

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

OFFICER-INVOLVED SHOOTING – 024-18

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Southwest	4/10/18		

Officer(s) Involved in Use of Force	Length of Service
Sergeant A	15 years, 6 months
Officer C	5 years, 6 months

Reason for Police Contact

Officers responded to a radio call involving a “415 Man with a Knife” at a shopping mall. The officers encountered the Subject, who was armed with a knife. They requested a back-up unit and attempted to persuade the Subject to drop the knife. The Subject did not do so and began to run through the mall with the knife, resulting in an officer-involved shooting (OIS).

Subject	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 30 years of age.

Board of Police Commissioners’ Review

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

Because the Department is currently legally prohibited from divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on March 5, 2019.

Incident Summary

The Subject entered the shopping mall and, as he walked around inside, security personnel began monitoring him via security cameras after a security guard observed him with a knife in his waistband and notified security dispatch. A Security Supervisor, Witness A, and Security Guard, Witness B, approached the Subject and asked him if he was in possession of a knife. The Subject responded by stating that he had thrown the knife into the trash and was no longer armed. Witness A informed the Subject that if he was in possession of a knife, he would have to leave the mall. After the Subject again denied being in possession of a knife, Witness A directed security dispatch to continue monitoring him via mall security cameras, while security officers deployed on the second level monitored the Subject on foot.

Approximately one hour later, Witness B observed the handle of what he believed to be a knife in the waistband of the Subject's pants as he walked past him. Witness B broadcast on a security radio that the Subject was on the second level of the mall and was still in possession of a knife. Witnesses A and B again approached the Subject and instructed him to leave the mall. The Subject responded by stating that he would not leave and then requested a psychiatrist. Witness A described the Subject's behavior as strange and believed he was possibly under the influence of drugs or alcohol.

According to Witness A, he directed security dispatch to contact the police and request their response. Witness A told his dispatcher to call the LAPD and advise them that the Subject was possibly armed with a knife, refusing to leave, and was requesting a psychiatrist.

Security dispatcher, Witness C, contacted Communications Division (CD) and requested the Department's response to the Mall. He provided a description of the Subject, stated he was in possession of a knife, and requested that the LAPD remove the Subject from the mall. When asked if he had threatened anyone with the knife, Witness C advised the CD operator that the Subject was only carrying the knife in his left pocket.

According to Witness A, he instructed security dispatch that the Subject's request for a psychiatrist be conveyed to the police. A review of the 911 phone calls received by CD revealed that this information was not provided to the CD operator.

CD broadcasted a radio call of a disturbance, involving a man with a knife at the mall. The Subject was described as a male, 35 to 40 years of age, wearing a sleeveless white shirt with a blue stripe, and blue jeans, armed with a knife in his left pocket.

The call was assigned to Sergeants A and B.

Mall security officers gathered in an area where the Subject was loitering. Mall security video depicted the Subject appearing to become more agitated as security officers positioned themselves around him at a distance, while waiting for the police to arrive.

The Subject was further depicted removing a knife from his waistband and holding it down at his side in his right hand. After approximately one minute, the Subject placed the knife back into his waistband and pulled his shirt over the handle. As the Subject paced back and forth, he again grasped the handle of the knife that protruded from the top of his pants and covered it again with his shirt. While that occurred, security officers began diverting pedestrian traffic away from the area.

Witness C placed a second call to 911 to report that officers had not yet arrived and that the Subject was continuing to display the knife by removing it from his waistband. Simultaneously, the Security Guard, Witness D, who had joined Witnesses A and B in contacting the Subject, placed an additional call to 911. He advised the CD operator that security officers had surrounded the Subject and requested help from the police. Witness D further reported that the Subject had the knife in his hand but had not threatened anyone with it.

CD broadcast the information provided by Witness D, indicating that the Subject was located upstairs in the mall brandishing a large knife and placing it back into his belt. After hearing this, Sergeant B upgraded his response to emergency/Code Three.

Security video depicted the Subject grab the handle of the knife several times as it protruded from his waistband, while security officers diverted patrons from the immediate area.

Sergeant A arrived at the southeast entrance to the second level of the mall and broadcast accordingly (Code Six). Sergeant A also broadcast that he planned to wait for Sergeant B to arrive before making contact with the Subject.

According to Sergeant A, when Sergeant B advised him that he was nearing the location, Sergeant A entered the mall to assess the situation and develop a plan. During this time CD broadcast that security had the Subject detained.

During his call with the CD operator, Witness D had not indicated that the Subject was detained; rather, he had advised that security officers had the Subject surrounded.

Sergeant A walked along a walkway on the side of the second level of the mall and contacted Witness D. Witness D directed Sergeant A's attention to the Subject, who was standing on the side of the second level concourse, near a railing that overlooked the food court on the ground level.

According to Sergeant A, he did not initially observe the Subject holding a weapon, but noted that he had a blank stare in his eyes and continually looked to his left and right. Sergeant A believed the Subject was possibly suffering from agitated delirium. Sergeant A broadcast a request for a backup and a unit equipped with a beanbag shotgun. Sergeant A made the decision not to immediately engage the Subject, because he was calm and did not appear to have a weapon. Sergeant A believed that

waiting to contact the Subject would also provide him the time needed to develop a tactical plan and for additional resources to arrive.

Sergeant B entered the mall and joined Sergeant A on the second level concourse. Sergeant B broadcast directions instructing responding units where to respond within the mall. Sergeant A briefed Sergeant B regarding his observations of the Subject and discussed a tactical plan that involved waiting for additional units to arrive. He told Sergeant B that he (Sergeant A) would utilize his TASER as a less-lethal force option if needed and advised Sergeant B to be the designated cover officer in the event lethal force became necessary.

From approximately 30 feet away, Sergeant A continued to assess the Subject's behavior from the opposite side of a vending kiosk situated in the middle of the mall concourse. Sergeant A believed the Subject was growing more agitated as he observed him move his head from side to side and pull his pant legs upward as if he was preparing to take a fighting posture.

According to Sergeant A, during a two-year assignment as a Department Arrest and Control instructor, he received training and gave instruction in identifying preflight indicators. Based on his observations, Sergeant A believed that the Subject was preparing for an altercation.

Sergeants A and B directed mall patrons to leave the area and continued to communicate with mall security to isolate the area around the Subject.

Sergeants A and B were equipped with Body Worn Video (BWV) cameras, which they activated during their encounter with the Subject. Footage from both cameras depicted multiple patrons walking through the mall and entering and exiting stores in the Subject's vicinity.

As Sergeants A and B continued to wait for additional units to arrive, the Subject removed the knife from the right side of his front waistband. He initially held the knife in his right hand at his right hip with the blade pointed upward along his forearm.

Believing that the Subject posed a threat to the safety of people in the area, Sergeant B unholstered his pistol. According to Sergeant B, if deadly force became necessary, he believed he would have been required to take a precision shot due to the limited space and the presence of multiple people in the area and therefore he thumb-cocked his pistol.

Mall security video and footage captured by Sergeant A's BWV camera depicted the Subject clenching his left fist while he stood with his left foot back and his right foot forward. His legs were slightly bent at the knees and his upper body leaned slightly forward. The Subject positioned his hands in front of his torso, at waist level, and moved them up and down with his arms bent at the elbows. He bobbed his body up and down in a manner consistent with a fighting posture and began waving the knife in front of him. He then changed his grip on the knife and held it with the blade extended

forward from the top of his clenched hand. The Subject quickly stepped forward several times toward Sergeants A and B, and then backed away from them.

Sergeant A continued to maintain his distance from the Subject and requested the estimated time of arrival of responding units through CD. According to Sergeant A, as he and Sergeant B waited for the arrival of those units, they tried to de-escalate the situation by speaking to the Subject using a calm and controlled demeanor. They both issued repeated commands for the Subject to drop the knife over an approximate one and-a-half-minute period. Sergeant B told the Subject that if he did not drop the knife, he would be shot. Despite that warning, the Subject refused to comply or speak with them. Based on the Subject's behavior, Sergeant A believed the Subject was under the influence of an unknown substance or had already planned on taking a specific course of action. Sergeant B believed the Subject was possibly mentally ill.

Sergeants A and B continued to discuss their options, including Sergeant A redeploying to a flanking position and utilizing a TASER, because the Subject appeared to be focused on Sergeant B. Sergeant A ultimately decided not to use the TASER due to his distance from the Subject and believed that a beanbag shotgun would be the most appropriate force option. Sergeant B's BWV footage captured him advising Sergeant A that he could see responding officers coming up the stairs and suggested that they deploy a beanbag shotgun from the rear.

The officers observed by Sergeant B were Police Officers A and B. Upon exiting their police vehicle, Officer B removed their beanbag shotgun from its rack and chambered a round. The officers entered the mall on the first level and proceeded up an escalator, close to where Sergeants A and B were positioned. Upon reaching the second level of the concourse, they walked on the walkway toward Sergeants A and B.

Simultaneously, Police Officers C and D arrived at the entrance to the second level of the mall. Officer C removed his police rifle from its rack and loaded a round into the chamber. Meanwhile, Officer D entered the mall and ran toward Sergeants A and B's location. Officer D arrived at approximately the same time as Officers A and B, and moments ahead of Officer C.

According to Officer C, he deployed his police rifle based on his belief that the Subject was armed with a knife inside of a mall crowded with people. Officer C believed his rifle would provide better accuracy than his pistol in the event deadly force was needed.

As Officers A and B approached, Sergeant A directed Officer B to take a position by a pillar, approximately 30 feet away from the Subject and shoot him with the beanbag shotgun. Once Officer B reached the pillar, he raised the beanbag shotgun to his shoulder, announced, "Beanbag," and then ordered the Subject to the ground.

The Subject looked in the direction of Officers A and B as they approached. He then looked back toward the south, took several steps in that direction, and suddenly began running along the walkway. The Subject ran toward the entrance to a department store with the knife in his right hand. Sergeants A and B followed the Subject, crossing from

one side of the concourse to the other. Sergeant B continued to command the Subject to drop the knife as the Subject ran by several open kiosks that intermittently obstructed his view of the Subject.

As Sergeant A moved toward the Subject, he yelled for Sergeant B to shoot the Subject, while he (Sergeant A) transitioned from his TASER and unholstered his pistol. Sergeant A indicated that he drew his pistol because he believed the Subject posed an immediate threat to the safety of patrons within the mall and that the situation might escalate to the point where deadly force would be necessary. According to Sergeant A, the moment he told the officers to beanbag the Subject, the Subject then turned and began running towards open stores that were unsecured and had patrons inside.

At that time, Sergeant A advised Sergeant B to shoot because he believed that the Subject, who was still holding a large knife, was going to go into a store to take someone hostage or assault them.

Sergeant B had a similar concern and also was afraid that if the Subject continued to run, he would attempt to grab someone. Sergeant B also believed that if the Subject went beyond the "bridge," he might end up in a crowd or possibly enter the department store.

Believing that the Subject would assault someone in the mall or possibly enter a business and take a hostage, Sergeant A acquired a two-handed grip on his pistol and fired one round at the Subject's upper torso from an approximate distance of 23 feet. Sergeant A fired this round while moving in the Subject's direction.

As the Subject ran past Sergeant A, the round appeared to miss him and traveled through the window of a store. Sergeant A veered to his left and then stopped at a glass railing overlooking the lower level of the mall to assess. The Subject continued to run away from him while holding the knife in his right hand. Sergeant A believed the Subject still posed a threat to the safety of patrons inside the businesses within the mall and to the officers who were arriving in response to his backup request. Sergeant A fired three additional rounds at the Subject from an increasing distance of approximately 28 to 56 feet.

As Sergeant A fired his fourth round, the Subject neared the department store where he stumbled and fell to the floor. Sergeant A assessed and did not feel the need to fire additional rounds. Video footage from mall security cameras depicted the Subject drop the knife as he fell. The Subject immediately reached to his left, grabbed the knife with his right hand, and then stood back up and continued running. With their pistols drawn, Sergeants A and B gave chase and followed behind the Subject on the walkway.

Officer C entered the mall moments before the first shots were fired and ran along the walkway of the second level concourse. As he reached the walkway that bridged the sides of the concourse immediately adjacent to the department store entrance, Officer C's BWV captured the sound of gunshots being fired by Sergeant A, who was located

northwest of his position. Officer C moved onto the bridge and stopped in front of a waist-high glass safety railing, facing the Subject.

The Subject immediately stood after reacquiring the knife and held it in his right hand. He then continued to run toward the intersection with the bridge and the concourse walkway. Based on a review of mall security video, the Subject appeared to try and cut his throat by pulling the knife across his neck several times as he ran.

According to Officer C, he believed that the Subject was going to run around the corner of the glass railing and move in his direction. Officer C was concerned that the Subject was planning to attack him or the mall patrons he had passed just prior to taking his position on the bridge. Officer C believed the Subject had already been struck by gunfire and appeared to be unfazed. He also noted that the Subject did not respond to commands being yelled at him by other officers. Based on those observations, Officer C believed the Subject may have been under the influence of drugs, which in his opinion, would have placed him at a disadvantage if the Subject had reached his position.

According to Officer C, he commanded the Subject to drop the knife, the Subject failed to stop, and continued to run while holding the knife raised in his right hand.

Officer C believed that as the Subject closed the distance to his position on the bridge, he was about to be cut or slashed. Officer C did not feel that redeploying was a viable option due to the numerous mall patrons, including children, he believed were behind him. In an effort to protect himself and those behind him, Officer C shouldered his rifle and fired eight rounds at the Subject, from a closing distance of approximately 32 to 18 feet.

Mall security video footage depicted Officer C's first round shatter the department store display window behind the Subject. This occurred as the Subject got to his feet, before he began to run along the concourse.

As Sergeants A and B pursued the Subject on the walkway, Sergeant A initially followed behind Sergeant B. As Sergeant B continued to run, he heard the sound of Officer C firing near him and observed the department store display window shatter in front of him. Sergeants A and B momentarily stopped their forward movement, because they believed the potential for a crossfire existed.

Sergeant B's momentum caused him to fall to the ground and his eyeglasses to fall from his face. Sergeant B indicated he did not fire his weapon during this incident because he felt he never had a good shooting platform, he had several obstacles in his way, and at times believed there was a crossfire with other officers.

Footage from Officer C's BWV depicted the Subject fall to the floor and drop the knife in front of Officer C, at the intersection of the concourse and the bridge. In one motion, the Subject rolled on to his back and then immediately raised his back off the floor, facing Officer C. While supporting his weight on his left arm, the Subject reached across his

body with his right hand and grabbed the knife, which was lying a few feet from his left leg. Simultaneously, Officer C again commanded the Subject to drop the knife. The Subject raised the knife to his throat as he began to lean back in a semi seated position and made several additional slashing motions across his neck.

According to Officer C, the Subject ignored his commands, placed his left hand on the floor, and grabbed the knife with his right hand with the blade pointed toward him. The Subject simultaneously tucked his feet toward his body, which led Officer C to believe that the Subject was attempting to stand and charge at him. Officer C aimed his rifle at the Subject's center mass and fired one additional round from an approximate distance of 23 feet.

Sergeant A stopped as Officer C fired his first volley of rounds. He then began to walk toward the Subject after the Subject fell at the bridge intersection. Sergeant A observed that the Subject was still armed with the knife and attempting to stand. He believed that there were still numerous patrons inside the department store and that other officers were responding to the scene. Sergeant A feared that the Subject was going to continue to advance toward those patrons or responding officers if he rose to his feet and that the Subject posed a continued threat to their safety. Based on that assessment, Sergeant A aimed his pistol at the Subject's center mass and fired one additional round at him while utilizing a two-handed grip, and from an approximate distance of 32 feet.

Mall security video and BWV captured by Officer C depicted the Subject make several slashing motions with the knife across the left and right sides of his throat after the last rounds were fired. The Subject then discarded the knife to his right and rolled on to his right side with the knife lying a few inches from his body. The Subject continued to move his body in what appeared to be an attempt to sit up, and then laid back on his right side.

Immediately following the OIS, Officer A broadcast a help call as he and Officer B continued along the walkway, behind Sergeants A and B. Officer A indicated that shots had been fired on the second level of the mall and then immediately requested the response of a Rescue Ambulance (RA).

Officers took the Subject into custody. Once the Subject had been handcuffed, officers began administering medical treatment, including cardiopulmonary resuscitation (CPR). Responding paramedics examined the subject and determined he had died.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC found Sergeants A and B, along with Officer C's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Sergeants A and B, along with Officer C's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

The BOPC found Sergeant A's lethal use of force, rounds one through four, and Officer C's lethal use of force, rounds one through eight, to be in policy. The BOPC also found Sergeant A's fifth round and Officer C's ninth round to be out of policy.

Basis for Findings

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

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

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

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

Law enforcement officers are authorized to use deadly force to:

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

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

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

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

- During its review of the incident, the BOPC considered the following:

1. Situational Awareness

In this case, Officer C observed police activity close to his location, heard shots fired, saw the Subject running on the walkway, and assumed a position on the connecting bridge. When he fired his Patrol Rifle during the first sequence, he did not observe Sergeants A and B running behind the Subject. The BOPC noted that Officer C was involved in a dynamic and time-compressed event and that his view of the sergeants may have been inhibited by the fact that they were at least 15-20 feet behind the area where his bullets initially impacted the

department store windows. Nonetheless, Officer C is reminded that situational awareness enhances the survivability of an incident for all involved.

Additionally, after Sergeants A and B heard shots fired, they observed officers positioned to the south, noted the Subject was on the ground, and continued to move on the walkway, closing the distance to the Subject.

The BOPC determined that triangulating on a running Subject requires officers to remain increasingly alert to their surrounding areas in order to prevent a crossfire situation. Although Officer C was not aware of the sergeants' location, he mitigated the risk of crossfire by not over penetrating the bridge and entering the walkway, which would have created a crossfire situation. Officer C was then faced with what he perceived was an imminent deadly force situation and assessed his background prior to firing his patrol rifle.

Additionally, once they heard shots being fired, Sergeants A and B stopped their pursuit of the Subject to prevent a crossfire situation. The sergeants only continued toward the Subject when Officer C stopped firing.

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

- The BOPC also considered the following:

1. Basic Firearm Safety Rules

The investigation revealed that after Sergeant B manually thumb-cocked his service pistol to single action mode, he placed his finger on the trigger at various times prior to the time he intended to shoot. Officers are reminded of adhering to the Basic Firearms Safety Rules to avoid a potential for an Unintentional Discharge.

2. Non-Conflicting Simultaneous Commands

The investigation revealed that Sergeants A and B gave simultaneous commands to the Subject during the incident. Although the commands were non-conflicting, the sergeants are reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

3. Running with Service Pistols Drawn

The investigation revealed that Sergeants A and B ran after the Subject with their service pistols drawn. In addition, Sergeant B's service pistol had been manually thumb-cocked to single action mode and remained in that condition as he ran. In this case, it is understandable because the sergeants were faced with a running Subject during a lethal force situation. While unavoidable in this case, Sergeants

A and B were reminded that there is a heightened concern for an unintentional discharge when running with a drawn service pistol.

4. Situational Awareness

The investigation revealed that Officer C exited his vehicle without placing the vehicle in park. Officer C was reminded that not placing the vehicle in park can place officers and the community in danger.

5. Target Acquisition

The investigation revealed that several of Officer C's rounds struck glass storefronts and railings in the immediate area, rather than their intended target. Officer C was reminded of the importance of target acquisition, background, sight alignment and sight picture.

6. Maintaining Control of Equipment

The investigation revealed that in order to transition to his service pistol, Sergeant A dropped his TASER on the ground after being unable to holster it. In this case, it is understandable because Sergeant A was faced with a deadly force situation that required him to immediately draw his service pistol. Sergeant A was reminded, whenever tactically feasible, of the importance of maintaining control of his equipment prior to transitioning to other force options.

The investigation also revealed that Officer C dropped his handheld radio on the ground as he ran toward the gunfire. Officer C is reminded of the importance of making every attempt to maintain control of his equipment, as it increases the likelihood of tactical success during incidents such as this.

7. Preservation of Evidence

The investigation revealed that Sergeant A directed an Officer to kick the knife away from the Subject to prevent him from re-arming himself. Sergeant A was reminded, whenever tactically feasible, that it is preferable to leave evidence undisturbed until FID investigators can properly document and preserve the scene. In this case, it was understandable because the risk of the Subject re-arming himself outweighed the benefits of leaving the evidence in place.

8. Protocols Subsequent to a Categorical UOF Incident

The investigation revealed that after the OIS, Sergeant A directed an officer to canvass for witnesses and to try not to allow them to leave. According to Sergeant A, when asked regarding the above statement, he stated the law indicates that officers can't make somebody stay at a crime scene. Although it was evident Sergeant A understands the rights of witnesses, he was reminded to clearly articulate these when providing direction to officers in the field.

9. Public Safety at Critical Incidents

The investigation revealed that after the OIS, it took approximately six minutes for officers to check the surrounding businesses for possible victims struck by gunfire. In this case, it was reasonable because an arrest team was established, a tactical plan of approach was discussed, then executed, and the Subject's injuries resulted in immediate medical aid to the Subject by police personnel.

B. Drawing/Exhibiting

- According to Sergeant B, he was briefed by Sergeant A and as they awaited the response of additional units, the Subject displayed a knife with a long blade. Sergeant B drew his service pistol believing the Subject could hurt himself or people walking by.

According to Sergeant A, the Subject was tracking Officers A and B's approach. As the officers closed the distance, Sergeant A directed Officer B to beanbag the Subject. The Subject, armed with the knife, then began running towards open stores that were unsecured and had patrons inside. Sergeant A believed the Subject was going to take somebody hostage or begin slicing them with the knife. Based on the Subject's actions and his failure to listen to commands, Sergeant A ran after the Subject and drew his service pistol.

According to Officer C, knowing that the Subject was armed with a knife in a crowded place and believing that something involving violence was occurring, Officer C believed the Patrol Rifle would allow him better accuracy in a crowded mall situation. Upon arrival, Officer C retrieved his Patrol Rifle and entered the second floor of the mall through a different entrance.

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

Therefore, the BOPC found Sergeants A and B's, along with Officer C's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

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

Rounds one through four – From an approximate increasing distance of 23 to 56 feet.

According to Sergeant A, he was waiting for Sergeant B to shoot, but he believed Sergeant B did not have a good angle. Sergeant A was not going to allow the Subject to enter any of the open stores and hurt anybody. Sergeant A then fired four rounds from his service pistol at the Subject to stop the threat.

Round Five – From an approximate distance of 32 feet.

Following Officer C's initial sequence of gunfire, the Subject fell to the ground and dropped his knife. He then sat up, reacquired his knife, and placed it to his own neck. At that time, Sergeant A fired one additional round at the Subject.

- **Officer C** – (rifle, nine rounds)

Rounds one through eight – in a northwesterly direction from an approximate decreasing distance of 32 to 18 feet.

According to Officer C, he yelled at the Subject to "Drop the knife." The Subject looked directly at Officer C, but did not seem to be registering anything. The Subject continued running towards Officer C with the knife raised. Recalling he had run past families and children who were now behind him, Officer C believed redeployment was unsafe and not a viable option.

In fear for his life and the lives of others, Officer C fired eight rounds from his Patrol Rifle at the Subject to stop the imminent threat.

Round Nine – in a westerly direction from an approximate distance of 23 feet.

Following Officer C's initial sequence of gunfire, the Subject fell to the ground and dropped his knife. He then sat up, reacquired his knife, and placed it to his own neck. At that time, Officer C fired one additional round at the Subject.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Sergeant A and Officer C, would reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury and that the Use of Lethal Force, namely Sergeant A's rounds one through four and Officer C's rounds one through eight, would be objectively reasonable.

The BOPC determined that at the time the final rounds were fired, namely Sergeant A's fifth round and Officer C's ninth round, it was not objectively reasonable to believe that the Subject presented an imminent threat of death or serious bodily injury to the officers or others. In particular, the Subject had not attempted to get to back to his feet, and nobody was in his immediate vicinity. Given the lack of an imminent threat, the discharge of these final rounds by Sergeant A and Officer C was not objectively reasonable.

In conclusion, the BOPC found Officer C's lethal use of force, rounds one through eight and Sergeant A's rounds one through four to be in policy. The BOPC also

found Sergeant A's fifth round and Officer C's ninth round to be out of policy.