter Incidents in the United States in 2016 and 2017* (San Marcos, TX: Federal Bureau of Investigation, 2018), 15.

<sup>6</sup> Trevor Alsup, *LVMPD Preliminary Investigative Report: 01 October Mass Shooting* (Las Vegas, NV: Las Vegas Metropolitan Police Department, 2018), 41–42.

850 wounded.<sup>7</sup> Paddock committed suicide shortly after the incident, before law enforcement located him.<sup>8</sup>

Law enforcement officers responding to the incident faced several challenges, such as locating and engaging the suspect.<sup>9</sup> The area in which law enforcement struggled the most was the tactical conditions of the incident: the densely packed public space, and the suspect's elevated and protected position and overwhelming firepower.<sup>10</sup> During subsequent investigations, the police found ammonium nitrate (commonly used in IEDs), 50 pounds of Tannerite (binary explosive for targets), and an additional 1,600 rounds in Paddock's vehicle.<sup>11</sup> The stockpile of firearms, stash of explosives, and the barricaded hotel room door impeded the response and the ability to stop a threat this quickly.<sup>12</sup> Time was of the essence, as Paddock was able to commit the deadliest mass shooting in U.S. history by himself in less than 10 minutes.

#### **A. RESEARCH QUESTION**

The relative superiority theory can be applied to law enforcement incidents to explain how law enforcement is at a firepower and tactical disadvantage compared to suspects.<sup>13</sup>

How can the relative superiority theory help determine when and how police officers lose or gain superior advantage when they are outgunned by suspects?

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<sup>7</sup> Clark County Fire Department and Las Vegas Metropolitan Police Department, *1 October After-Action Report*, 1.

<sup>8</sup> Federal Bureau of Investigation, *Active Shooter Incidents in the United States in 2016 and 2017*, 15.

<sup>9</sup> Ryan Wallace and Jon Loffi, "How Law Enforcement Unmanned Aircraft Systems (UAS) Could Improve Tactical Response to Active Shooter Situations: The Case of the 2017 Las Vegas Shooting," *International Journal of Aviation, Aeronautics, and Aerospace* 4, no. 4 (2017): 1, <https://doi.org/10.15394/ijaaa.2017.1198>.

<sup>10</sup> Wallace and Loffi, 1–4.

<sup>11</sup> "Vegas Shooter 'Disturbed, Dangerous', Stockpiled Weapons for Decades: Police," ABC News, October 5, 2017, <http://www.abc.net.au/news/2017-10-05/las-vegas-shooting-stephen-paddock-disturbed-and-dangerous/9018366>.

<sup>12</sup> Alsup, *LVMPD Preliminary Investigative Report*, 52–53.

<sup>13</sup> William H. McRaven, *Spec Ops: Case Studies in Special Operations Warfare: Theory and Practice* (Novato, CA: Presidio Press, 1995), 4.

## **B. PROBLEM STATEMENT**

In “21st Century Firearms Training,” David Griffith claims, “Criminals are getting smarter, faster, and more deadly than ever before.”<sup>14</sup> When criminals are better armed and more skilled with their weapons than law enforcement officers, their disparity of superiority leads to death and injury.<sup>15</sup> The past three decades have seen a significant increase in suspects using weapons that had not been readily available to the public and that are more lethal.<sup>16</sup> Advanced weapon use leads to one crucial point: suspects are increasingly outgunning law enforcement officers. High-powered rifles can engage targets from a greater distance with greater accuracy than handguns. Suspects are learning that conducting attacks in urban areas increases the likelihood of a higher death toll. In this setting, as the Las Vegas incident illustrates, large caches of weapons and high-powered rifles give suspects an advantage.

Law enforcement is facing a disadvantage problem similar to military special operation’s primary function of overcoming unfavorable odds. Retired Admiral William McRaven developed the relative superiority theory and the six principles of special operations to explain their success.<sup>17</sup> The theory’s basis is the need for operators to achieve superiority at a specific place and time by virtue of surprise, speed, and violence of action. Fire superiority is the firepower of a greater effect, in its accuracy and volume than that of a suspect, to make possible advances against the suspect without suffering heavy losses.

## **C. LITERATURE REVIEW**

Scholars and practitioners alike must not simply equate police work with warfare, as civil-military fusion, also often described as the militarization of the police, imperils

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<sup>14</sup> David Griffith, “21st-Century Firearm Training,” *Police* 40, no. 5 (May 2016): 36, <https://search.proquest.com/docview/1792537642/9BAACF21EDD245E6PQ/7>.

<sup>15</sup> Mark Cannon, “Law Enforcement and the Long Gun: Do We Need a New Face in the Fight?” *The Journal of Emergency Medicine* 45, no. 5 (November 2013): 710, <https://doi.org/10.1016/j.jemermed.2013.01.026>.

<sup>16</sup> Jimmy Williams and David Westall, “SWAT and Non-SWAT Police Officers and the Use of Force,” *Journal of Criminal Justice* 31 (2003): 469.

<sup>17</sup> McRaven, *Spec Ops*, 1–2.



democracy, civil liberties, and ultimate police effectiveness. This literature review surveys the dominant scholarship on civil-military fusion to establish the very narrow and specific applicability of McRaven's battlefield theory to police response to mass shooters. The success of military philosophies being applied to law enforcement operations leads critics to believe that civilian law enforcement is becoming too militarized.

Civil-military relations are the relationship between the citizens, institutions, and military of a state.<sup>18</sup> Civil-military relations have been present in the United States since the Revolution and over time, the civilian control of the military has changed depending on the current peace or wars at the time.<sup>19</sup> Historically, the roles of U.S. military forces and civilian law enforcement have been distinguished from one another as a matter of democratic principle and practice.<sup>20</sup> The founding fathers experienced the danger of injecting the military into the civilian arena and the struggles associated with the military policing its people.<sup>21</sup> American colonists suffered oppression from the British "Red Coats" and the use of military forces against the citizens was a key grievance in the Declaration of Independence.<sup>22</sup> As stated in the Declaration of Independence, "He [King of Great Britain] has affected to render the Military independent of and superior to the Civil power."<sup>23</sup> The Third Amendment reinforced the separation of civil-military functions by ensuring citizens would not be forced to quarter troops in their homes.<sup>24</sup> Balko claims that the Third Amendment is "not just a prohibition on peacetime quartering [of soldiers in domestic homes], but a more robust expression of the threat that standing armies pose to free societies. It represented a long-standing, deeply ingrained resistance to armies patrolling

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<sup>18</sup> Mackubin Thomas Owens, "What Military Officers Need to Know about Civil-Military Relations," *Naval War College Review* 65, no. 2 (Spring 2012): 67, <https://digital-commons.usnwc.edu/nwc-review/vol65/iss2/6/>.

<sup>19</sup> Owens, 2.

<sup>20</sup> Jay Fortenbery, "Police Militarization in a Democratic Society," *Law Enforcement Bulletin*, June 13, 2018, <https://leb.fbi.gov/articles/featured-articles/police-militarization-in-a-democratic-society>.

<sup>21</sup> Kurt Andrew Schlichter, "Locked and Loaded: Taking Aim at the Growing Use of the American Military in Civilian Law Enforcement Operations," *Loyola of Los Angeles Law Review* 26 (1993): 1331.

<sup>22</sup> Schlichter, 1297.

<sup>23</sup> The Declaration of Independence, para. 2 (U.S. 1776).

<sup>24</sup> U.S. Const., amend. 3.

American streets and policing American communities.”<sup>25</sup> The Posse Comitatus Act represented another step toward ensuring the separation of the military and American citizens, this time in the wake of the U.S. Civil War.<sup>26</sup> The Act limits the use of military forces to support civilian law enforcement on U.S. domestic soil.<sup>27</sup> Thus, the United States set out to limit the power of its military from the beginning.

Several scholars believe politicians are forgetting the United States’ ill history and are allowing the military to solve social problems.<sup>28</sup> By allowing the military to dabble in the civilian world, law enforcement has borrowed the military’s “playbook,” which is resulting in militarized domestic police forces. The debate about militarizing the police to the detriment of the democracy reignited in the 1980s during the war on drugs. It has also continued through the war on terror.<sup>29</sup> Like wars fought overseas, the law enforcement officers “fighting” in the wars on drugs and terror utilize military resources, personnel, tactics, and equipment.<sup>30</sup> Hall and Coyne argue the war on drugs and war on terror are prime examples of how the government has changed the face of “enemies” from South American drug cartels and foreign terrorist groups like Al-Qaeda to American citizens, such as local drug dealers and homegrown violent extremists.<sup>31</sup> These crime control efforts have been labeled as “wars” that incite fear and paint the picture of a crisis to the American population.<sup>32</sup> Hanley highlights that politicians were actually the first to label these issues

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<sup>25</sup> Radley Balko, *Rise of the Warrior Cop: The Militarization of America’s Police Forces* (New York: Public Affairs, 2013), 13.

<sup>26</sup> Posse Comitatus Act, 18 U.S.C. § 1385 (1878), <https://www.law.cornell.edu/uscode/text/18/1385>.

<sup>27</sup> Schlichter, “Locked and Loaded,” 1298–1299.

<sup>28</sup> Schlichter, 1331–1332; Abigail R. Hall and Christopher J. Coyne, “The Militarization of U.S. Domestic Policing,” *Independent Review* 17, no. 4 (Spring 2013): 486, <https://doi.org/10.2139/ssrn.2122384>.

<sup>29</sup> Matthew Hanley, “Killing Barney Fife: Law Enforcement’s Socially Constructed Perception of Violence and Its Influence on Police Militarization” (master’s thesis, Naval Postgraduate School, 2015), 6, <https://www.hsdl.org/?view&did=788377>.

<sup>30</sup> Hall and Coyne, “The Militarization of U.S. Domestic Policing,” 486.

<sup>31</sup> Hall and Coyne, 493.

<sup>32</sup> Hall and Coyne, 493–94.

as wars to justify their economic and political agendas.<sup>33</sup> Yet, critics claim the “war” labels, such as the War on Drugs and the Global War on Terror, are examples of how military jargon and culture are leaking over into law enforcement.<sup>34</sup>

Other scholars focus their attention on how the police became more militarized. For example, Hiatt provides a timeline of significant milestones in the history of law enforcement becoming militarized.<sup>35</sup> To him, the Technology Transfer Amendments in 1995 legalized the process of militarizing law enforcement, specifically the 1033 Program, which makes surplus military equipment available to law enforcement agencies.<sup>36</sup> The police shooting in Ferguson, MO, on August 9, 2014, reignited the debate over police militarization. The 1033 Program is the primary target for critics who worry about U.S. police forces becoming militaristic.<sup>37</sup> Hiorns acknowledges the public’s concerns about the 1033 Program by giving examples of equipment that has been acquired, which expands beyond firearms, and how the receiving law enforcement agencies use such equipment.<sup>38</sup>

In *Counterinsurgency: Exposing the Myths of the New Way of War*, Porch argues against integrating military tactics and strategies into the civilian realm. He contends that constraints do not exist on when the use of paramilitary tactics will end.<sup>39</sup> However, experiments have shown the limits of this idea. For example, Hiorns applied Counterinsurgency Operations (COIN) military strategy to a local law enforcement gang problem, just as Special Operations use these strategies overseas. Hiorns found that they had a positive impact on quality-of-life factors, such as health, the economy, housing, crime, and community.<sup>40</sup> Hiorns’s research demonstrates that certain military strategies,

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<sup>33</sup> Hanley, “Killing Barney Fife,” 8.

<sup>34</sup> Hanley, 8.

<sup>35</sup> Richard Hiatt, “The Militarization of Police,” *New Politics* 11, no. 2 (Winter 2007): 153.

<sup>36</sup> Hiatt, 153.

<sup>37</sup> Hanley, “Killing Barney Fife,” 5.

<sup>38</sup> Bruce Hiorns, “Analysis of C3 Counterinsurgency-Inspired Policing and the Flip Side of the Coin” (master’s thesis, Naval Postgraduate School, 2014), 83–84, <https://www.hsdl.org/?view&did=762418>.

<sup>39</sup> Douglas Porch, *Counterinsurgency: Exposing the Myths of the New Way of War* (New York: Cambridge University Press, 2013), 343.

<sup>40</sup> Hiorns, “Analysis of C3.”

such as COIN and combat medical techniques, can be applied successfully in the civilian law enforcement realm.

For many critics, American Special Weapons and Tactics (SWAT) teams are the prime example of how law enforcement has become militarized. SWAT teams first appeared in the late 1960s after several high-profile incidents occurred.<sup>41</sup> These incidents demonstrated how easily “standard” patrol officers could be overrun, which limited adequate responses to highly volatile and violent situations. As a result, many law enforcement agencies and officials created teams of highly trained individuals capable of executing dangerous missions with weapons not readily available to patrol.<sup>42</sup> When SWAT was created, it consisted of small units that could easily be overseen and only used during “difficult situations, such as incidents involving hostages, barricaded suspects, or hijackers.”<sup>43</sup>

During the 1980s and 1990s SWAT teams across the country expanded their missions, deployments, and weaponry, which has led to militarization.<sup>44</sup> Opposing viewpoints primarily focus on how SWAT teams are used for drug search warrants or when arresting “non-violent” offenders.<sup>45</sup> Balko provides subjective evidence, primarily referencing newspaper articles, in his argument that law enforcement agencies exaggerate the amount and types of danger law enforcement officers are facing.<sup>46</sup> He argues against the use of SWAT teams because of unjustified drug raids and the lack of evidence that

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<sup>41</sup> The high-profile incidents include the University of Texas Tower Shooting, the Watts Riots, and an increase in bank robberies across the country. David Griffith, “SWAT Response to the War on Police,” *Police* 40, no. 8 (August 2016): 60.

<sup>42</sup> Griffith, 60.

<sup>43</sup> Diane Cecilia Weber, *Warrior Cops: The Ominous Growth of Paramilitarism in American Police Departments*, Briefing Paper No. 50 (Washington, DC: Cato Institute, 1999), 7, <https://www.cato.org/publications/briefing-paper/warrior-cops-ominous-growth-paramilitarism-american-police-departments>.

<sup>44</sup> Weber, 7.

<sup>45</sup> Kara Dansky, *War Comes Home: The Excessive Militarization of American Policing* (New York: American Civil Liberties Union, 2014), 2, <https://www.aclu.org/report/war-comes-home-excessive-militarization-american-police>; Balko, *Rise of the Warrior Cop*, 284.

<sup>46</sup> Balko, *Rise of the Warrior Cop*, 276.

using SWAT teams to execute warrants is safer.<sup>47</sup> The American Civil Liberties Union (ACLU) found that the most common SWAT deployments, approximately 79 percent, are for drug investigations in which search warrants are executed.<sup>48</sup> Similarly, Dansky contend that SWAT teams were initially created to handle critical situations like active shooters, but now SWAT is primarily used to search people’s homes for drugs.<sup>49</sup> Balko quotes a former Immigration and Customs Enforcement (ICE) Agent who said, “the thrill of the raid may factor into why narcotics cops just don’t consider less volatile means of serving search warrants.”<sup>50</sup> The critics believe using SWAT for drug enforcement is an overreach of a SWAT team’s purpose.

Dansky tries to blame the mishaps of SWAT operations that result in severe injuries or death on the militarization of police.<sup>51</sup> Dansky said, “SWAT deployments often and unnecessarily entailed the use of violent tactics and equipment ... [and were] shown to increase the risk of bodily harm and property damage.”<sup>52</sup> Dansky fails to address or investigate the root causes of failures; for example, a lack of training or inadequate information.<sup>53</sup> Dansky’s findings regarding civilian injuries and deaths caused by SWAT deployments contradicted her assertion. The study analyzed 818 SWAT incidents, and out of those incidents, a total of seven civilians were killed (two committed suicide) and 46 civilians were injured.<sup>54</sup> The study’s results lack sufficient evidence to support Dansky’s high-probability of death argument. The overuse or misuse of SWAT teams is not the only argument against the militarization of police. Law enforcement’s parallel structure and resemblance to the military is another area of contention.

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<sup>47</sup> Balko, 214.

<sup>48</sup> Dansky, *War Comes Home*, 31.

<sup>49</sup> Dansky, 2.

<sup>50</sup> Balko, *Rise of the Warrior Cop*, 214.

<sup>51</sup> Dansky, *War Comes Home*, 2.

<sup>52</sup> Dansky, 6.

<sup>53</sup> Dansky, 37–39.

<sup>54</sup> Dansky, 39.

Several sources cite law enforcement's militaristic mindset and willingness of officers to overuse force as a symptom of the militarization of police.<sup>55</sup> Balko argues that the pursuit of an authoritarian military culture is prevalent throughout law enforcement.<sup>56</sup> Porch argues that law enforcement is gaining civilian compliance through the show of force instead of placing the value of liberty above the law.<sup>57</sup> Porch explains that recent wars have led to law enforcement adopting an authoritarian mindset.<sup>58</sup> The politicians empathize with law enforcement because they can "see" the domestic threat.<sup>59</sup> Weber reinforces this idea by arguing that the military mindset further separates officers from citizens because officers view citizens as the enemy and the streets as a warzone.<sup>60</sup> Similarly, Hanley delves into the correlation between violence and police militarization.<sup>61</sup> Hanley determines a single object or gadget, such as a weapon, tactic, armored vehicle, or uniform, does not define what police militarization is, but the purpose and manner of its application.<sup>62</sup> Hanley's research finds a strong correlation between law enforcement officers' perceptions of violence, to include isolated acts perceived as attacks on the law enforcement community as a whole, and their efforts to militarize.<sup>63</sup>

La Carte argues the lines of responsibility between military and civilian law enforcement are blurring, whether by design or by accident.<sup>64</sup> La Carte highlights the transnational nature of asymmetric threats at the strategic and operational levels. Clees furthers the argument for the use of military forces domestically because the United States

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<sup>55</sup> Hiatt, "The Militarization of Police"; Porch, *Counterinsurgency*; Weber, *Warrior Cops*, 14.

<sup>56</sup> Balko, *Rise of the Warrior Cop*, 275.

<sup>57</sup> Porch, *Counterinsurgency*, 344.

<sup>58</sup> Porch, 344.

<sup>59</sup> Porch, 344.

<sup>60</sup> Weber, *Warrior Cops*, 10.

<sup>61</sup> Hanley, "Killing Barney Fife," 89–92.

<sup>62</sup> Hanley, 90.

<sup>63</sup> Hanley, 91–92.

<sup>64</sup> Donald A. La Carte, "Asymmetric Warfare and the Use of Special Operations Forces in North American Law Enforcement," *Canadian Military Journal* 2, no. 4 (Winter 2001): 23.

has seen an increase of conventional military-style attacks causing devastating results.<sup>65</sup> La Carte goes on to describe asymmetric warfare as a concept that “encompasses techniques, weapons, and tactics that an adversary might employ to foil or circumvent the technological superiority of its foe.”<sup>66</sup> The ambiguous, ever-changing definition of criminal activity points toward a future of collaboration between civilian law enforcement and military special operations.<sup>67</sup>

In the *Small Wars Journal*, Zambri and Sutliff argue, “the militarization of police is a necessary, adaptive response to increasingly violent and complex operational environments and events that are irregular in form and function.”<sup>68</sup> The public should shift its focus from how law enforcement is becoming militarized and instead look at why.<sup>69</sup> Suspects in today’s world can obtain advanced technology, increase weapon lethality, and learn sophisticated tactics and techniques.<sup>70</sup> Zambri and Sutliff conclude that criminals are employing military tactics and weapons; therefore, law enforcement officers need the same training and equipment as the criminals at a minimum.<sup>71</sup>

By the same token, the Joint Special Operations University (JSOU) also delves into how military special operations tactics and strategies can apply to civilian law enforcement. Alexander examines the elements that precipitate this circumstance, which provides Special Operation Forces with a better situational awareness and understanding of the changing domestic threats facing American law enforcement and their operational capabilities.<sup>72</sup> Law enforcement can also learn from the military in how to improve their

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<sup>65</sup> Michael Clees, “Combating Paramilitary Terrorism on the Homefront: An Examination of Capabilities and Limitations of U.S. Response Forces” (master’s thesis, Naval Postgraduate School, 2015), 65, <https://www.hsdl.org/?view&did=790315>.

<sup>66</sup> La Carte, “Asymmetric Warfare,” 25.

<sup>67</sup> La Carte, 23.

<sup>68</sup> John Zambri and Usha Sutliff, “Reflections on the Militarization of American Law Enforcement: An Adaptive Consequence to an Irregular Criminal Threat,” *Small Wars Journal*, November 18, 2014, 2.

<sup>69</sup> Zambri and Sutliff, 2.

<sup>70</sup> La Carte, “Asymmetric Warfare,” 23.

<sup>71</sup> Zambri and Sutliff, “Reflections on the Militarization,” 2.

<sup>72</sup> John Alexander, *Convergence: Special Operations Forces and Civilian Law Enforcement* (MacDill Air Force Base, FL: Joint Special Operations University, 2010), 1.

tactics and operational planning techniques better when they are facing more combat-like environments and threats.<sup>73</sup>

Clees argues that civilian law enforcement and the National Guard do not have the necessary resources or training to respond to a paramilitary style attack adequately; only the active component of the military has the capabilities to do so.<sup>74</sup> Alexander also notes that if critical situations exceed law enforcements capabilities, and American citizens feel personally threatened, the military may be employed in ways previously unthinkable.<sup>75</sup> As Alexander notes, another 9/11-type terrorist attack, illegal immigration, and international gangs are all examples of where the internal use of military forces might exceed the Posse Comitatus Act.<sup>76</sup> Clees concludes the active military should be the primary responders to paramilitary style attacks and leave the enforcement of laws to law enforcement officers, which may hush anti-police militarization sentiment across the United States.<sup>77</sup>

Phillips notes in the June 2018 *FBI Law Enforcement Bulletin* that law enforcement agencies are not typically included in the conversations regarding police militarization.<sup>78</sup> The study's results suggest the problems regarding military-like displays come primarily in appearance rather than substance.<sup>79</sup> It becomes clear that police militarization does not have to be viewed through a negative lens, and given the evidence, it should not be. In the current threat environment, a law enforcement agency without some degree of militarization is in jeopardy of being outgunned and outmatched.<sup>80</sup> However, civilian law enforcement can make some well-bounded and thoughtful use of military ideas, equipment,

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<sup>73</sup> Alexander, 4–5.

<sup>74</sup> Clees, “Combating Paramilitary Terrorism on the Homefront,” 65.

<sup>75</sup> Alexander, *Convergence*, 81.

<sup>76</sup> Alexander, 81.

<sup>77</sup> Clees, “Combating Paramilitary Terrorism on the Homefront,” 65.

<sup>78</sup> Scott Phillips, “Police Militarization,” *Law Enforcement Bulletin*, August 14, 2017, <https://leb.fbi.gov/articles/featured-articles/police-militarization>.

<sup>79</sup> Phillips.

<sup>80</sup> Zambri and Sutliff, “Reflections on the Militarization,” 4.



and tactics if they consider the constraints that go with policing fellow citizens in an active community committed to safety.

#### **D. RESEARCH DESIGN**

This thesis uses a systematic comparative case study method focused on applying the relative superiority theory to each case. Applying the relative superiority theory to law enforcement incidents where officers were outgunned will help determine when and how officers lost the superior advantage.

The cases were chosen for their significance to the law enforcement community and the number or variety of firearms the suspects used. The cases also span over a decade to show a historical range and the value of the relative superiority theory. They include the North Hollywood shootout and a 2009 Pittsburg officer-involved shooting. The North Hollywood shootout is an aggravated robbery that turned into a shootout with the police. This case was selected for its historical significance and prevalence in law enforcement training studies. The 2009 Pittsburgh officer-involved shooting was selected because of its ambush nature. An officer's safety can be put in danger from many threats, with ambush attacks being one of them. The number of ambush attacks has continued to remain steadily high since the early 1990s.<sup>81</sup> Both of the case studies initially had patrol officers respond and SWAT teams were later called to the scene.

The main thrust of this thesis is to focus on the safety and tactics of a patrol officer. A comprehensive comparison of these two incidents allows patterns, successes, and deficiencies to be identified. This work does not delve into specific suspect motivating factors or which interventions may have helped or stopped the incident from happening. This thesis focuses on the incident once it has started and the "bullets are already flying."

The primary theoretical lens comes from McRaven's *Spec Ops: Case Studies in Special Operations Warfare: Theory and Practice*.<sup>82</sup> The Relative Superiority Theory was

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<sup>81</sup> George Fachner and Zoë Thorkildsen, *Ambushes of Police: Environment, Incident Dynamics, and the Aftermath of Surprise Attacks against Law Enforcement* (Washington, DC: Office of Community Oriented Policing Services, 2015), viii, <https://ric-zai-inc.com/Publications/cops-p340-pub.pdf>.

<sup>82</sup> McRaven, *Spec Ops*.

developed and published in this book. Specific case study information will come from open-source literature. Resources include official police or published after-action reports, news articles, and other publications that provide information on the selected incidents.

Ultimately, an analysis of these cases will show that the relative superiority theory is a “powerful tool to explain victory and defeat” in a military environment, as well as provide insight into if it applies in domestic law enforcement situations.<sup>83</sup> Additionally, the research may help explain law enforcement’s firepower deficiencies and provide a foundation for future strategies and tactics.

This thesis is not the first time the relative superiority theory has had a public service application. Brush applied the relative superiority theory to the use of the 2 1/2-inch handline fire hose.<sup>84</sup> He focuses on the small force of a fire crew, the hose line, the selection of fire nozzle, the crew’s training, and the hit and move technique.<sup>85</sup> Brush’s comparisons are similar to how the theory applies to law enforcement’s encounters with suspects.<sup>86</sup>

## **E. CHAPTER OVERVIEW**

Chapter II examines the relative superiority theory’s tenets, principles, and its applicability to law enforcement. The following two chapters present the case studies of the North Hollywood shootout and the 2009 Pittsburg officer-involved shooting, respectively. Each case is divided into four sections: the incident background, an examination of the six principles of special operations, determining relative superiority in the case, and the conclusion that looks at the effects on the outcome. Chapter V provides a combined analysis of the two cases and presents conclusions and recommendations based on the findings.

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<sup>83</sup> McRaven, 40.

<sup>84</sup> Brian Brush, “The 2 1/2” Handline: Gaining Relative Superiority,” *Fire Service Warrior*, July 2012, 1–12.

<sup>85</sup> Brush, 2–6.

<sup>86</sup> Brush, 1.

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## II. MCRAVEN'S THEORY

Retired Admiral William H. McRaven provided the foundational work for a theory of special operations that he terms “Relative Superiority,” which he defines as:

A condition that exists when an attacking force, generally smaller, gains a decisive advantage over a larger or well-defended enemy. Once relative superiority is achieved, the attacking force is no longer at a disadvantage and has the initiative to exploit the enemy’s weaknesses and secure victory. Although gaining relative superiority doesn’t guarantee success; it is necessary for success.<sup>87</sup>

The Relative Superiority theory has six principles: simplicity, security, repetition, surprise, speed, and purpose.<sup>88</sup> This chapter delves into the relative superiority theory’s tenets and its applicability to law enforcement.

According to McRaven, “A special operation is conducted by forces specially trained, equipped, and supported for a specific target whose destruction, elimination, or rescue (in the case of hostages), is a political or military imperative.”<sup>89</sup> McRaven argues that his theory is applicable mainly to direct-action missions but is also relevant across the full spectrum of special operations.<sup>90</sup> This claim leaves his theory open to criticism. Driver and DeFeyter argue that McRaven’s theory fails to account for the unconventional warfare aspect of special operations.<sup>91</sup> Driver and DeFeyter explain several distinctions between McRaven’s case studies and unconventional warfare operations. As an example, Driver and DeFeyter claim, “*Although useful for commando raids*, the theory and principles are inapplicable and, in some cases, antithetical for Unconventional Warfare. McRaven’s longest case study lasted less than 30 hours; a UW campaign typically lasts for years.”<sup>92</sup>

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<sup>87</sup> William H. McRaven, “The Theory of Special Operations” (master’s thesis, Naval Postgraduate School, 1993), 2, <http://hdl.handle.net/10945/14838>.

<sup>88</sup> McRaven, 8.

<sup>89</sup> McRaven, 2.

<sup>90</sup> McRaven, 2–3.

<sup>91</sup> Bruce E. DeFeyter and William D. Driver, “The Theory of Unconventional Warfare Win, Lose, and Draw” (master’s thesis, Naval Postgraduate School, 2012), 2, <http://hdl.handle.net/10945/3858>.

<sup>92</sup> DeFeyter and Driver, 3–4.

The difference in the type of military targets and the involvement of other non-military individuals were other distinctions between the two theories.<sup>93</sup>

Still, McRaven's theory has validity when applied to direct-action missions, as demonstrated throughout the *Spec Ops* case studies.<sup>94</sup> McRaven analyzed eight cases to explain why special operation missions succeed. The case studies were the German Attack on Eben Emael (May 10, 1940), the Italian Manned Torpedo Attack at Alexandria (December 19, 1941), Operation Chariot: The British Raid on Saint-Nazaire (March 27–28, 1942), Operation Oak: The Rescue of Benito Mussolini (September 12, 1943), Operation Source: Midget Submarine Attack on the Tirpitz (September 22, 1943), the U.S. Ranger Raid on Cabanatuan (January 30, 1945), Operation Kingpin: The U.S. Army Raid on Son Tay (November 21, 1970), and Operation Jonathan: The Israeli Raid on Entebbe (July 4, 1976).<sup>95</sup> In most of these cases, the special operation force was outnumbered 10 to one by the enemy.<sup>96</sup> McRaven's analysis of the cases showed that the missions that adhered to the principles of special operations were successful. Whereas, the missions that did not incorporate the principles struggled to succeed.<sup>97</sup>

## A. THEORY

Clausewitz's *On War* offers two prominent observations: "The defensive form of warfare is intrinsically stronger than the offense" and "to defeat 'the stronger form of warfare' an army's best weapon is superior numbers."<sup>98</sup> In light of these two observations, McRaven asks, "How can a special operations force that has inferior numbers and the

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<sup>93</sup> DeFeyter and Driver, 4.

<sup>94</sup> JP 3-05 defines a direct-action mission as "short-duration strikes and other small-scale offensive actions conducted as a special operation in hostile, denied, or diplomatically sensitive environments and which employ specialized military capabilities to seize, destroy, capture, exploit, recover, or damage designated targets." Joint Chiefs of Staff, *Special Operations*, Joint Publication 3-05 (Washington, DC: Joint Chiefs of Staff, 2014), x, [https://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp3\\_05.pdf](https://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp3_05.pdf).

<sup>95</sup> McRaven, *Spec Ops*.

<sup>96</sup> McRaven, 388.

<sup>97</sup> McRaven, 382.

<sup>98</sup> Carl Von Clausewitz, *On War*, trans. Michael Howard and Peter Paret (Princeton, NJ: Princeton University Press, 1989), 358.

disadvantage of attacking the stronger form of warfare gain superiority over the enemy? To understand this paradox, is to understand special operations.”<sup>99</sup> To answer this paradox McRaven developed the relative superiority theory, the theory of special operations.

McRaven started his theory by defying conventional military wisdom that numerically superior forces will always win.<sup>100</sup> Specifically, he posits three basic properties of relative superiority to explain how numerically inferior forces can win. The first is when “relative superiority is achieved at the pivotal moment in an engagement.”<sup>101</sup> It is also the greatest moment of risk for the attacking forces.<sup>102</sup> McRaven cites the Germans’ attack on the Belgian fort at Eben Emael during WWII.<sup>103</sup> The Germans used gliders and shaped charges that allowed them to achieve superiority through surprise and speed within the first five minutes of the battle.<sup>104</sup> While the battle lasted for another 24 hours, McRaven attributes the Germans’ success to this initial surprise. This pivotal moment is when the attackers’ “probability of success outweighs the probability of failure.”<sup>105</sup>

The second property is “Once relative superiority is achieved, it must be sustained in order to guarantee victory.”<sup>106</sup> McRaven states, “the ability to sustain relative superiority frequently requires the intervention of courage, intellect, boldness, and perseverance, or what Clausewitz calls the moral factors.”<sup>107</sup> Again, in WWII, an Italian frogman, Lt. Luigi Durand de la Penne, persevered through moral challenges to complete a mission.<sup>108</sup> Lt. Durand de la Penne and another frogman were trying to place a manned

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<sup>99</sup> McRaven, *Spec Ops*, 4.

<sup>100</sup> McRaven, 4.

<sup>101</sup> McRaven, 4.

<sup>102</sup> McRaven, 4–5.

<sup>103</sup> McRaven, 4.

<sup>104</sup> McRaven, 4.

<sup>105</sup> McRaven, 5.

<sup>106</sup> McRaven, 5.

<sup>107</sup> McRaven, 5.

<sup>108</sup> McRaven, 5–6.

torpedo underneath a British battleship in the Alexandria Harbor.<sup>109</sup> The two Italian frogman overcame several obstacles during their mission, such as pier security and an antitorpedo net. While trying to place the torpedo on the hull of the battleship, the torpedo sank into the mud and the second frogman lost consciousness, which caused him to float to the surface.<sup>110</sup> Lt. Durand de la Penne did not let his exhaustion, the cold-water temperatures, and losing his teammate stop him from completing the mission.<sup>111</sup> McRaven stresses the importance of Lt. Durand de la Penne's commitment to completing the mission, "Only through his tremendous perseverance and courage (two of the four moral factors) was he able to sustain superiority and complete the mission."<sup>112</sup>

Lastly, "if relative superiority is lost, it is difficult to regain."<sup>113</sup> A final WWII example is Operation Chariot, when the British battleship *Campbeltown* rammed the Saint-Nazaire dry dock.<sup>114</sup> Approximately 80 British commandos were supposed to go ashore and destroy several targets in the city.<sup>115</sup> The British commandos had the initial tactical advantage for the first 30 minutes, but the German soldiers and sailors were able to slow the Commandos.<sup>116</sup> Eventually, the Germans gained reinforcements and the Commandos lost relative superiority.<sup>117</sup> The battle continued for almost another two hours before the British commandos surrendered because they were not able to regain relative superiority over the German's superior numbers.<sup>118</sup> In this case, the attacker lost initiative and the stronger form of warfare (superior numbers) won.<sup>119</sup>

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<sup>109</sup> McRaven, 5.

<sup>110</sup> McRaven, 5.

<sup>111</sup> McRaven, 5–6.

<sup>112</sup> McRaven, 6.

<sup>113</sup> McRaven, 6.

<sup>114</sup> McRaven, 6.

<sup>115</sup> McRaven, 6.

<sup>116</sup> McRaven, 6.

<sup>117</sup> McRaven, 6.

<sup>118</sup> McRaven, 6.

<sup>119</sup> McRaven, 8.

Overall, the key to relative superiority is gaining it early in the engagement. According to McRaven, this gain is imperative because, “the longer an engagement continues the more likely the will of the enemy and chance and uncertainty, the frictions of war, will affect the outcome.”<sup>120</sup>

## **B. PRINCIPLES**

McRaven derived his six principles from the analysis of eight case studies, and he finds that they dominated every successful mission.<sup>121</sup> To gain relative superiority, all six principles must be properly integrated. If even one principle is disregarded or overlooked, McRaven noted some level of failure.<sup>122</sup> In the British raid on Saint-Nazaire, the simplicity principle was not utilized.<sup>123</sup> The British tried to engage multiple targets in a single area of operation; therefore, the British would have had to achieve relative superiority multiple times for the mission to be successful.<sup>124</sup> The British plan also failed to identify extraction plans.<sup>125</sup> Ultimately, the British plan for Saint-Nazaire was complicated with several moving parts and too many objectives that led to the mission failing.<sup>126</sup> The principles, as shown in Figure 1, compose the three phases of an operation: planning (simplicity), preparation (security and repetition), and execution (surprise, speed, and purpose).<sup>127</sup>

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<sup>120</sup> McRaven, “The Theory of Special Operations,” 8–9.

<sup>121</sup> McRaven, *Spec Ops*, 8.

<sup>122</sup> McRaven, 8.

<sup>123</sup> McRaven, 149.

<sup>124</sup> McRaven, 145.

<sup>125</sup> McRaven, 148.

<sup>126</sup> McRaven, 152.

<sup>127</sup> McRaven, 11.



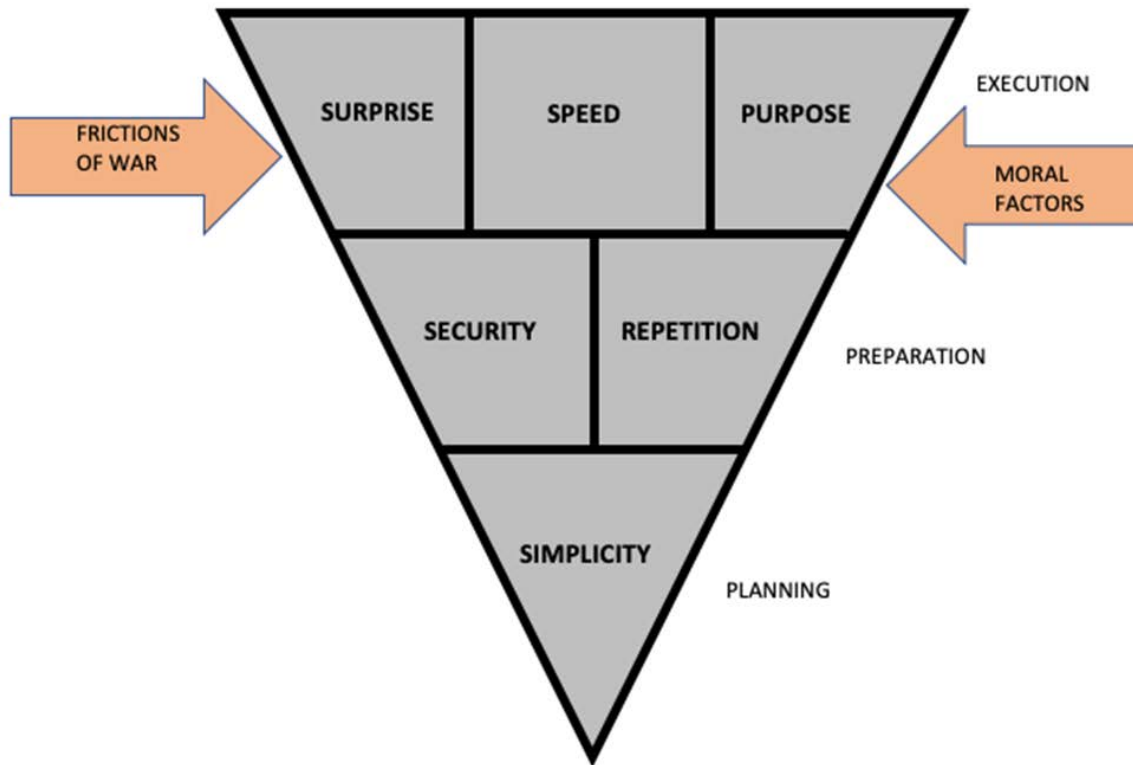


Figure 1. The Principles of Relative Superiority.<sup>128</sup>

The first phase of an operation is planning, which consists of only the simplicity principle.<sup>129</sup> McRaven argues that “there are three elements of simplicity critical to success: limiting the number of objectives, good intelligence, and innovation.”<sup>130</sup> Driver and DeFeyter add that all these elements are aimed at “reducing the operation to the essential elements and by eliminating as many complicating factors as possible.”<sup>131</sup> Simplicity is the most difficult principle to adhere to but it is also the most crucial principle to ensuring success.<sup>132</sup> While the three components of planning are primarily present in the execution phase, according to McRaven, the three components, which are “limiting the

<sup>128</sup> Source: McRaven, 11.

<sup>129</sup> McRaven, 11.

<sup>130</sup> McRaven, 11.

<sup>131</sup> DeFeyter and Driver, “The Theory of Unconventional Warfare,” 3.

<sup>132</sup> McRaven, *Spec Ops*, 11.

number of objectives, good intelligence, and innovation,” must be considered when constructing the plan to ensure it is simple.<sup>133</sup>

The preparation stage consists of security and repetition. Security prevents the enemy from having an unfair advantage.<sup>134</sup> The security principle does not imply hiding the operation is what is most important.<sup>135</sup> Driver and DeFeyter describe security as “primarily the concealment of the timing and means of insertion, thus reducing the enemy’s responsiveness at the time of the attack.”<sup>136</sup> During the preparation phase, repetition is aimed at reducing the reaction time of the operators.<sup>137</sup> It is indispensable because it helps to eliminate the barriers to success.<sup>138</sup> The routine of constantly training allows operators to hone their tactical skills, increases reaction time, and learn new equipment.<sup>139</sup> Full-dress rehearsals of a particular mission-type allow for weaknesses in a plan or tactics to be identified and addressed.<sup>140</sup> Training and rehearsals allow for the hiccups and mistakes to be worked out, which then leads to a smoother and more successful operation.<sup>141</sup>

The final stage of an operation is the execution phase, which comprises surprise, speed, and purpose.<sup>142</sup> The element of surprise allows the attacks to occur despite the enemy’s preparation.<sup>143</sup> McRaven states, “Surprise is gained through deception, timing, and taking advantage of the enemy’s vulnerabilities.”<sup>144</sup> The next principle is speed, which

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<sup>133</sup> McRaven, 14.

<sup>134</sup> McRaven, 14.

<sup>135</sup> McRaven, 14.

<sup>136</sup> DeFeyter and Driver, “The Theory of Unconventional Warfare,” 3.

<sup>137</sup> DeFeyter and Driver, 3.

<sup>138</sup> McRaven, *Spec Ops*, 15.

<sup>139</sup> McRaven, 15.

<sup>140</sup> McRaven, 16.

<sup>141</sup> McRaven, 10.

<sup>142</sup> McRaven, 11.

<sup>143</sup> McRaven, 16–19.

<sup>144</sup> McRaven, 17.

prevents the enemy's reaction to overpowering the element of surprise.<sup>145</sup> As McRaven describes it, "any delay will expand your area of vulnerability and decrease your opportunity to achieve relative superiority."<sup>146</sup> In most of McRaven's case studies, the operations attained relative superiority quickly, in as little as five minutes, and the operations were typically completed in 30 minutes.<sup>147</sup>

The last principle is purpose. Purpose reinforces the importance of the primary objective, regardless of obstacle or opportunities that arise.<sup>148</sup> McRaven claims this principle has two facets of purpose, the overall mission statement and an operator's commitment.<sup>149</sup> McRaven reiterates that personal commitment is different from moral factors. Personal commitment is well established before an objective, whereas moral factors cannot be anticipated.<sup>150</sup> McRaven argues that these unique principles of warfare can only be possessed and effectively employed by small forces.<sup>151</sup>

### **C. APPLICABILITY TO LAW ENFORCEMENT**

The relative superiority theory should be reserved for specific circumstances in which law enforcement officers are clearly outgunned, in a position of disadvantage, and great immediate harm is posed to civilians or other law enforcement officers. Nevertheless, in such circumstances, the relative superiority theory is indispensable. Using McRaven's idea, Brush applied the relative superiority theory to firefighting.<sup>152</sup> Similar to firefighters battling structure fires, patrol officers are "'small attacking forces' arriving 'early in the engagement' to battle a 'much larger or well-entrenched opponent.'"<sup>153</sup> As the

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<sup>145</sup> McRaven, 19.

<sup>146</sup> McRaven, 19.

<sup>147</sup> McRaven, 20.

<sup>148</sup> McRaven, 21.

<sup>149</sup> McRaven, 21–22.

<sup>150</sup> McRaven, "The Theory of Special Operations," 36.

<sup>151</sup> McRaven, *Spec Ops*, 23.

<sup>152</sup> Brush, "The 2 1/2" Handline," 1–2.

<sup>153</sup> Brush, 1.

“engagement time lengthens,” the more likely the officers’ resources will be overrun and the “outcome will be affected by the will of the enemy.”<sup>154</sup>

Patrol is most likely going to be handling most mass shooting incidents. On average, it takes well over 20 minutes for SWAT to arrive on a scene, but most shooting incidents are over in less time.<sup>155</sup> (In 2017, half of the mass attacks (n=14, 50 percent) were over within five minutes of when the first shot was fired, or the first person was injured.<sup>156</sup> An additional 21 percent (n=6) lasted 5 to 14 minutes and the final 29 percent (n=8) lasted 15 minutes or more.<sup>157</sup>) Thus, first-arriving officers must form hasty groups to try to engage the suspect, well before SWAT arrives. The suspect has chosen the location of the incident, however, and is most likely already in a defensive position. Since officers arrive separately from various locations in the jurisdiction, no one can know right away how many officers will be on scene to engage the suspect, nor whether firepower discrepancies exist between the suspect and officers.<sup>158</sup>

As the incident continues, it is more likely that patrol officers will need the SWAT’s assistance because the situation is probably exceeding the capabilities patrol has on scene whether that is manpower or specialized equipment. While SWAT is a beneficial asset, it is rare for a SWAT team to arrive at a shooting incident in a short period of time. SWAT teams, whether full-time or as a collateral duty, are not always readily accessible. A study of SWAT teams from 2009 to 2013 indicates approximately 89 percent of all SWAT teams in the United States are a part-time status team.<sup>159</sup> The most significant drawback of a part-time team is its response time, as members are going about their normal lives and jobs

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<sup>154</sup> McRaven, *Spec Ops*, 6.

<sup>155</sup> Sasha Goldstein, “Mass Shootings Alter Police Training, Tactics,” *Tribune Business News*, December 27, 2012.

<sup>156</sup> National Threat Assessment Center, *Mass Attacks in Public Spaces 2017* (Washington, DC: United States Secret Service, 2018), 2.

<sup>157</sup> National Threat Assessment Center, 2.

<sup>158</sup> Brush, “The 2 1/2” Handline,” 3–4.

<sup>159</sup> National Tactical Officers Association, *National SWAT Study: An Assessment of Current Trends and Issues from 2009 to 2013* (Colorado Springs, CO: International Chiefs of Police, 2016), 7–8, <https://ntoa.org/pdf/swatstudy.pdf>.

while waiting to be summoned for their SWAT duties. While statistics on part-time SWAT teams have not been published, it stands to reason that assembling the team will take longer and further delay the response time.

While a lone suspect may not constitute a “larger force” than even a small group of officers, in terms of absolute numbers, the suspect is well entrenched on scene and may have barricaded himself in a position of advantage.<sup>160</sup> All these factors affect how efficiently law enforcement officers are able to respond and eliminate the threat. Law enforcement has to detect, identify, and designate a suspect’s avenues of fire, or shooting lanes and effectiveness, available cover and concealment, and the suspect’s location before they can start to confront the suspect, which takes up valuable time.<sup>161</sup>

Additionally, the suspect may have a higher number of firearms or more lethal firearms than law enforcement.<sup>162</sup> Being able to understand firearm trends and firepower offsets can assist law enforcement in responding to shootings and countering illegal firearm crimes. In 2017, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) traced 322,078 firearms used in crimes.<sup>163</sup> The ATF’s trace data indicates firearms are constantly being used in the commission of crimes across the United States. Unfortunately, it is unknown how many firearms may be used in one crime versus possibly none in another.

Without greater firepower, it will be nearly impossible for officers to advance against the suspect without incurring substantial losses. In the past decade, 510 law enforcement officers have been killed in the line of duty, and of these 510 officers, 471 were killed by a firearm (handgun, n=335; rifle, n=108; shotgun, n=23; unknown firearm,

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<sup>160</sup> McRaven, “The Theory of Special Operations,” 45.

<sup>161</sup> Andrew White, “Police/Paramilitary/Special Tactics Units 2017 Review,” *Military Technology* 41, no. 12 (December 2017): 25.

<sup>162</sup> Williams and Westall, “SWAT and Non-SWAT Police Officers and the Use of Force,” 469.

<sup>163</sup> The ATF conducts a trace of a firearm when requested by a law enforcement agency when a firearm has been used or is suspected to have been used in a crime. “Firearm Trace Data 2017,” Bureau of Alcohol, Tobacco, Firearms, and Explosives, 2019, <https://www.atf.gov/resource-center/firearms-trace-data>.

n=5).<sup>164</sup> Strikingly, only 172 of the officers killed had prior knowledge that a weapon might be involved in the incident.<sup>165</sup> If police officers know the suspect has used a firearm prior to their arrival, the officers may take extra precautions, such as calling the suspect out or donning their rifle plates for extra protection. While extra precautions do not guarantee officers will not be killed, it is beneficial to know if weapons were involved ahead of their arrival.

McRaven reiterates several times, “an inherent weakness in special forces is their lack of firepower.”<sup>166</sup> The relative superiority theory favors a small force because it starts with a simple plan. If the first few patrol officers on scene utilize the principles of special operations, relative superiority can be gained earlier in the engagement, which is essential because the longer the incident continues, the higher the probability the outcome will be influenced by the will of the suspect.<sup>167</sup> When law enforcement officers arrive on scene, their primary goal should be to barricade the suspect if at all possible to confine said suspect to a specific area. This tactic reduces the casualty radius of citizens and officers, and can buy time for alternative, less lethal force to be employed.<sup>168</sup> By confining a suspect to a controlled position and environment, law enforcement can take extra time to formulate a more detailed plan from a covered position.<sup>169</sup> An example is law enforcement might be able to deploy 2-chlorobenzylidene malononitrile gas (CS gas) to force the suspect to surrender versus officers resuming a gunfight that might not be necessary.

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<sup>164</sup> Federal Bureau of Investigation, *Law Enforcement Officers Feloniously Killed: Type of Weapon* (Washington, DC: Federal Bureau of Investigation, 2018), Table 28, <https://ucr.fbi.gov/leoka/2018/tables/table-28.xls>.

<sup>165</sup> Federal Bureau of Investigation.

<sup>166</sup> McRaven, *Spec Ops*, 8.

<sup>167</sup> McRaven, 4–6.

<sup>168</sup> National Tactical Officers Association, *Tactical Response and Operations Standard for Law Enforcement Agencies* (Colorado Springs, CO: National Tactical Officers Association, 2018), 18–20, <http://ntoa.org/pdf/swatstandards.pdf>.

<sup>169</sup> National Tactical Officers Association, 13–15.

The relative superiority tenets urge officers to keep their movements concealed to gain tactical surprise and speed on the suspect.<sup>170</sup> The principles of special operations can be translated to law enforcement actions. Simplicity for law enforcement means patrol officers can create and execute a simple plan in minimal time at a critical incident without additional resources, such as SWAT or Administration on scene. Security means the officers have sufficient firearms to compete with, or preferably exceed, a suspect's firepower. To gain repetition, law enforcement officers need adequate and repetitive training applicable to the current threats or trends law enforcement is facing. Capitalizing on surprise aims to interrupt the suspect's OODA loop (observe-orient-decide-act) to catch the suspect off-guard, which forces them to start the OODA loop over and think of a new plan.<sup>171</sup> Speed allows officers to contain a suspect and reduce the casualty radius of the incident. Lastly, purpose means law enforcement officers must be willing to sacrifice their lives if necessary to protect the public and not give up until the threat is stopped. The principles of special operations, and the relative superiority theory, are applicable to critical law enforcement incidents, but does not support responding to every call for service in this manner. The relative superiority theory should be reserved for specific incidents, such as mass shootings, well-armed, or barricaded suspects to name a few.

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<sup>170</sup> McRaven, *Spec Ops*, 20–21.

<sup>171</sup> William S. Angerman, "Coming Full Circle with Boyd's OODA Loop Ideas: An Analysis of Innovation Diffusion and Evolution" (master's thesis, Air Force Institute of Technology, 2004), 2–4, <https://apps.dtic.mil/docs/citations/ADA425228>.

### III. NORTH HOLLYWOOD SHOOTOUT

The North Hollywood shootout has been labeled as “one of the fiercest gun battles in modern U.S. law enforcement history.”<sup>172</sup> The incident has been extensively studied and has forever altered the way law enforcement agencies equip and train police officers.<sup>173</sup> Patrol officers who had inferior firepower primarily handled the North Hollywood shootout. Analyzing the North Hollywood shootout through McRaven’s relative superiority theory principles highlights the importance of having a well-established plan and following through with superior execution. Applying the relative superiority theory to this incident demonstrates how the execution phase, surprise, speed, and purpose, impact the effectiveness of a law enforcement patrol’s response to a critical incident and highlights areas for equipment improvement.

#### A. BACKGROUND

On Friday, February 28, 1997, around 9:17 a.m., Los Angeles Officers Loren Farell and Martin Perello drove past the Bank of America on Laurel Canyon Boulevard in North Hollywood.<sup>174</sup> As the officers passed the bank, they saw two men dressed in all black and carrying assault rifles enter the business. Afterward, the officers described the suspects as looking like “ninja turtles.”<sup>175</sup> Officers Farell and Perello immediately parked their patrol car in the bank’s south parking lot and radioed for help. As other officers arrived, they tried to lock down the bank and contain the suspects.<sup>176</sup>

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<sup>172</sup> Bob Parker, “How the North Hollywood Shootout Changed Patrol Arsenals,” *Police One*, February 28, 2012, <http://www.policemag.com/340710/how-the-north-hollywood-shootout-changed-patrol-arsenals>.

<sup>173</sup> Parker.

<sup>174</sup> Bill Coffin, “Warzone: The North Hollywood Shootout, 10 Years Later,” *Risk Management* 54, no. 3 (March 2007): 38.

<sup>175</sup> Greg Meyer, “LAPD Faces Urban Warfare in North Hollywood Bank Shoot-Out,” *Police One*, April 1, 1997, <http://www.policemag.com/338657/lapd-faces-urban-warfare-in-north-hollywood-bank-shoot-out>.

<sup>176</sup> Coffin, “Warzone,” 38.



The suspects, Larry Phillips Jr., and Emil Matasareanu, had set their watches to eight minutes, as that was the response time they expected from the police based on their reconnaissance.<sup>177</sup> They entered the bank and began shooting into the ceiling to get the 30 employees' and customers' attention.<sup>178</sup> The suspects gained access to vault by shooting the door, which was designed to only withstand low-velocity rounds.<sup>179</sup> The bank's assistant manager obliged the suspects' requests to open the vault and began filling their money bag. The suspects expected around \$750,000 to be in the vault but due to a change in the delivery level, a significant amount less was actually in the vault.<sup>180</sup> In frustration, Phillips fired 75 rounds (one whole drum magazine) into the bank's safe.<sup>181</sup> The hostages were locked inside the bank vault. The suspects stole \$303,305, which contained three dye packs that later exploded and destroyed the money.<sup>182</sup>

While the suspects were inside, numerous officers arrived on the scene and surrounded the bank. Phillips exited through the north door at approximately 9:24 a.m. and saw the sea of officers.<sup>183</sup> Phillips open fired for several minutes by spraying his AK-47 in a 180-degree arc.<sup>184</sup> He injured three police officers and seven civilians. Phillips then retreated inside the bank to regroup with Matasareanu. The suspects exited the bank through different doors: Phillips the north door and Matasareanu the south door.<sup>185</sup> Both suspects immediately started to fire at the police vehicles parked around the bank.

At the time, Los Angeles police officers were issued either a Beretta 92F, Beretta 92FS 9mm pistol or a Smith & Wesson Model 15 .38 caliber revolver and a 12-gauge

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<sup>177</sup> "National Geographic Situation Critical Hollywood Shootout," posted by Jim Nally, video, 47:06, June 18, 2007, <https://www.youtube.com/watch?v=aRLeVQsYxFA>.

<sup>178</sup> Coffin, "Warzone," 38.

<sup>179</sup> Nally, "National Geographic Situation Critical Hollywood Shootout."

<sup>180</sup> Nally.

<sup>181</sup> Nally.

<sup>182</sup> Nally.

<sup>183</sup> Nally.

<sup>184</sup> Coffin, "Warzone," 38.

<sup>185</sup> Nally, "National Geographic Situation Critical Hollywood Shootout."

Ithaca Model 37 pump-action shotgun.<sup>186</sup> The police officers immediately began returning fire but quickly realized they were outgunned when the rounds were not penetrating the suspects' body armor. The police officers' service pistols were known for poor accuracy at long distances.<sup>187</sup> The police officers were trapped and unable to take a precision shot due to the suspects' continuous spray of automatic gunfire. Due to the police officers' weapons being ineffective, several officers went to a local gun store for AR-15s to use in an attempt to equalize the firepower.<sup>188</sup> The LAPD SWAT team arrived 18 minutes into the incident and commandeered an armored vehicle.<sup>189</sup>

At one point, Phillips was struck by police fire just above the neckline of his body armor, which severed his subclavian artery that caused his left arm to stop functioning.<sup>190</sup> Phillips continued to fight and refused to leave in the getaway car. Phillips was determined to keep shooting at the police. When one weapon ran out of ammunition, he would go to the car's trunk and pick up another.<sup>191</sup> They came prepared with an arsenal of weapons in the getaway car that included five rifles and a handgun.<sup>192</sup> Phillips was separated from Matasareanu and the getaway car. He kept firing with only one hand until a shot from a police officer jammed Phillips rifle. Phillips ducked behind a tractor-trailer but could not fix the rifle's malfunction. Then he dropped the rifle and transitioned to a Beretta 92FS pistol before shooting at the police once again.<sup>193</sup> The police returned fire, and by happenstance, shot the pistol out of Phillips' hand. Phillips then picked the pistol back up and shot himself in the head. At the same time, a Los Angeles Police Department (LAPD)

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<sup>186</sup> Nally.

<sup>187</sup> Dana Bartholomew, "How the North Hollywood Shootout Changed Policing," *Police One*, March 1, 2017, <https://www.policeone.com/police-products/body-armor/articles/296662006-How-the-North-Hollywood-shootout-changed-policing/>.

<sup>188</sup> Nally, "National Geographic Situation Critical Hollywood Shootout."

<sup>189</sup> Nally.

<sup>190</sup> Nally.

<sup>191</sup> Nally.

<sup>192</sup> Nally.

<sup>193</sup> Nally.

sniper shot a bullet that severed his spine at the base of his neck. Phillips died on the scene less than a block away from the bank and suffered a total of 11 bullet wounds.<sup>194</sup>

Matasareanu did not make it much further away from the scene than Phillips. After receiving gunshots to his buttocks and arm, Matasareanu dropped the bag of stolen cash and got into the getaway car.<sup>195</sup> Two of the getaway car's tires were punctured and the windshield was riddled with bullet holes. Matasareanu attempted to highjack another vehicle but was unsuccessful and began transferring the remaining weapons arsenal to a different vehicle. SWAT personnel were behind an armored vehicle trying to render aid to victims when they came upon Matasareanu who immediately started firing at the SWAT vehicle. Another two-and-a-half-minute gun battle ensued before SWAT officers were able to find cover and shoot Matasareanu's legs.<sup>196</sup> At this point, Matasareanu raised his hands in surrender before immediately being taken to the ground and placed in handcuffs. Due to standard procedures at the time, emergency medical services (EMS) personnel were not able to enter the "hot zone;" therefore, they did not reach Matasareanu on the scene until almost 70 minutes later.<sup>197</sup> Matasareanu bled out on the scene due to exsanguination from two bullet wounds to his left thigh. Matasareanu was shot 29 times during the entire firefight.

The firefight ended at 10:01 a.m.<sup>198</sup> The entire incident lasted 44 minutes.<sup>199</sup> More than 2,000 rounds were fired in this time. Over half of the total amount of rounds, approximately 1,100 rounds, was fired by Phillips and Matasareanu, which equates to one round every two seconds.<sup>200</sup> The two suspects were the only fatalities during the incident. Unfortunately, 12 officers and eight civilians were injured.<sup>201</sup> Many have described the

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<sup>194</sup> Nally.

<sup>195</sup> Nally.

<sup>196</sup> Nally.

<sup>197</sup> Nally.

<sup>198</sup> Bartholomew, "How the North Hollywood Shootout Changed Policing."

<sup>199</sup> Bartholomew.

<sup>200</sup> Coffin, "Warzone," 38.

<sup>201</sup> Coffin, 38.

scene there that day as a “neighborhood turned warzone.”<sup>202</sup> Law enforcement experts have studied the North Hollywood bank robbery extensively to determine what was done right and what could be improved. The researcher is going to apply the principles of the relative superiority theory to the North Hollywood shootout to analyze who had superiority that day and how it could have been improved for the police officers.

## **B. PRINCIPLES**

The next section examines how each of the six relative superiority principles were present during the North Hollywood shootout. An analysis of the six principles determined the LAPD had superiority throughout most of the incident. The security and repetition principles highlight areas where law enforcement can improve. The LAPD was primarily successful during the execution phase: the surprise, speed, and purpose principles.

### **1. Simplicity**

The North Hollywood shootout was a well-thought-out robbery conducted by Phillips and Matasareanu. The simplicity principle is the only principle in the planning stage.<sup>203</sup> A simple plan, good intelligence, innovation, and reconnaissance are all essential tenets of the simplicity principle.<sup>204</sup> The goal of the simplicity principle is to limit the number of objectives and possible barriers in a predetermined plan.<sup>205</sup> Planning was inherently on Phillips and Matasareanu’s side because they could conduct the attack at the time of their choosing. While the advantage of knowing the time of attack was on the criminal’s side, one issue related to the simplicity issue highlights the volatile nature of criminal engagement and planning. The suspects’ reconnaissance was based on limited information and was not able to account for random patrol. The suspects could not know the first two patrol officers would serendipitously be at the crime scene as they entered the bank and observe their entrance into the bank. Researchers have criticized random patrol

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<sup>202</sup> Nally, “National Geographic Situation Critical Hollywood Shootout.”

<sup>203</sup> McRaven, *Spec Ops*, 11.

<sup>204</sup> McRaven, 11.

<sup>205</sup> McRaven, 11.

as ineffective.<sup>206</sup> Yet in this case, the criminal plan was subverted by trained observation random to the perceived time response of law enforcement.

Phillips and Matasareanu limited their objective to stealing money and then fleeing, even if that included shooting their way out. Lt. Nick Zingo was the one in charge at the North Hollywood precinct the day of the shootout. In regard to the incident he said, “Bank robbers are supposed to go in, get the money, and leave. If they get trapped inside, they’re supposed to take hostages and make SWAT come and talk them out. They’re not supposed to come outside and take on patrol officers.”<sup>207</sup> Experts have labeled the North Hollywood shootout as a “paramilitary-style takeover robbery.”<sup>208</sup>

It is not known if Phillips and Matasareanu’s primary goal was to only steal money or if they had more than one objective. The suspects may have had a secondary plan of utilizing firepower and defensive armor to satisfy their desire for engagement with law enforcement. Since both suspects died during the event, additional information about their mindset and goals is not available.

Phillips and Matasareanu conducted extensive reconnaissance on the Bank of America and put sufficient effort into planning their heist.<sup>209</sup> Before the robbery, Phillips listened to a police scanner and determined that the average police response time was approximately eight minutes.<sup>210</sup> The robbers would later set their watches to eight minutes before they entered the Bank of America. Phillips and Matasareanu wanted their robbery to be simplistic and hopefully they could escape before the police arrived.

Phillips and Matasareanu capitalized on the innovation tenet of the simplicity principle during their robbery. They wore homemade body armor in hopes of not being captured. Phillips was innovative with his body armor. He wore around 40 pounds of

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<sup>206</sup> George Kelling et al., *The Kansas City Preventive Patrol Experiment* (Washington, DC: Police Foundation, 1974), 1, <https://www.policefoundation.org/wp-content/uploads/2015/07/Kelling-et-al.-1974-THE-KANSAS-CITY-PREVENTIVE-PATROL-EXPERIMENT.pdf>.

<sup>207</sup> Meyer, “LAPD Faces Urban Warfare.”

<sup>208</sup> Coffin, “Warzone,” 38.

<sup>209</sup> Nally, “National Geographic Situation Critical Hollywood Shootout.”

<sup>210</sup> Nally.

equipment that included a Type IIIA vest.<sup>211</sup> This vest had a groin guard, homemade pieces of body armor from spare vests to protect his extremities, and a load-bearing vest to carry extra ammunition pouches.<sup>212</sup> Matasareanu chose to wear less with only a Type IIIA vest with a metal trauma plate for extra vital organ protection.<sup>213</sup> Another innovative method they used was taking a barbiturate, phenobarbital, which was prescribed to Matasareanu before the robbery to calm their nerves.<sup>214</sup> Overall, Phillips and Matasareanu took the time to plan their robbery and ensured they had a simplistic plan of stealing money as quickly and forcefully as possible.

The problem Phillips and Matasareanu faced was they had used this “simple” plan before in previous robberies. Due to the previous robberies, the LAPD already had an alert out for Phillips and Matasareanu. Police officers knew the robbers wore body armor and were given simple, specific instructions to shoot them in the head if they encountered them.<sup>215</sup> This proposed plan for officers was dramatically changed during the shootout. Approximately 15 minutes into the shootout, an unidentified officer radioed to “not stop the getaway vehicle, they’ve got automatic weapons, there’s nothing we have that can stop them.”<sup>216</sup> Officers who were on the scene had also recalled how it was impossible to attempt a headshot on the robbers when they were pinned down by automatic gunfire.<sup>217</sup> One of the first officers on the scene, Officer Farell said, “You can only aim like that on television.”<sup>218</sup>

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<sup>211</sup> The National Institute of Justice (NIJ) is the leading authority on testing and ensuring compliance on body armor levels. NIJ states that Type IIIA is tested to stop .357 SIG and .44 Magnum ammunition fired from longer barrel handguns, which does not provide rifle ammunition protection. National Institute of Justice, *Ballistic Resistance of Body Armor*, NIJ Standard-0101.06 (Washington, DC: National Institute of Justice, 2008), 3, <https://www.nij.gov/publications/Pages/publication-detail.aspx?ncjnumber=223054>.

<sup>212</sup> Bartholomew, “How the North Hollywood Shootout Changed Policing.”

<sup>213</sup> Bartholomew.

<sup>214</sup> Nally, “National Geographic Situation Critical Hollywood Shootout.”

<sup>215</sup> Coffin, “Warzone,” 39.

<sup>216</sup> “1997 North Hollywood Shootout—LAPD Police Radio Audio,” *LAPD Communications Division*, video, 42:03, February 28, 1997, <https://www.youtube.com/watch?v=c5mkd6r9Kww>.

<sup>217</sup> Coffin, “Warzone,” 40.

<sup>218</sup> Coffin, 40.

The LAPD did not capitalize on the superior intelligence they had regarding Phillips and Matasareanu. The police may not have known the robbery was going to occur or prevented it, but LAPD did know the type of weaponry and body armor being used in previous robberies.<sup>219</sup> The simplicity principle integrates good intelligence and innovation to reduce the unknown factors and number of variables.<sup>220</sup> The LAPD Administration had not supplied the police officers with the appropriate equipment or weaponry ahead of time to execute the LAPD's plan of taking a headshot at either robber effectively. This scenario played out that day in North Hollywood.

## **2. Security**

Phillips and Matasareanu had well-established security before their robbery. Security is the first principle in the preparation stage.<sup>221</sup> The area Phillips and Matasareanu prepared the most to ensure their security and probability of succeeding was weaponry. Local police agencies had intelligence about their previous robberies but did not have any foreknowledge of the North Hollywood Bank of America robbery; otherwise, the police would have inherently prevented it from happening. Phillips and Matasareanu effectively kept their robbery plan a secret until the moment they stormed the bank. It is unknown whether anyone else besides the two suspects knew about the robbery beforehand. No one else has been identified as having any part of the attack. Their preparation and security plans were foiled when Officers Farrell and Perello coincidentally drove past as Phillips and Matasareanu entered the bank.<sup>222</sup>

In preparation for the robbery, Phillips and Matasaranu ensured they had the proper equipment and weapons to ensure their security. Before the robbery, they placed a gasoline filled jar in the trunk of the getaway vehicle. They intended on igniting the jar of gasoline

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<sup>219</sup> Coffin, 41.

<sup>220</sup> McRaven, *Spec Ops*, 11.

<sup>221</sup> McRaven, 14.

<sup>222</sup> Coffin, "Warzone," 37.

to set the getaway vehicle and weapons on fire to destroy any evidence after completing the robbery.<sup>223</sup> Phillips and Matasareanu anticipated a gunfight and wore body armor.

The North Hollywood shootout became famous mainly because of the firearms involved in the incident. The suspects, Phillips and Matasareanu, had superior firepower over the police officers. Phillips and Matasareanu armed themselves with a semi-automatic Heckler and Koch-91 (7.62x51mm NATO) with several magazines, a Beretta 92FS (9x19mm Parabellum) and several illegally converted weapons: two Norinco Type 56S rifles (7.62x39mm), a fully automatic Norinco Type 56S-1 (7.62x39mm), and a fully automatic Bushmaster (M16) XM15 Dissipator (.223 or 5.56 NATO).<sup>224</sup> Additionally, they had approximately 3,300 rounds of ammunition with several magazines ranging from a 30-round capacity to 100+ rounds drum magazines in the trunk of the getaway vehicle. They chose armor-piercing ammunition that could tear through a vehicle's engine block.<sup>225</sup> The police officers did not have the body armor or firearms to counter these military-style weapons.

At the time of the incident, LAPD armed officers with a standard Beretta 92F or 92FS 9mm semi-automatic pistol or a Smith & Wesson Model .38 caliber revolver. Several officers were also issued a 12-gauge Ithaca Model 37 pump-action shotgun.<sup>226</sup> The average velocity of a law enforcement handgun is 900 to 1,100 feet per second.<sup>227</sup> In comparison, automatic shoulder rifles, such as the AK-47, and the semi-automatic shoulder rifles, civilian AR-15s, fire around 2,400 to 3,200 feet per second.<sup>228</sup> FBI firearms training expert Urey Patrick studied handgun ballistics while an instructor at the FBI Academy. Patrick concluded, "barring central nervous system hits, there is no physiological reason

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<sup>223</sup> Nally, "National Geographic Situation Critical Hollywood Shootout."

<sup>224</sup> Nally.

<sup>225</sup> Nally.

<sup>226</sup> Michael Jenkins, "North Hollywood Bank Robbery Tactical Lessons," *USA Carry* (blog), October 18, 2017, <https://www.usacarry.com/tactical-breakdown-north-hollywood-bank-robbery/>.

<sup>227</sup> Mike Callahan, "4 Ways PDs Can Justify a Patrol Rifle Program," *PoliceOne*, March 2, 2018, <https://www.policeone.com/police-products/firearms/articles/471820006-4-ways-PDs-can-justify-a-patrol-rifle-program/>.

<sup>228</sup> Callahan.



for an individual to be incapacitated by even a fatal wound, until the blood loss is sufficient to drop blood pressure and ... the brain is deprived of oxygen.”<sup>229</sup> By contrast, high-velocity rifle rounds, like the common .223 Remington rounds, cause devastating wounds that are much more life-threatening and incapacitating compared to handgun rounds. A .223 round has so much kinetic energy it can destroy and obliterate three inches of a person’s leg bone.<sup>230</sup> The police officers were not well equipped or prepared to face the suspects’ arsenal of firearms.

Police officers’ firearms did not provide adequate security for the officers. The LAPD’s firearms lacked range, poor accuracy, and could not penetrate the suspects’ body armor. An unidentified officer who was at the shootout gives the following visual as what it was like that day with insufficient firepower, “The reality sets in: You brought a cap-gun to World War III.”<sup>231</sup> What is more concerning is police were aware Phillips and Matasareanu had been conducting these paramilitary-style robberies with high-powered rifles and the police did not adequately prepare to face an incident like the North Hollywood shootout. The police failed to prepare themselves and maintain a sufficient level of security during their daily patrols. However, several factors contribute to law enforcement agencies being able to outfit their patrol officers with different firearms, such as procurement, regulation changes, necessary training, internal agency dynamics, and political challenges. It is not likely the LAPD could have equipped their patrol officers with rifles in time to face the firepower Phillips and Matasareanu had based on the recent information.

### **3. Repetition**

Phillips and Matasarenu were longtime friends who had a long history of violent crimes together. Before the North Hollywood shootout, they had attacked several armored

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<sup>229</sup> Urey Patrick, *Handgun Wounding Factors and Effectiveness* (Quantico, VA: FBI Firearms Training Unit, 1989), 7, <http://gundata.org/images/fbi-handgun-ballistics.pdf>.

<sup>230</sup> Callahan, “4 Ways PDs Can Justify a Patrol Rifle Program.”

<sup>231</sup> Meyer, “LAPD Faces Urban Warfare.”

vehicles and two banks.<sup>232</sup> They had stolen more than \$2 million, killed one security guard, and severely injured another during their attacks.<sup>233</sup> Police investigators named them the “high incident bandits” due to their weaponry and tactics used in the previous robberies.<sup>234</sup> Repetition is the second principle in the preparation stage.<sup>235</sup> Training and prior experience are the primary ways to gain repetition.

It is not known if Phillips and Matasareanu had rehearsed the robbery before February 27, but they had previously executed similar robberies. On July 20, 1993, Phillips and Matasareanu held up an armored vehicle outside of a FirstBank in Littleton, Colorado.<sup>236</sup> A few months later on October 29, the suspects were stopped in Northeast Los Angeles for speeding.<sup>237</sup> During a search of the vehicle two semi-automatic rifles, over 1,600 rounds of 7.62x39mm ammunition, three handguns, 1,200 rounds of 9x19mm Parabellum ammunition, .45ACP rounds, body armor vests, improvised explosive devices, radio scanners, smoke bombs, and three different California license plates were all located.<sup>238</sup> These items led to Phillips and Matasareanu being arrested for conspiracy to commit robbery.<sup>239</sup> After serving 100 days in jail, they were both released on three years of probation.<sup>240</sup>

That was not the last time Phillips and Matasareanu engaged in criminal behavior. On June 14, 1995, they ambushed an armored Brinks vehicle in Winnetka-Los Angeles. They shot and killed one guard while seriously wounding another.<sup>241</sup> A year later, in May 1996, Phillips and Matasareanu robbed two Bank of Americas near San Fernando Valley.

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<sup>232</sup> Coffin, “Warzone,” 38.

<sup>233</sup> Coffin, 38.

<sup>234</sup> Nally, “National Geographic Situation Critical Hollywood Shootout.”

<sup>235</sup> McRaven, *Spec Ops*, 15.

<sup>236</sup> Nally, “National Geographic Situation Critical Hollywood Shootout.”

<sup>237</sup> Nally.

<sup>238</sup> Nally.

<sup>239</sup> Nally.

<sup>240</sup> Nally.

<sup>241</sup> Nally.

These robberies resulted in them stealing approximately \$1.5 million.<sup>242</sup> Phillips and Matasareanu may not have rehearsed or practiced their robbery of the North Hollywood Bank of America, but they had an established level of experience from their previous crimes.<sup>243</sup>

LAPD's repetition in preparation is based on its training regimen. Officer Farell explained how the level of training LAPD officers received was the difference between "tragedy and victory" on the day of the North Hollywood shootout.<sup>244</sup> The LAPD routinely conducted training on the team, partner, and individual level.<sup>245</sup> Officer Farell credited this training with saving him from being shot and allowed the responding officers to handle the situation with little confusion or hesitation.<sup>246</sup> The LAPD officers' training that day ultimately was sufficient to handle the situation at hand since the shootout was mostly contained and ended before a prolonged period. Adequate preparation and training eliminate the barriers to success.<sup>247</sup>

#### **4. Surprise**

Phillips and Matasareanu anticipated police arrival time was ruined when Officers Perello and Farell watched them enter the Bank of America.<sup>248</sup> Due to LAPD's immediate response, officers were able to establish a preliminary perimeter before any gunfire started. The officers' plan to establish an effective perimeter around the bank was complicated by the sound of automatic gunfire coming from inside of the bank.<sup>249</sup> At one point, Phillips exited the bank and did not expect to see so many police officers on scene and surrounding the bank. A startled Phillips sprayed his AK-47 in a 180-degree arc, and the officers were

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<sup>242</sup> Nally.

<sup>243</sup> Meyer, "LAPD Faces Urban Warfare."

<sup>244</sup> Coffin, "Warzone," 40.

<sup>245</sup> Coffin, 40.

<sup>246</sup> Coffin, 40.

<sup>247</sup> McRaven, *Spec Ops*, 15.

<sup>248</sup> Nally, "National Geographic Situation Critical Hollywood Shootout."

<sup>249</sup> Coffin, "Warzone," 39.

shot at then for the first time during the incident.<sup>250</sup> The officers were effective in surprising Phillips by their expedited response, which forced Phillips to retreat inside the bank to alert Matasareanu. By causing Phillips to return inside, it allowed the officers more time to block off the area surrounding the bank, find cover for themselves, and evacuate citizens in the area.<sup>251</sup>

The flip side to law enforcement achieving surprise may have worked against the officers. When Officers Perello and Farell surprised Phillips and Matasareanu, it forced the suspects to adapt their plan from a standard bank robbery and modify their actions into engaging in a shootout. Instead of the suspects successfully escaping the scene where detectives would investigate and track them down later, the incident turned into a “warzone” involving under-gunned police officers in a shootout on public streets.<sup>252</sup>

Officers were able to surprise the suspects one more time, which eventually ended the shootout. After Phillips succumbed to his injuries, Matasareanu was left to fend for himself. Matasareanu attempted to hijack a vehicle once the original getaway vehicle was rendered inoperable but was unsuccessful.<sup>253</sup> At the same time, SWAT officers were extracting injured officers and civilians when they inadvertently contacted Matasareanu. The SWAT officers had not planned on coming across Matasareanu.<sup>254</sup> The SWAT officers almost literally ran into Matasareanu with the armored vehicle.<sup>255</sup> Ultimately, this surprise led Matasareanu to surrender after a final two-and-a-half-minute gun battle.<sup>256</sup> In the end, the LAPD achieved surprise by catching Phillips and Matasareanu off guard and forcing the suspects to adapt their plan spontaneously.

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<sup>250</sup> Coffin, 39.

<sup>251</sup> Coffin, 39.

<sup>252</sup> Coffin, 36.

<sup>253</sup> Nally, “National Geographic Situation Critical Hollywood Shootout.”

<sup>254</sup> Coffin, “Warzone,” 39.

<sup>255</sup> Coffin, 39.

<sup>256</sup> Nally, “National Geographic Situation Critical Hollywood Shootout.”

## 5. Speed

Phillips and Matasareanu anticipated eight minutes for the police to respond to the Bank of America robbery.<sup>257</sup> They planned their robbery around the eight-minute time frame. Long enough to enter the bank, scare the employees with their overwhelming show of force, steal the money, and leave the bank in the getaway vehicle as fast as they could. This aspect of their plan failed when Officers Farrell and Perello inadvertently ruined their time frame. The officers arrived significantly quicker than Phillips and Matasareanu expected by coincidentally driving past as the suspects entered the bank.<sup>258</sup> Officer Farrell and Officer Perello radioed into dispatch before a 911 call was placed.<sup>259</sup>

Officer Perello immediately called for assistance and reported the robbery in progress.<sup>260</sup> It negated the delay of waiting for dispatch to receive a 911 call and for officers to arrive on the scene. Within minutes, several officers arrived on the scene to surround the bank and contain the suspects. The LAPD's quick arrival was due to having several patrol cars in the area, and the North Hollywood Police Station was two miles down the road.<sup>261</sup> Reflecting on the shootout, Officer Farrell claims had fewer police officers been on the scene when Phillips and Matasareanu exited the bank to contain them, the shootout would have spilled over to a much larger area of the city.<sup>262</sup>

Another critical factor to LAPD's incident response time to the shootout is SWAT's arrival. It took 18 minutes for the SWAT team to arrive on scene after the shooting began.<sup>263</sup> Most law enforcement agencies anticipate at least an hour for a SWAT team to respond to an incident.<sup>264</sup> In this case, even with the SWAT team's quick arrival, it was

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<sup>257</sup> Nally.

<sup>258</sup> Coffin, "Warzone," 36.

<sup>259</sup> Nally, "National Geographic Situation Critical Hollywood Shootout."

<sup>260</sup> Nally.

<sup>261</sup> Coffin, "Warzone," 38.

<sup>262</sup> Coffin, 39.

<sup>263</sup> Nally, "National Geographic Situation Critical Hollywood Shootout."

<sup>264</sup> National Tactical Officers Association, *Tactical Response and Operations*.

still almost at the halfway point of the entire duration of the incident. Experts have determined that the patrol officers responded as quickly as possible to the robbery.<sup>265</sup>

## **6. Purpose**

Typically, the main purpose of a robbery is simple, to steal money.<sup>266</sup> Phillips and Matasareanu's purpose may not have been as simple. They seemed to have a thrill-seeker side as well and accomplished this goal several times before. Due to both suspects dying on the scene, information regarding their personal views on what drove them to commit these crimes is limited; however, their commitment to the robbery or engaging in violence is perceived as very strong. Phillips and Matasareanu were more than willing to use force and violence to complete their mission based on the firearms they chose and how quickly they engaged the public and police.<sup>267</sup> Both suspects continued to shoot officers in an attempt to escape even after suffering several bullet wounds.<sup>268</sup> Phillips and Matasareanu may not have expected a shootout to occur that day as it did, but they were more than well prepared mentally and physically for a gunfight.

Police officers are expected to inherently be committed to "protecting and serving" the public. Officers have to put others before their safety. The police's purpose of responding to a robbery, such as the North Hollywood shootout, is straightforward: stop citizens from being hurt, apprehend the suspects, and survive the incident intact. The police officers' purpose was demonstrated when over 350 officers from various agencies responded to the Bank of America.<sup>269</sup> Each one of the officers wanted to contain and apprehend Phillips and Matasareanu.

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<sup>265</sup> Coffin, "Warzone," 39.

<sup>266</sup> Nally, "National Geographic Situation Critical Hollywood Shootout."

<sup>267</sup> Bartholomew, "How the North Hollywood Shootout Changed Policing."

<sup>268</sup> Nally, "National Geographic Situation Critical Hollywood Shootout."

<sup>269</sup> Coffin, "Warzone," 39.

While the police officers wanted to stop the robbery suspects, the officers' commitment to facing violence was tested when Phillips and Matasareanu shot at officers with fully automatic rifles. Los Angeles Lt. Zingo explained what a patrol officer could do if being outgunned by a suspect, "have enough mental preparation to know that you've got to hold your cover position and try not to get shot. As a supervisor, you cannot send a bunch of patrol officers with small arms into battle with people using AK-47s. You have to react instinctively and innovate and survive. Willpower beats firepower."<sup>270</sup> The LAPD officers' commitment to stopping Phillips and Matasareanu was revealed when after 44 minutes, all the shooting stopped, and both suspects were in custody.

### **C. DETERMINING RELATIVE SUPERIORITY**

The lack of firepower that the police officers had is the main "learning lesson" on which many scholars have focused. While adequate firepower is crucial, the outcome is not determined by only this element. Figure 2 depicts whether law enforcement or the suspects achieved the superiority in each principle.

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<sup>270</sup> Meyer, "LAPD Faces Urban Warfare."

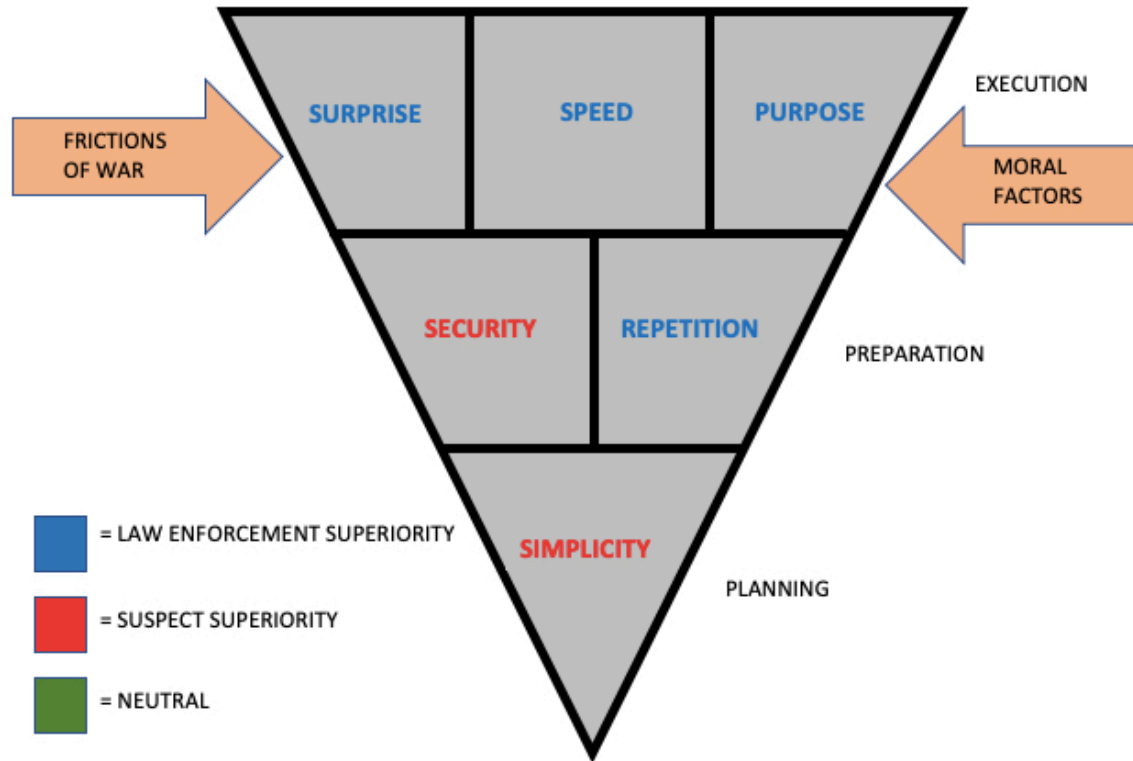


Figure 2. Determining Relative Superiority for the North Hollywood Shootout.

Phillips and Matasareanu had superiority over the LAPD in the planning stage, which consists of the simplicity principle. Phillips and Matasareanu’s planning of the robbery were detailed and well thought out. Their “paramilitary-style takeover robbery” was a new type of attack officers were not use to facing.<sup>271</sup> Phillips and Matasareanu tried to limit their objective to stealing as much money as fast as possible and used innovative techniques to avoid obstacles, such as being outgunned (fully automatic rifles), suffering fatal bullet wounds (homemade body armor), and leaving evidence behind (explosives in the getaway vehicle).<sup>272</sup>

In contrast, the LAPD did not capitalize on the intelligence they had regarding Phillips and Matasareanu’s previous robberies and did not plan adequately to encounter them. The police knew the type of weaponry that Phillips and Matasareanu used in other

<sup>271</sup> Coffin, “Warzone,” 38.

<sup>272</sup> Nally, “National Geographic Situation Critical Hollywood Shootout.”



robberies and the police did not prepare to know their firearms would not suffice.<sup>273</sup> Phillips and Matasareanu's innovation and planning far outweighed the LAPD.

The North Hollywood shootout is one of the most famous law enforcement inferior firepower incidents.<sup>274</sup> The primary factor in analyzing the security principle in this incident is the firepower disparity between the police officers and suspects. Phillips and Matasareanu selected firearms that could not be matched by patrol officers to ensure they could effectively try to evade and escape from being caught. The patrol officers at the North Hollywood shootout were severely outgunned; therefore, Phillips and Matasareanu achieved greater security during the preparation stage.<sup>275</sup>

Sufficient training and preparation eliminate the barriers to success.<sup>276</sup> Many police officers who responded to the Bank of America claim prior training is what saved their lives.<sup>277</sup> The LAPD trained its officers on effectively working together and the need to use cover. Officer Farrell credits the intense departmental training with why the responding officers were able to react with minimal hesitation and contain the suspects to the vicinity of the bank.<sup>278</sup>

One deficient area of training before the North Hollywood shootout was how to shoot effectively and stop the threat of a suspect who is wearing body armor. The officers had a difficult time returning accurate shots at the suspects that did not hit them in the body armor. The officers had been given orders beforehand to shoot Phillips and Matasareanu in the head if they encountered them from the information regarding their previous robberies but had not received much if any training or practice doing so.<sup>279</sup> As Officer Farrell pointed out afterward, it is challenging to take a headshot accurately when you are

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<sup>273</sup> Coffin, "Warzone," 41.

<sup>274</sup> Parker, "How the North Hollywood Shootout Changed Patrol Arsenals."

<sup>275</sup> McRaven, *Spec Ops*, 14–15.

<sup>276</sup> McRaven, 15.

<sup>277</sup> Coffin, "Warzone," 40.

<sup>278</sup> Coffin, 40.

<sup>279</sup> Coffin, 39.

being fired upon with fully automatic weapons.<sup>280</sup> The effective range between handguns and rifles varies greatly. It is not merely “knock down” power x accuracy + stress.<sup>281</sup> Distance is an important variable in determining the relative effective range of a firearm.<sup>282</sup> The distance between the police officers and suspects was a contributing factor in the officers not being able to take a head shot at the suspects accurately with their handguns.

It is not known if Phillips and Matasareanu received any formal training or if their experience was based on previous robberies. The police officers’ training was beneficial to the incident’s overall success; therefore, superiority shifted towards the police officers in the repetition principle.

The final, and most important, stage in relative superiority is the execution stage. The police officers achieved superiority over Phillips and Matasareanu during the entire execution stage of surprise, speed, and purpose. The surprise and speed principles coincided during the North Hollywood shootout. Officers Farell and Perello caught Phillips and Matasareanu entering the bank, which was unplanned but negated most of the initial response time.<sup>283</sup> By surrounding the bank almost immediately, the police officers were able to catch the suspects off guard. The speed principle was also positively impacted by the quick, almost instantaneous, response from officers.

The speed and firearms training of the officers was another critical factor in how long the incident lasted. To quote Wyatt Earp’s saying, “Fast is fine, but accuracy is final. You must learn to be slow in a hurry.”<sup>284</sup> The volume of fully automatic gunfire gave the suspects an initial advantage, but the incident was ultimately resolved by accurate and considerate marksmanship by the officers rather than spray-and-pray.<sup>285</sup> The police

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<sup>280</sup> Coffin, 40.

<sup>281</sup> Bryan Litz, *Applied Ballistics for Long Range Shooting*, 3rd ed. (Cedar Springs, MI: Applied Ballistics, 2015), 9–14.

<sup>282</sup> Litz, 281.

<sup>283</sup> Coffin, “Warzone,” 37.

<sup>284</sup> “Wyatt Earp,” Lawrence Kasdan, 1994, <http://www.imdb.com/title/tt0111756/quotes>.

<sup>285</sup> Jenkins, “North Hollywood Bank Robbery Tactical Lessons.”

officers executed their response with speed and surprised the suspects, which forced them to adapt their plan rapidly and led to the downfall of the suspects' superiority.

The final principle of purpose weighed in the police officers' favor. Ultimately, both suspects succumbed to fatal gunshot wounds.<sup>286</sup> The police officers' commitment to success outweighed the suspects' dedication. At face value, since over 350 officers responded to the scene, a lack of commitment to duty by the police officers does not appear to be an issue.<sup>287</sup> The large turnout of police officers complicated establishing a perimeter and containing the suspects. Police self-deployment leads to diminished command and control and can increase officer safety issues.<sup>288</sup> Too many officers can cause lack of coordination, which counters the principle of simplicity.<sup>289</sup> The police officers knew their purpose was to stop the violence. They all had the personal commitment to do so, but too many officers can also inhibit the primary purpose of the response.<sup>290</sup> Overall, the LAPD gained superiority over Phillips and Matasareanu during the shootout by relying on training and the fluke of catching the suspects entering the bank before being dispatched despite the officers' lack of firepower and coordination of the response.

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<sup>286</sup> Nally, "National Geographic Situation Critical Hollywood Shootout."

<sup>287</sup> Coffin, "Warzone," 39.

<sup>288</sup> Anna Brookes, "Police Self-Deployment at Critical Incidents: A Wicked Problem or a Part of the Solution?" (master's thesis, Naval Postgraduate School, 2017), 76. <https://www.hsdl.org/?view&did=805944>.

<sup>289</sup> McRaven, *Spec Ops*, 12.

<sup>290</sup> Brookes, "Police Self-Deployment at Critical Incidents."

## IV. 2009 PITTSBURGH OFFICER-INVOLVED SHOOTING

The 2009 Pittsburgh officer-involved shooting could be perceived as any other shooting of police officers. In the past 10 years, an average of 165 police officers are killed annually.<sup>291</sup> However, the shooting was a rarer occurrence for its location and its lethality. Officers Kelly, Mayle, and Sciuillo were the first Pittsburgh Police Department (PPD) officers killed in 18 years. Additionally, it is the third-deadliest attack on law enforcement officers since 9/11.<sup>292</sup> The 2009 Pittsburgh officer-involved shooting is a nightmare or doomsday scenario in most police officers' minds by having to watch their partners bleed to death, and they can do nothing to save them. Analyzing the Pittsburgh shootout through McRaven's relative superiority theory principles highlights the toll a suspect's predetermined plan and will to succeed has on law enforcement's objective to stop them.

### A. BACKGROUND

On the morning of April 4, 2009, Ms. Margaret Poplawski awoke her son, Richard Poplawski, in anger because his dogs were defecating and urinating on the floor.<sup>293</sup> The two argued until Ms. Poplawski threatened to call the police and have Poplawski removed from her home. Poplawski warned her not to call the police but when she did, Poplawski went to his bedroom to prepare donning a level III ballistic vest and other equipment including a .357 magnum pistol on his hip.<sup>294</sup>

At approximately 7:03 a.m., the Allegheny County 911 dispatch received a phone call from Margaret Poplawski who requested police assistance in a domestic disturbance

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<sup>291</sup> "The Officer Down Memorial Page," The Officer Down Memorial Page, Inc., accessed April 18, 2019, <https://www.odmp.org/>.

<sup>292</sup> Joel Achenback et al., "Five Dallas Police Officers Were Killed by a Lone Attacker, Authorities Say," *Washington Post*, July 8, 2016, <https://www.washingtonpost.com/news/morning-mix/wp/2016/07/08/like-a-little-war-snipers-shoot-11-police-officers-during-dallas-protest-march-killing-five/>.

<sup>293</sup> *Pennsylvania v. Poplawski*, 634 Pa 517 (Supreme Court of Pennsylvania 2015), <https://caselaw.findlaw.com/pa-supreme-court/1721875.html>.

<sup>294</sup> *Poplawski*, 634 Pa.

involving her son.<sup>295</sup> Ms. Poplawski did tell the operator that legal firearms were in the home, but she said no weapons or violence was involved in her dispute with her son. Dispatch advised the police officers the call was a “mother/son domestic; wants her son out of the house; giving her a hard time; no weapons.”<sup>296</sup>

A few minutes later, at 7:11 a.m., Pittsburgh Police Officers Steven Mayhle and Paul Sciuлло arrived at the home, located at 1016 Fairfield Street in the Stanton Heights section of Pittsburgh.<sup>297</sup> Ms. Poplawski met the officers at the door and told them to take Poplawski away from her home. As Officer Mayhle and Officer Sciuлло entered the residence, Poplawski immediately began shooting at them.<sup>298</sup> Ms. Poplawski fled to the basement, where she may have stayed for the next several hours.<sup>299</sup>

Poplawski haphazardly aimed his shotgun, firing from the hip and striking Officer Sciuлло, which caused him to fall on his back in the front doorway with his duty firearm still in the holster.<sup>300</sup> After the first shot, Poplawski’s shotgun malfunctioned so he ran to the kitchen to clear it. During this time, Officer Mayle started to call for assistance. Poplawski reemerged from the kitchen and began to exchange gunfire with Officer Mayle inside of the home.<sup>301</sup> Officer Mayle struck Poplawski with two rounds, one in the chest, which was stopped by the body armor the shooter was wearing, and one to the leg.<sup>302</sup> Poplawski retreated to the kitchen after being shot and continued to fire through the wall into the living room. Once he was out of shotgun rounds, he traded the shotgun for an AK-47 style semi-automatic rifle that was in his bedroom. Poplawski returned to the living room

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<sup>295</sup> Brian Weismantle, *Police Criminal Complaint, Affidavit for Poplawski* (Pittsburgh, PA: Pittsburgh Magistrate Court, 2009), 10, [http://old.post-gazette.com/downloads/20090405affadavit\\_poplawski.pdf](http://old.post-gazette.com/downloads/20090405affadavit_poplawski.pdf).

<sup>296</sup> *Poplawski*, 634 Pa.

<sup>297</sup> Weismantle, *Police Criminal Complaint*, 10.

<sup>298</sup> *Poplawski*, 634 Pa.

<sup>299</sup> The initial affidavit for Poplawski’s arrest says Ms. Poplawski fled to the basement as described previously. However, the court case claims Ms. Poplawski was outside smoking a cigarette not long after Officer McManaway arrived on scene. The discrepancy is noted in these references. Weismantle, *Police Criminal Complaint*, 10; *Poplawski*, 634 Pa.

<sup>300</sup> *Poplawski*, 634 Pa.

<sup>301</sup> *Poplawski*, 634 Pa.

<sup>302</sup> *Poplawski*, 634 Pa.

to find Officer Sciullo lying in the front doorway and Officer Mayle outside at the bottom of the steps.<sup>303</sup>

At this time, off-duty Officer Eric Kelly arrived on the scene in his personal vehicle. Officer Kelly was on his way home from a shift when he heard Officer Mayle calling for help.<sup>304</sup> As soon as Officer Kelly pulled up, Poplawski began shooting at Officer Kelly in his vehicle and until he found cover behind the rear wheel well. Now injured, Officer Kelly returned fire in several directions unsure exactly where Poplawski was near the house.<sup>305</sup> Poplawski left the front porch to check the backyard for any other officers; he then returned to the front yard and stood over Officer Sciullo. Poplawski fired a single 7.62 mm shot into his head to ensure Officer Sciullo was dead.<sup>306</sup> Poplawski then fired several more rounds into Officer Mayle who was lying prone on the ground to ensure he was not “playing opossum.”<sup>307</sup> Officer Mayle twitched with each round striking his body. Officers Sciullo and Mayle were pronounced dead at the scene due to gunshot wounds to the head. Finally, Poplawski fired once again at Officer Kelly who was immobile behind his vehicle and Officer Kelly did not return any more rounds.<sup>308</sup>

Poplawski attempted to remove Officer Sciullo’s duty firearm from its holster but was unable to because of the retention strap. Poplawski then returned to his bedroom and exchanged an empty 40-round magazine for a loaded 30-round magazine.<sup>309</sup> Only six minutes had elapsed since Officer Mayle and Officer Sciullo arrived at the Poplawski home.

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<sup>303</sup> *Poplawski*, 634 Pa.

<sup>304</sup> *Poplawski*, 634 Pa.

<sup>305</sup> *Poplawski*, 634 Pa.

<sup>306</sup> *Poplawski*, 634 Pa.

<sup>307</sup> *Poplawski*, 634 Pa.

<sup>308</sup> *Poplawski*, 634 Pa.

<sup>309</sup> *Poplawski*, 634 Pa.

At 7:17 a.m., Officer McManaway arrived at the scene and saw an injured Officer Kelly raising his hand signaling for help.<sup>310</sup> Officer McManaway ran to Officer Kelly and dragged him a little farther behind the vehicle but could not move him past that point. Officer Kelly had suffered gunshot wounds to his torso and leg.<sup>311</sup> Eventually, he lost consciousness, and then his pulse stopped due to blood loss. Officer Kelly was later pronounced dead at the local hospital.<sup>312</sup>

Poplawski continued to shoot his semi-automatic rifle at Officer McManaway behind the vehicle. Officer McManaway received shrapnel to his face, and his left hand was shot.<sup>313</sup> The gunfight lasted approximately another 40 minutes until more police officers could arrive on the scene. Poplawski's rounds also struck two neighboring homes nearby during the firefight.<sup>314</sup>

Shortly after 8:00 a.m., an ad hoc group of officers formed a team and creatively draped bulletproof vests over a van to rescue Officer Kelly and Officer McManaway.<sup>315</sup> Meanwhile, Officer Brian Jones tried to approach from the back of the home, but the fence collapsed underneath him causing him to break his leg.<sup>316</sup>

The SWAT team arrived roughly one hour into the incident in an armored vehicle. Poplawski shot at eight SWAT operators while they were in the vehicle. The armored vehicle is bulletproof, but rounds struck the windshield, driver-side portal, the engine access panel, and the upper brush guard on the passenger side.<sup>317</sup>

Once Poplawski's gunfire lessened to intermittent spurts, SWAT drove its armored vehicle up to the front door to rescue Officer Mayle. As soon as the SWAT operators started

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<sup>310</sup> Weismantle, *Police Criminal Complaint*, 10.

<sup>311</sup> *Poplawski*, 634 Pa.

<sup>312</sup> Weismantle, *Police Criminal Complaint*, 10.

<sup>313</sup> Weismantle, 10.

<sup>314</sup> Weismantle, 11.

<sup>315</sup> *Poplawski*, 634 Pa.

<sup>316</sup> Tomas C. Mijares and Ronald M. McCarthy, *Significant Tactical Police Cases: Learning from Past Events to Improve upon Future Responses* (Springfield, IL: Charles C. Thomas, 2015), 225.

<sup>317</sup> *Poplawski*, 634 Pa.

to move Officer Mayle, Poplawski's gunfire increased again.<sup>318</sup> A SWAT sniper on a neighbor's roof was able to fire seven or eight shots into the side of the Poplawski home, which forced Poplawski to give up his strategic firing position deep inside the living room. He moved closer to a window, where the SWAT sniper saw Poplawski's rifle barrel, fired a shot, and hit Poplawski's rifle, disabling it.<sup>319</sup>

The standoff between the police and Poplawski lasted approximately two and a half hours before Poplawski called 911 and informed the dispatcher that he was out of ammunition.<sup>320</sup> The phone call was transferred to a SWAT negotiator, who described Poplawski as being deceptive and angry during their talk.<sup>321</sup> During the negotiation, Poplawski refused to throw his .357 revolver out the broken window, would not raise his hands while staying hidden in the home, and in anger, threw his semi-automatic rifle against the wall.<sup>322</sup> He told the SWAT negotiator not to worry about Officer Sciallo because he had ensured he was dead earlier.<sup>323</sup> Eventually, Poplawski agreed to surrender. SWAT entered the home and took him into custody.<sup>324</sup>

The incident lasted approximately four hours from the time the initial officers arrived until Poplawski was taken into custody. It is estimated that approximately 600 rounds were fired all told.<sup>325</sup> Police Officers Eric Kelly, Stephen Mayle, and Paul Sciallo were all killed, and Timothy McManaway and Brian Jones suffered severe injuries during the incident.<sup>326</sup>

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<sup>318</sup> *Poplawski*, 634 Pa.

<sup>319</sup> *Poplawski*, 634 Pa.

<sup>320</sup> *Poplawski*, 634 Pa.

<sup>321</sup> *Poplawski*, 634 Pa.

<sup>322</sup> *Poplawski*, 634 Pa.

<sup>323</sup> *Poplawski*, 634 Pa.

<sup>324</sup> *Poplawski*, 634 Pa.

<sup>325</sup> *Poplawski*, 634 Pa.

<sup>326</sup> *Poplawski*, 634 Pa.



Poplawski was transported to the hospital and treated for an abrasion on his face, bruising on the left side of his chest, and a gunshot wound to his right leg.<sup>327</sup> Poplawski was charged with three counts of criminal homicide, nine counts of criminal attempt of homicide in the first degree, two counts of discharge of a firearm into an occupied structure, one count of possessing instruments of a crime—illegal body armor—nine counts of aggravated assault, and four counts of recklessly endangering another person.<sup>328</sup> In June 2011, Poplawski was found guilty on all charges and was sentenced to the death penalty.<sup>329</sup>

## **B. PRINCIPLES**

This section examines how each of the six relative superiority principles were applied during the 2009 Pittsburgh officer-involved shooting. An analysis of the six principles determined that Poplawski had superiority in the majority of principles throughout the entire incident. Each principle examined highlights areas in which the PPD could improve and a few of their successes.

### **1. Simplicity**

The 2009 Pittsburgh officer-involved shooting was an ambush-style attack, as straightforward as it was violent.<sup>330</sup> Poplawski had seized on the idea of defending himself against the government for a while before the shooting on April 4. His main objective was to kill as many officers as possible.<sup>331</sup> When police arrived, Poplawski was lying in wait and as soon as he saw the officers, he used a method he described as “point and click.”<sup>332</sup> He did not use the sights, but carelessly shot the firearm without properly aiming.

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<sup>327</sup> *Poplawski*, 634 Pa.

<sup>328</sup> Weismantle, *Police Criminal Complaint*, 8.

<sup>329</sup> *Poplawski*, 634 Pa.

<sup>330</sup> Mijares and McCarthy, *Significant Tactical Police Cases*, 224–25.

<sup>331</sup> *Poplawski*, 634 Pa.

<sup>332</sup> *Poplawski*, 634 Pa.

One of the main tenets of the simplicity principle is innovation.<sup>333</sup> The PPD improvised and were innovative in finding ways to rescue the injured officers. Officer Steve Mescan was the first SWAT operator to arrive on the scene. He acquired two bulletproof vests from medics on the scene and placed the vests over a patrol vehicle.<sup>334</sup> Officer Mescan and other officers walked alongside the vehicle as they drove up to and rescued Officers McManaway and Kelly.<sup>335</sup>

Accurate and good intelligence is another one of the main elements of the simplicity principle because it reduces the number of unknowns.<sup>336</sup> One of the biggest criticisms of the 2009 Pittsburgh officer-involved shooting is the lack of information passed along via dispatch, especially incomplete information regarding the presence of weapons in Poplawski's possession.<sup>337</sup> The following is a brief portion of the 911 phone call transcript between the dispatcher and Ms. Poplawski:

Ms. Poplawski: I mean he stays, he comes and goes like that, but I want him out.

Dispatcher: Okay. Does he have any weapons or anything?

Ms. Poplawski: Yes. (Pause) They're all legal.

Dispatch: What do the- OK, but he's not threatening you with anything?

Ms. Poplawski: Look, I'm just waking up from a sleep. I want him gone.<sup>338</sup>

The dispatcher relayed the following to the responding officers, "mother-son domestic, wants her son out of the house, giving her a hard time, no weapons."<sup>339</sup> The dispatcher failed to pursue the weapons matter with Ms. Poplawski or to try to determine

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<sup>333</sup> McRaven, *Spec Ops*, 11.

<sup>334</sup> Mijares and McCarthy, *Significant Tactical Police Cases*, 226.

<sup>335</sup> Mijares and McCarthy, 226–27.

<sup>336</sup> McRaven, *Spec Ops*, 12–13.

<sup>337</sup> Mijares and McCarthy, *Significant Tactical Police Cases*, 223.

<sup>338</sup> Mijares and McCarthy, 223–24.

<sup>339</sup> *Poplawski*, 634 Pa.

Poplawski's state of mind.<sup>340</sup> Additionally, the dispatcher typed "no weapons" into the call notes, which did not give the responding officers any information or indication that weapons may be involved in the dispute.<sup>341</sup>

The information regarding weapons being in the home would have reduced the unknown factors for the officers and they could have taken extra precaution. If the responding police officers had known Poplawski had firearms in the home, they might have approached the residence differently. Officers Mayle and Kelly thought they were responding to a family dispute; instead, they walked into an ambush that may have been prevented and handled as a hostage situation if they had known Poplawski was preparing himself with firearms. Instead, a fatal lack of communication between Ms. Poplawski, dispatch, and responding officers resulted.<sup>342</sup>

## **2. Security**

The nature of an ambush shooting gave Poplawski a fortified position and prevented the officers from having foreknowledge of the pending attack.<sup>343</sup> Poplawski established a concealed and secure position within the home that led to the four-hour standoff with police.

Poplawski used a variety of firearms during the shooting. He had at least one firearm from each of the three basic categories: pistol, rifle, and shotgun.<sup>344</sup> While Poplawski is only one person and cannot shoot all of the firearms at one time, the accumulation of these firearms was a significant factor in how long the incident lasted. Poplawski's selection of firearms was nothing out of the ordinary, but it was effective in long-distance shooting, shooting through barriers, and close combat. Poplawski

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<sup>340</sup> Mijares and McCarthy, *Significant Tactical Police Cases*, 229.

<sup>341</sup> Mijares and McCarthy, 229.

<sup>342</sup> Mijares and McCarthy, 229.

<sup>343</sup> Fachner and Thorkildsen, *Ambushes of Police*, 10–11.

<sup>344</sup> *Poplawski*, 634 Pa.

surrendered once he ran out of ammunition. Before that, he continued to switch to a different firearm when one ran out of ammunition, or it malfunctioned.<sup>345</sup>

Security is an important principle in the preparation phase of an incident.<sup>346</sup> When Poplawski heard his mother call 911, he proceeded to his bedroom and donned a level three ballistics vest in preparation for the pending shooting.<sup>347</sup> Poplawski wore a bulletproof vest during the incident. When SWAT operators entered the home to take Poplawski into custody, he was still wearing the vest.<sup>348</sup> Poplawski later admitted it was his “outfit for battle,” which he planned for ahead of time.<sup>349</sup>

Poplawski also holstered his .357 Magnum revolver and ensured his AK-47, and the 12-gauge shotgun, were still fully loaded. Ms. Poplawski walked into his room seeing his preparations and said, “come on, you are not going to do this.”<sup>350</sup> Poplawski later admitted to telling himself, “come on with it” before he picked up the shotgun and exited his bedroom into the living room as he saw Officers Mayle and Sciullo at the front door.<sup>351</sup> Poplawski’s statement afterward to law enforcement officials described in detail how Poplawski prepared and armed himself before the police officers arrived, how he shot each officer, which firearm he used each time, and where he was positioned.<sup>352</sup> Poplawski’s in-depth, detailed statement confirms he took significant steps to prepare and guarantee success during the incident.

### **3. Repetition**

It is interesting that Poplawski did not plan on committing the shooting that day but he was still successful, at least initially. Previously, Poplawski had been at the United States

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<sup>345</sup> *Poplawski*, 634 Pa.

<sup>346</sup> *McRaven, Spec Ops*, 15.

<sup>347</sup> *Poplawski*, 634 Pa.

<sup>348</sup> *Weismantle, Police Criminal Complaint*, 11.

<sup>349</sup> *Poplawski*, 634 Pa.

<sup>350</sup> *Poplawski*, 634 Pa.

<sup>351</sup> *Poplawski*, 634 Pa.

<sup>352</sup> *Poplawski*, 634 Pa.

Marine Corps' boot camp when he threw a food tray at a drill instructor, which led the military to discharge him.<sup>353</sup> It is unknown how far Poplawski made it in boot camp, but he may have received firearms and other combat training before he was discharged. Military training becomes engrained in servicemembers, which occurs through extensive repetition and ultimately helps eliminate the barriers to winning an engagement successfully.<sup>354</sup> In this case, Poplawski shot and killed those officers.

Thankfully, the PPD trained and prepared for incidents like this officer-involved shooting. The PPD established a SWAT team in the 1970s, and at the time of this incident, the team had grown to 46 operators with sophisticated equipment, technology, and weaponry.<sup>355</sup> Due to the continuous education officers received, a staging area and command post were established down the road within the first few minutes.<sup>356</sup> The training officers and SWAT operators received the foundation the officers worked from during this critical incident. The officers and operators took positions of cover, used suppressive fire techniques, conducted rescues, and performed self-aid/buddy-aid during the incident.<sup>357</sup> All these skills are what ultimately led to Poplawski's safe and successful arrest instead of a bad situation becoming worse.

#### **4. Surprise**

The entire shooting was based on the responding Pittsburgh police officers being caught off guard by Poplawski's attack. When the officers arrived, Ms. Poplawski was waiting for them at the front door of the residence. As soon as Officer Sciullo entered the residence, Poplawski immediately began to fire at the officers with his shotgun. Poplawski even surprised his mother, Ms. Poplawski, with the shooting. After he fired upon Officer

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<sup>353</sup> Rich Lord and Paula Lord, "A Portrait of Contrasts Emerges from Those Who Knew Poplawski," *Pittsburgh Post-Gazette*, April 12, 2009.

<sup>354</sup> McRaven, *Spec Ops*, 388.

<sup>355</sup> Mijares and McCarthy, *Significant Tactical Police Cases*, 226.

<sup>356</sup> Mijares and McCarthy, 226–28.

<sup>357</sup> Mijares and McCarthy, 226–30.

Sciullo, Ms. Poplawski yelled “what the hell have you done?” before fleeing the living room.<sup>358</sup>

When Poplawski’s shotgun malfunctioned, he retreated to the kitchen. While clearing the malfunction, he heard Officer Mayle calling for assistance on the radio. Without being able to see, Poplawski fired more shotgun rounds through the wall between the kitchen and dining room.<sup>359</sup> Unbeknownst to Poplawski, he had struck Officer Mayle and took him out of the fight. Poplawski was able to lie in wait as other officers continued to arrive and prolong the shootout. Poplawski fired upon Officer Kelly before he could even exit his vehicle.<sup>360</sup> The police were never able to surprise Poplawski due to his fortified position in the residence.

## **5. Speed**

The Allegheny County Dispatch Center received Ms. Poplawski’s 911 call at 7:03 a.m. on April 4.<sup>361</sup> Within a couple of minutes, the call was dispatched to Officers Mayle and Sciullo who arrived on scene within five minutes of receiving the call. The officers arrived at the Poplawski home at 7:11 a.m., which was a total of eight minutes after Ms. Poplawski first called 911.<sup>362</sup> Eight minutes is a prompt response by officers and a short amount of time for Poplawski to prepare his pending attack.

Responding officers continued to arrive on the scene shortly after Officer Mayle’s call for help on the radio. It took another 40 minutes for an ad hoc rescue team comprised of SWAT operators and patrol officers with the ballistic vests draped over a van in an attempt to rescue the injured officers.<sup>363</sup> A neighbor who witnessed the shooting spoke on the responding police officers’ efforts to rescue others, “They couldn’t get the scene secure

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<sup>358</sup> Weismantle, *Police Criminal Complaint*, 10.

<sup>359</sup> *Poplawski*, 634 Pa.

<sup>360</sup> *Poplawski*, 634 Pa.

<sup>361</sup> Weismantle, *Police Criminal Complaint*, 10.

<sup>362</sup> Weismantle, 10.

<sup>363</sup> *Poplawski*, 634 Pa.

enough to get them. They were just lying there bleeding, by the time they secured the scene enough to get them, it was way too late.”<sup>364</sup>

Later on, approximately two and a half hours into the incident, Poplawski called 911, spoke with a dispatcher to inform them he had run out of ammunition, and wanted to surrender.<sup>365</sup> The dispatcher transferred the call to a SWAT negotiator. Negotiations lasted for another hour before an agreement between the negotiator and Poplawski were made. Then SWAT entered the home and placed Poplawski into custody at 10:44 AM.<sup>366</sup> The incident ended only once Poplawski agreed to surrender, some three hours and 41 minutes after the initial 911 call.

## 6. Purpose

Purpose is described as being committed to the objective of the “mission” regardless of what obstacles or challenges are faced.<sup>367</sup> Each party’s objective was exactly opposite of one another; the police wanted to stop the shooting and Poplawski wanted to kill the police. However, their commitment to accomplishing their respective objectives was intriguingly similar to one another.

Poplawski’s purpose for committing the shooting was pent up anger and distress. Friends commented on his anti-government beliefs.<sup>368</sup> Poplawski was wary of the pending gun control laws and any infringement on his constitutional freedoms.<sup>369</sup> Poplawski also believed Zionists occupied the U.S. government, and economic collapse was imminent.<sup>370</sup>

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<sup>364</sup> Ramit Plushnick and Dan Nephin, “Gunman ‘Lying in Wait’ Kills 3 Pittsburgh Officers,” *Toronto Star*, April 4, 2009, [https://www.thestar.com/news/crime/2009/04/04/gunman\\_lying\\_in\\_wait\\_kills\\_3\\_pittsburgh\\_officers.html](https://www.thestar.com/news/crime/2009/04/04/gunman_lying_in_wait_kills_3_pittsburgh_officers.html).

<sup>365</sup> *Poplawski*, 634 Pa.

<sup>366</sup> *Poplawski*, 634 Pa.

<sup>367</sup> McRaven, *Spec Ops*, 21.

<sup>368</sup> K. C. Wildmoon, “Police Shooting Suspect May Have Been White Supremacist,” CNN, April 9, 2009, <http://www.cnn.com/2009/CRIME/04/09/pa.shooting.suspect/index.html>.

<sup>369</sup> Wildmoon.

<sup>370</sup> Eric Fingerhut, “Pittsburgh Killer Believes Jews Control Government,” Jewish Telegraphic Agency, April 7, 2009, <https://www.jta.org/2009/04/07/united-states/pittsburgh-killer-believes-jews-control-government>.

He also posted online frequently regarding the evil of Jews and his frustration of nothing happening to the “evil Jews.”<sup>371</sup> Poplawski was a member of Stormfront, a white supremacist website, where he frequently visited and posted.<sup>372</sup> He boasted about his Americanized version of the iron eagle tattoo.<sup>373</sup> The iron eagle, also known as the Nazi eagle, is a symbol originally used by Nazi Germany in the 1920s.<sup>374</sup> The symbol features an eagle clutching a swastika in its talons.<sup>375</sup> Since then, many white supremacists and hate groups have used the symbol.<sup>376</sup> Poplawski had logged onto Stormfront only a few hours before the shooting occurred.<sup>377</sup> Poplawski was even upset with other websites, such as “Infowars” because it did not focus on Zionists enough.<sup>378</sup>

Ms. Poplawski told detectives Poplawski had been stockpiling firearms, ammunition and selling firearms online.<sup>379</sup> It is unknown how many total firearms Poplawski possessed in the home. Poplawski believed the police were no longer able to protect society because of the pending economic collapse. Ms. Poplawski also said Poplawski liked the police as long as he did not perceive they were infringing on his constitutional right. He resolved to defend this right, which led him to kill three police officers.<sup>380</sup>

After Poplawski was transported to the hospital, he continued to have angry outbursts at the officers guarding him. He wished aloud that he had killed more officers,

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<sup>371</sup> Fingerhut.

<sup>372</sup> Wildmoon, “Police Shooting Suspect.”

<sup>373</sup> Wildmoon.

<sup>374</sup> “Nazi Eagle,” Anti-Defamation League, accessed June 13, 2019, <https://www.adl.org/education/references/hate-symbols/nazi-eagle>.

<sup>375</sup> Anti-Defamation League.

<sup>376</sup> Anti-Defamation League.

<sup>377</sup> Wildmoon, “Police Shooting Suspect.”

<sup>378</sup> “Poplawski Frequented Right-Wing Websites,” UPI, April 5, 2009, [https://www.upi.com/Top\\_News/2009/04/05/Poplawski-frequent-ed-right-wing-Web-sites/66971238977599/](https://www.upi.com/Top_News/2009/04/05/Poplawski-frequent-ed-right-wing-Web-sites/66971238977599/).

<sup>379</sup> Weismantle, *Police Criminal Complaint*, 10.

<sup>380</sup> Weismantle, 10.



and ranted about their power trips.<sup>381</sup> Eventually, Poplawski's guard detail was switched to Sheriff's deputies, and he became more cooperative. The next day Poplawski agreed to give a statement and waived his Miranda rights. When reading the charges against him, Poplawski admitted to unintentionally striking his neighbors' homes with bullets but was self-absorbed in bragging about what he did.<sup>382</sup>

Poplawski had a strong personal commitment to sharing his story and stating why he killed the police officers. During his statements, he spoke without remorse and held a cold demeanor.<sup>383</sup> He considered committing suicide but decided to surrender so he could write a book instead.<sup>384</sup> In the end, the court found enough substantial and robust evidence in Poplawski's purpose and commitment to killing the officers that he was charged with first-degree murder counts.<sup>385</sup> Poplawski's intentions and predetermined thoughts regarding the government and police are what led to the fatal shooting on Fairfield Street.

On the other hand, it is more difficult to describe or speak to the police officers' purpose and personal commitment during the shooting. Witnesses recalled how responding officers were not able to reach the injured officers lying in the yard or inside.<sup>386</sup> The injured officers were unable to be reached before succumbing to their injuries. Resources were lacking, but it can be assumed that it was beyond difficult for the responding officers to watch and stare at their partners dying.

The police officers' purpose was to stop the suspect's shooting and rescue the injured officers. Every officer understood the primary objective was to save their partners, but they could not accomplish the task, which seemed simple in theory but so far away while targeted by the suspect's intense gunfire.

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<sup>381</sup> *Poplawski*, 634 Pa.

<sup>382</sup> *Poplawski*, 634 Pa.

<sup>383</sup> Mijares and McCarthy, *Significant Tactical Police Cases*, 227–28.

<sup>384</sup> *Poplawski*, 634 Pa.

<sup>385</sup> *Poplawski*, 634 Pa.

<sup>386</sup> Plushnick and Nephin, "Gunman 'Lying in Wait' Kills 3 Pittsburgh Officers."

### C. DETERMINING RELATIVE SUPERIORITY

After evaluating each principle and its presence in the Pittsburgh officer-involved shooting, Poplawski achieved relative superiority over almost every evaluative principle. The principles are broken down and evaluated by each phase in the relative superiority theory: planning, preparation, and execution. The analysis identifies areas in which the PPD succeeded, but primarily, their pitfalls were in response. The inverted pyramid in Figure 3 displays who achieved superiority in each principle.

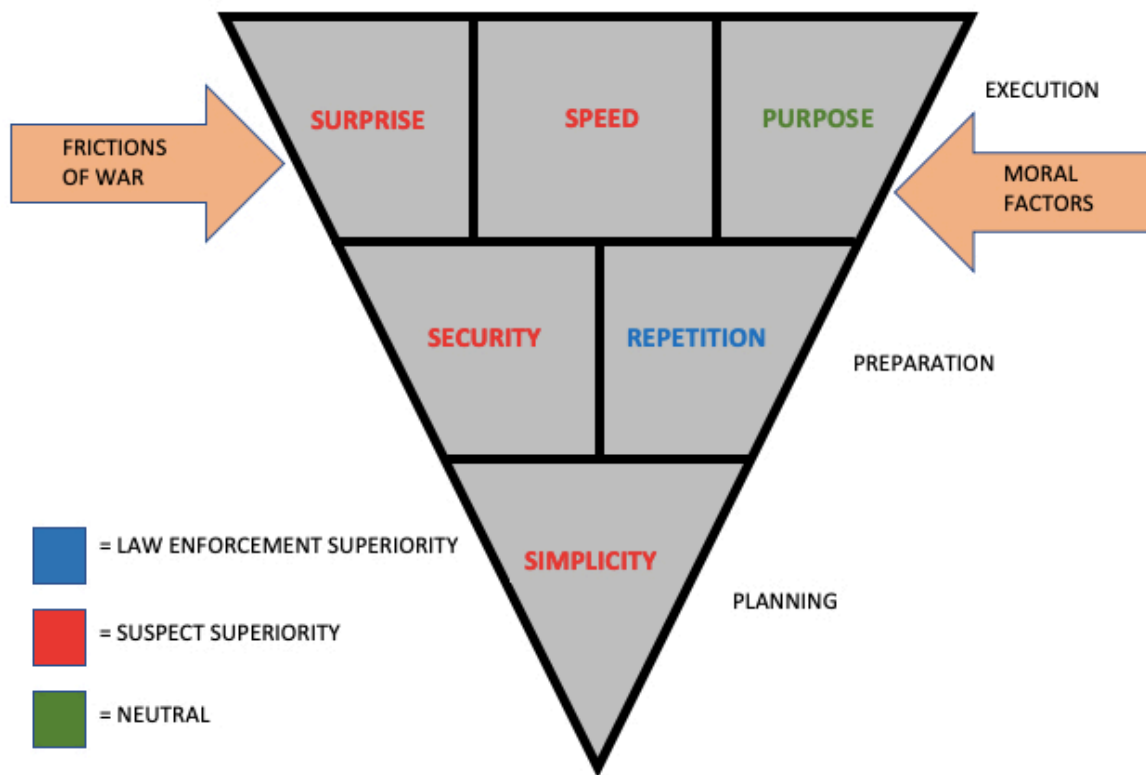


Figure 3. Determining Relative Superiority for the Pittsburgh Officer-Involved Shooting.

In the planning phase, Poplawski's simplicity of a plan outweighed the police officers' single objective of rescuing the injured officers. Poplawski conducted an ambush-style attack on the initial responding officers by firing on them as soon as they arrived. The Allegheny County Dispatch center failed to provide adequate information to the officers

regarding firearms on the premise, which ultimately led to their deaths.<sup>387</sup> If the officers knew firearms in the home were, the officers may have requested dispatch to tell Ms. Poplawski to meet the officers outside to provide the officers more reaction space, time, and cover. These factors may have allowed them to engage Poplawski from a distance and not be ambushed immediately. Poplawski limited his objective to killing police officers to “defend his constitutional rights.”<sup>388</sup> Whereas, the PPD’s goals were to stop Poplawski’s shooting and save the downed officers. The police officers did capitalize on innovation and made an ad hoc rescue team with the extra bulletproof vests draped over a vehicle.<sup>389</sup> Ultimately, Poplawski’s simple plan held off the police for nearly four hours until he surrendered.

The preparation phase is split between Poplawski and the police officers. Poplawski achieved superiority in the security principle. By utilizing an ambush-style attack, Poplawski was able to have a pre-established fortified position inside the residence and initiate the attack as soon as the officers arrived before they could react. Poplawski also had stockpiled firearms and ammunition before the attack in preparation for an economic collapse, or when he felt the government had infringed on his constitutional rights.<sup>390</sup> Poplawski used a total of five different firearms during the incident. Most significantly, he used a semi-automatic AK-47 style rifle, but he also did most of the killings with a conventional pump action 12-gauge shotgun.<sup>391</sup> Another significant factor was Poplawski wore a bulletproof vest, which inhibited the officers from critically injuring Poplawski to stop the threat.<sup>392</sup> Not being able to stop the threat Poplawski presented was frustrating to the police officers on the scene.

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<sup>387</sup> Mijares and McCarthy, *Significant Tactical Police Cases*, 229.

<sup>388</sup> *Poplawski*, 634 Pa.

<sup>389</sup> Mijares and McCarthy, *Significant Tactical Police Cases*, 226.

<sup>390</sup> Weismantle, *Police Criminal Complaint*, 10.

<sup>391</sup> *Poplawski*, 634 Pa.

<sup>392</sup> Weismantle, *Police Criminal Complaint*, 4.

One area in which the PPD did achieve superiority was the repetition principle. The PPD has a long-time established SWAT team that receives leading training and equipment, which translates into their performance during a critical incident. The officers on scene utilized the training and education they received previously to conduct officer-down rescues and eventually take Poplawski into custody effectively.<sup>393</sup> Comparatively, Poplawski's only known previous training was some time at Marine Corps boot camp before being discharged.<sup>394</sup> While Poplawski was anti-government and begun preparing for a showdown against the government at some point, he did not anticipate on conducting the shooting on that day and in the manner in which he did. In his statements, Poplawski admitted to making a snap decision to conduct the shooting on that day.<sup>395</sup> While the length of time the incident lasted was not ideal, the skillsets the officers demonstrated are what prevented a bad day from becoming even worse.

Poplawski achieved superiority in the surprise and speed principles. The purpose principle is evenly split between the police officers and Poplawski. Surprise was undoubtedly in Poplawski's favor during the entire incident. He even surprised his mother when he started shooting at Officers Sciullo and Mayle as they entered the residence.<sup>396</sup> An ambush-style attack inherently puts surprise on Poplawski's side by attacking the unprepared officers.<sup>397</sup> Officers Sciullo and Mayle had an impressive response time to the residence from the time Ms. Poplawski placed the initial 911 call; however, the lack of information regarding firearms did not bode well for their plan on how they approached the residence and handled the disturbance call.<sup>398</sup> Officer Kelly's off-duty response was even quicker, but even by the time he arrived six minutes later with gunfire coming from inside the residence, it was too late for him to save Officers Sciullo or Mayle.<sup>399</sup> In the

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<sup>393</sup> Mijares and McCarthy, *Significant Tactical Police Cases*, 226–27.

<sup>394</sup> Weismantle, *Police Criminal Complaint*, 10.

<sup>395</sup> *Poplawski*, 634 Pa.

<sup>396</sup> *Poplawski*, 634 Pa.

<sup>397</sup> Fachner and Thorkildsen, *Ambushes of Police*, 2–3.

<sup>398</sup> Mijares and McCarthy, *Significant Tactical Police Cases*, 225.

<sup>399</sup> *Poplawski*, 634 Pa.

long run, time was on Poplawski's side. He was able to prolong the shooting out to almost three hours until he finally ran out of ammunition and decided to surrender to the police.<sup>400</sup> It took an additional hour for law enforcement to negotiate with him and take him into custody.<sup>401</sup>

As far as the purpose principle is concerned, it is difficult to determine who achieved superiority. Poplawski has a lengthy history of anti-government and anti-Semitism thoughts and beliefs.<sup>402</sup> Poplawski's motives and actions after the incident during his statements and testimonies show how committed he was to his beliefs. He was so committed that his decision to surrender was based on his hopes to write a book regarding the shooting and his actions.<sup>403</sup> Conversely, it is difficult to measure or evaluate the Pittsburgh officers' emotions on the scene. They were committed to rescuing their deceased and injured partners but struggled to do so quickly.

Overall, Poplawski achieved relative superiority over the PPD with his ambush-style attack until he surrendered. The relative superiority theory has highlighted several areas that could be improved in PPD's response. The actions of the PPD are not to be scrutinized for what could have happened but instead used as a learning experience on how to capitalize on the relative superiority principles in the future possibly to save more police officers lives.

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<sup>400</sup> *Poplawski*, 634 Pa.

<sup>401</sup> *Poplawski*, 634 Pa.

<sup>402</sup> Wildmoon, "Police Shooting Suspect."

<sup>403</sup> *Poplawski*, 634 Pa.

## **V. APPLICATION IN LAW ENFORCEMENT**

This thesis has tried to determine if a theory from military direct-action missions could be effectively applied to volatile law enforcement incidents. The resulting analysis provides evidentiary support for the application of McRaven's relative superiority theory to law enforcement incidents to overcome the inherent response disadvantage.

### **A. ANALYSIS**

The two case studies varied dramatically in terms of who achieved relative superiority and in what principles law enforcement had success. The stripped findings show that the LAPD was successful in achieving relative superiority and utilizing the six principles during the North Hollywood shootout that resulted in only the two suspects being killed. Conversely, the PPD did not achieve relative superiority, lost three police officers that day, and only ended the incident once the suspect decided to surrender. The relative superiority principles are crucial in overcoming and subduing a suspect in a critical incident. This section provides a comparative analysis of the case studies divided by the three different phases of operation: planning (simplicity), preparation (security and repetition), and execution (surprise, speed and purpose).

#### **1. Planning Phase**

In both cases, the suspects achieved superiority in the planning phase over law enforcement. The North Hollywood shooting suspects benefitted from having a well-thought-out plan of their robbery. Phillips and Matasareanu conducted surveillance for several months before the day of the robbery. On the other hand, Richard Poplawski did not plan on committing the shooting on that exact day. Instead, Poplawski had preconceived notions and thoughts about what he would do if he felt the government was infringing on his constitutional rights. On the day of the shooting, Poplawski's actions were more impulsive, but his forethoughts led to him to take the actions he did.

Innovative body armor usage was a frequent and impactful similarity between both case studies. Phillips and Matasareanu made improvised body armor themselves, which

prohibited officers from successfully hitting vital organs to stop the threat of the suspect. Likewise, Poplawski wore a bulletproof vest during the shooting with Pittsburgh officers. At one point, Officer Mayle struck Poplawski with a bullet in the left side of his chest.<sup>404</sup> Poplawski did not know he had been struck in the chest until after he took the bulletproof vest off and noticed the bruise on his chest. Poplawski was charged with possessing instruments of a crime, unlawful body armor.<sup>405</sup> While it is essential to have this criminal statute, it does not help officers stop the threat and hit incapacitating vital organs during a shooting. In both instances, the use of body armor by the suspects prolonged the duration of the incident.

Poor intelligence on law enforcement's behalf affected both case studies. The LAPD had intelligence regarding Phillips and Matasareanu's previous robberies and the firearms they used but failed to establish a plan to counter the threat adequately. In the Pittsburgh shooting, one of the main criticisms concerning the incident regards the dispatcher's failure to gather information regarding firearms in the Poplawski residence. If the responding officers had known firearms were on the premise or possibly involved, they most likely would have approached the disturbance call a little more carefully and utilized different tactics than walking into the front doorway. In both case studies, law enforcement agencies struggled to gather and utilize the intelligence they had regarding the suspects.

Inherently, law enforcement will respond to incidents that are occurring or have already ended, unless it is a proactive patrol or warrant service. Often, the suspect will have advantages in the planning stage law enforcement is responding to an incident to due to the suspect determining when and where it will occur. With that being said, law enforcement can still take actions ahead of time to create plans for when critical incidents occur. The plans should aim to reduce the area of vulnerability or prolong the point where police officers become vulnerable closer to mission completion. Creating predetermined simplistic, generalized plans will decrease a suspect's inherent advantage of planning.

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<sup>404</sup> *Poplawski*, 634 Pa.

<sup>405</sup> Weismantle, *Police Criminal Complaint*, 4.

## 2. Preparation Phase

The preparation stage was evenly split in both case studies in which the suspects achieved superiority in security, but law enforcement achieved the repetition principle. In each case study, the suspects used multiple firearms per person. Phillips and Matasareanu used six firearms between them, and Richard used five during the shooting. When suspects are better armed and have better skills than law enforcement officers, significant problems arise. The past three decades have seen a significant increase in suspects using weapons not readily available before that are more lethal.<sup>406</sup> As these cases demonstrate, suspects continue to choose high-powered rifles because of their ability to engage from a distance with devastating results.<sup>407</sup> Firepower disparity combined with ambush or paramilitary-style attacks will only continue to increase the area vulnerability and a suspect's chance of achieving relative superiority over law enforcement.

Training available or afforded to law enforcement agencies and individual patrol officers varies greatly across the country and timeframes. The North Hollywood shooting occurred over 20 years ago on the west coast; whereas, the Pittsburgh shooting occurred only 10 years ago on the east coast. However, even with these variations, both police departments succeeded in having sufficient, repetitive training to accomplish the mission of stopping the threat. Los Angeles police officers who were at the North Hollywood shootout credit the department's training for the reason they survived the incident, which was the difference between "tragedy and victory."<sup>408</sup> The PPD capitalized on specialized training, such as officer down rescues, suppressive fire techniques, and self-aid/buddy-aid, which limited the number of possible errors and increased the officers' efficiency. Continuous basic and specialized training prepares law enforcement officers to face a myriad of situations that they may encounter at any given time and increases their probability of success.

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<sup>406</sup> Williams and Westall, "SWAT and Non-SWAT Police Officers and the Use of Force," 469.

<sup>407</sup> Callahan, "4 Ways PDs Can Justify a Patrol Rifle Program."

<sup>408</sup> Coffin, "Warzone," 40.



### **3. Execution Phase**

The execution phase is the most pivotal period when the threat being posed by a suspect can ultimately be stopped. Surprise, speed, and purpose are the principles that influence the police officers' ability to overcome and apprehend a suspect. In both cases, the suspects were able to surprise law enforcement by catching them off guard with the incident, but each police department had varying degrees of success. The LAPD achieved countering surprise by having an almost instantaneous response to the robbery. In the Pittsburgh case, the police also responded quickly to the call, but they did not have the same amount of success due to Richard's imminent ambush attack. Law enforcement will typically be responding to a prepared suspect who is expecting them to arrive at some point. The vital piece for law enforcement to remember is to use proper approach tactics and techniques whenever possible based on the information officers have.

Speed was another critical factor in both incidents. Both police departments were able to arrive on the scene quickly but how long the incidents lasted were substantially different. The North Hollywood shootout was over within 44 minutes due to officers arriving quickly, containing the suspects, and providing accurate and successful marksmanship hits on the suspects, who ultimately killed them and stopped the threat. On the other hand, the PPD did not have the same success. Officers Mayle and Sciallo arrived shortly after the initial 911 call, but the real critical threat did not start until they were being shot at and calling for assistance. The PPD had other officers and their SWAT team respond, but they could not overcome Poplawski's fortified position to apprehend him. The PPD did not achieve superiority until Richard agreed to surrender. Regardless, it is still essential for law enforcement officers to arrive as quickly as possible to a scene because timeliness is what stops the threat and saves lives.

Lastly, the purpose and personal commitment of the police officers in both case studies were excellent. The police officers understood the main goal was to stop the suspects from committing more violence or killing people, officers, or civilians. The motivation and morale of police officers are what sends them into dangerous situations such as these two cases to stop the violence. The old saying of "move with a purpose" comes to light in these critical life or death situations. It is nearly impossible to know how

an officer will respond under fire, but the success of an incident can be increased with department cohesion and high morale.

## **B. LAS VEGAS**

Applying the relative superiority theory to the Las Vegas massacre would highlight the areas in which law enforcement was at a severe disadvantage. Stephen Paddock capitalized on the simplicity of his plan (shooting innocent people), adequately prepared himself by researching the venue and ensured his security (extensive number of firearms, barricaded doors, and hidden cameras), and exploited surprise and speed (large volume of rounds fired in a 10-minute time frame and committed suicide before police officers reached his location).<sup>409</sup> The primary challenge law enforcement faced was the tactical conditions of the incident, to include but not limited to: the densely packed public space, the suspect's elevated and protected position, and firepower.<sup>410</sup> The constraints officers encounter while responding to threats of this magnitude hinder the officers when they are already entering the incident at a disadvantage prior to their arrival.<sup>411</sup>

Analyzing the Las Vegas massacre through the theoretical lens of the relative superiority theory and principles would identify ways patrol officers could overcome the inherent disadvantage they are in when responding to a mass shooting like this incident. Based on the brief analysis, a few preliminary ideas of improvement for law enforcement officers might include the following.

- Create a plan for asymmetrical threats, such as a high-rise shooter (simplicity).
- Ensure utilitarian tools typically for SWAT operators are used, and have extra tourniquets available to patrol officers (security).

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<sup>409</sup> Alsup, *LVMPD Preliminary Investigative Report*, 12–14.

<sup>410</sup> Wallace and Loffi, "How Law Enforcement Unmanned Aircraft Systems (UAS) Could Improve Tactical Response to Active Shooter Situations," 1–4.

<sup>411</sup> Wallace and Loffi, 1; ABC News, "Vegas Shooter 'Disturbed, Dangerous', Stockpiled Weapons for Decades."

- Continue effective and applicable training for patrol who are the first ones to respond (repetition).
- Teach officers how to counter blockage tactics, such as those Paddock used, to gain surprise.
- Incorporate how to move under fire to increase the speed of the response when traveling through the line of fire or fatal funnel.
- Foster an environment in which officers' morale is high and cohesive so they can effectively work with one another during a high stress situation and trust one another (purpose).<sup>412</sup>

### C. IMPLEMENTATION AND RECOMMENDATIONS

The very essence of a law enforcement operation or response is to stop and subdue a threat harming innocent civilians or other officers. The price of forming an ad hoc group without proper knowledge or training requires time.<sup>413</sup> In these critical situations, more time equates to less chance of success and an increased likelihood of loss of life. McRaven claims that special operations forces can succeed in employing the relative superiority theory and its principles when they are “a standing force with an institutionalized support mechanism.”<sup>414</sup> Similarly, an agency of police officers can achieve success through utilizing the principles when law enforcement administrators are a supportive and innovative leadership entity.

Law enforcement administrations, researchers, and trainers should utilize the relative superiority theory and its principles as an analytical model to identify areas of success and failure in patrol response. McRaven claimed the relative superiority theory could be used to predict the future of military special operations warfare.<sup>415</sup> Similarly,

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<sup>412</sup> James Seebeck, “Responding to High-Rise Active Shooters” (master’s thesis, Naval Postgraduate School, 2018), 43–44, <https://www.hsdl.org/?view&did=821375>.

<sup>413</sup> McRaven, *Spec Ops*, 390.

<sup>414</sup> McRaven, 387.

<sup>415</sup> McRaven, 381.

applying the relative superiority theory to previous law enforcement incidents will allow the law enforcement community to make educated predictions about the future of law enforcement incidents. The analysis of an incident can also identify areas lacking sufficient training and equipment, such as firepower, as demonstrated in both case studies.

The relative superiority theory should be used as an analytical model to review incidents when the “bullets are already flying” so patrol officers can improve their execution and response to incidents where they are already at the disadvantage. Instead of prolonging an incident, and possibly waiting for SWAT, patrol officers should learn how they could use the relative superiority principles to maximize their probability of success. As McRaven put it, the success of a special operation “is not just bravado and boldness. Brave men without good planning, preparation, and leadership are cannon fodder in the face of defensive warfare.”<sup>416</sup> Patrol officers cannot rely on their courage to overcome and subdue a suspect when they are already at the disadvantage. If patrol officers are able to understand what makes a good patrol response, then they will have a chance to succeed.

#### **D. CONCLUSION**

This thesis intended to provide a relevant, simplified, theoretical way to cut straight to the heart of the matter, by increasing law enforcement’s probability of success when they enter a situation already behind. It is crucial to analyze previous incidents for deficiencies or successes and apply those lessons learned to future operations. Taking a step back from the tactical level and viewing these incidents from a theoretical lens provides a broader view and understanding of how to improve an overall response from detailed planning, training practices, and execution of tactics to exploit a suspect’s weaknesses.

Transferring a military theory to the civilian law enforcement realm does not have to be viewed as negative police militarization. The recommendation of using the relative superiority theory, which has traditionally been applied to military special operations, does not cross the line of transforming every day patrol officers into “Robocops.” Utilizing an

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<sup>416</sup> McRaven, 391.

analytical model to review law enforcement incidents can stay within the confines of the Constitutional rights afforded to American citizens.

Suspects capitalize on using unconventional techniques and inexpensive measures to confront law enforcement in ways they cannot match.<sup>417</sup> The suspects blur the lines between crimes and acts of war, which leaves the battlespace open between conventional law enforcement and specialized military operations.<sup>418</sup> It is crucial for law enforcement agencies to learn from previous incidents to improve their future patrol response, increase effectiveness, and ensure safety of patrol officers. McRaven's relative superiority theory is an invaluable tool to achieve these desired outcomes.

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<sup>417</sup> La Carte, "Asymmetric Warfare and the Use of Special Operations Forces in North American Law Enforcement," 25.

<sup>418</sup> La Carte, 25.

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