

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

OFFICER-INVOLVED SHOOTING – 046-18

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

Northeast 7/21/18

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

Officer A 6 years, 5months
Officer B 2 years, 2 months

Reason for Police Contact

Officers became involved in a vehicle pursuit of a Subject suspected of having committed a shooting. During the vehicle pursuit, the Subject fired toward the pursuing officers on two separate occasions. The Subject subsequently lost control of his vehicle, collided into an electrical pole, and exited the vehicle armed with a handgun. The Subject pointed the handgun in the officers' direction and fired, resulting in an officer-involved shooting (OIS).

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

Subject: Male, 28 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.

The following incident was adjudicated by the BOPC on June 11, 2019.

Incident Summary

The Subject shot and injured two people, Victims A and B. Several calls were made to 911 as the Subject carried Victim A out of the residence and placed her in the front passenger seat of a vehicle. The Subject entered the driver's seat and fled the scene in his relative's vehicle.

The responding officers contacted the Los Angeles Police Department (LAPD), Records and Identification Vehicle Warrant Section, and reported the vehicle the Subject had left in as having been stolen. In addition, the stolen vehicle report noted the vehicle contained an armed and dangerous Subject.

The vehicle being driven by the Subject was subsequently located by an LAPD Air Unit. The Air Unit's Tactical Flight Officer, Officer E, broadcast updated units on the stolen vehicle's location and continued to provide updates on the vehicle's route of travel while advising responding units that the vehicle was failing to stop for red phase tri-lights and driving into opposing lanes of traffic.

The Subject was driving the stolen car and Victim A was seated in the front passenger seat, which was reclined.

Patrol Division Police Officers F and G were at the police station when they heard Officer E broadcast for units to respond Code Three, with emergency lights and siren, for a possible stolen vehicle. According to Officer F, he/she heard a broadcast indicating the vehicle was possibly involved in a carjacking. According to Officer G, he/she heard Officer E provide a description of the vehicle and request units to respond Code Three. Officers F and G entered their police vehicle and responded from the police station.

Officer E advised the ground units of the stolen vehicle's location. Officers F and G observed the stolen vehicle when it passed the officers, at which time Officer F negotiated a U-turn, positioned his/her police vehicle behind the stolen vehicle, and began to follow it.

In the interim, Police Officers A and B were in a marked police SUV equipped with a Digital In-Car Video System (DICVS). During their previous times working together, the officers had general discussions regarding pursuit tactics. According to Officer A, the officers had previously discussed the Department's pursuit policy.

Officer A conducted a computer inquiry on the vehicle's Mobile Digital Computer (MDC) read information regarding the stolen vehicle, which noted the vehicle contained a possible armed and dangerous attempted murder suspect. Officer A activated the officers' vehicle's light bar system with siren and responded to the following. Officers A and B were both equipped with and activated their Body Worn Video (BWV).

Hollywood Patrol Division Sergeant A was in a marked police Sports Utility Vehicle (SUV) equipped with a DICVS.

Sergeant A was at Hollywood Station when he/she heard Officer E broadcast the route of travel for the vehicle being driven by the Subject. Sergeant A responded, began to follow Officers A and B's vehicle, and activated his BWV.

Additional officers responded to the following, which included Police Officers H and I. The officers were in a marked police vehicle equipped with a DICVS.

The Subject continued to drive in an erratic manner. Simultaneously, Officers A and B were preparing to negotiate a turn when Officer E broadcast, "Watch your traffic guys. Watch your traffic and watch this guy is armed." The Subject nearly collided with Officers A and B's police vehicle as the Subject negotiated a turn. Officers A, B, F, G, and Sergeant A began to pursue the Subject.

Officer E continued to broadcast updates of the stolen vehicle's location. Sergeant A broadcast that he/she was with the pursuit. Officers A and B were the primary unit, Officers F and G were the secondary unit, and Sergeant A became the third unit and began to supervise the pursuit.

CD advised all units on all frequencies of the pursuit and provided a description of the stolen vehicle.

An approximately 15-minute, 9.2-mile pursuit ensued. As the pursuit continued, the Subject committed numerous traffic violations.

Uniformed Sergeant B joined the pursuit in a marked police SUV equipped with a DICVS.

Patrol Division Officers H and I joined the pursuit. At this point in time, Officers A and B were the primary unit, Officers F and G were the secondary unit, Sergeant A was the third unit, Sergeant B was the fourth unit, and Officers H and I became the fifth unit in the pursuit.

The Watch Commander broadcast that Sergeant A was the Incident Commander (IC). Sergeant A then requested three additional units in the pursuit. According to Sergeant A, he/she requested the additional units because the vehicle contained a possibly armed and dangerous suspect.

The vehicle pursuit continued as the stolen vehicle increased its distance from the pursuing vehicles, with the Air Unit still overhead. The Subject was involved in a traffic collision but failed to stop and continued to flee from the officers.

The Subject then drove into a gas station. Officer E advised pursuing units the vehicle had entered and stopped at the gas station.

Meanwhile, Victim B was at the gas station refueling his vehicle.

The Subject stopped near the gas pumps adjacent to Victim C's vehicle. The Subject approached Victim B while armed with a handgun and demanded his car keys. As this was occurring, Victim C began to hear sirens. The Subject then re-entered his stolen vehicle and drove away. The pursuing officers were unaware an attempted carjacking had occurred due to the distance the Subject had created between himself and the officers.

The pursuing officers caught up to the Subject as he drove away from the gas station. The Subject's vehicle then lost its front tire and began to decrease its speed.

While seated in the moving police vehicle, Officer B's BWV depicted Officer B removing his/her seatbelt and unholstering his/her service pistol. Officer B held his/her weapon in his/her right hand in a low-ready position with his/her finger along the frame.

The BWV microphone worn by Officer B captured Officer A advising Officer B they could not conduct a Pursuit Intervention Technique (PIT) because the Subject was armed.

Officer B kept his/her pistol unholstered as the Subject continued to evade the officers, driving on the right front rim and three tires. Officer B broadcast that it looked like there were two occupants in the stolen vehicle.

Officer A observed the Subject reaching toward the center console area. Officer A told Officer B that the Subject was arming himself and told Officer A to broadcast that information, which was done.

The Subject increased his speed as the pursuit continued. Officer B holstered his/her service pistol and placed his/her seatbelt back on. The BWV microphones worn by Officers A and B captured Officer A warn Officer B that the pursuit could possibly end in an officer-involved shooting (OIS) and telling Officer B to be prepared. The BWV microphones also captured the officers discussing post-pursuit tactics. The officers agreed that Officer A would be the contact officer and Officer B would be the cover officer.

Officer E observed smoke and believed the Subject was possibly firing at the pursuing officers. The DICVS from Officers A and B's police vehicle depicts smoke rising from the bottom of the Subject's vehicle.

According to Officer A, as the stolen vehicle continued to flee, he/she noticed the Subject once again reach toward the center console area. Suddenly, Officer A observed two muzzle flashes from the driver's side of the stolen vehicle, which caused the vehicle's rear window to shatter.

DICVS footage depicts what appears to be two gunshots being fired from within the stolen vehicle and passing through the rear window. Forensic Science Division (FSD) conducted a bullet path analysis on the stolen vehicle. During an examination of the vehicle, a penetrating impact on the rear window tail light housing was noted. FSD concluded the impact was consistent with a bullet traveling from the front of the vehicle toward the rear.

According to Officer B, the officers were behind the stolen vehicle when he/she noticed the rear window shatter and acknowledged shots were being fired.

Officer B broadcast an "officer needs help" call along with the officers' location. Officer B unholstered his/her service pistol a second time, removed his/her seatbelt, and maintained his/her pistol in his right hand at a low-ready position with his/her finger along the frame.

The stolen vehicle continued to flee. Officers A and B's BWV and DICVS microphones captured Officer A telling Officer B not to shoot and that Officer A was going to create distance from the Subject's vehicle. According to Officer A, there was moderate to heavy traffic in the area and he/she did not want Officer B to shoot from the moving vehicle with the possibility of a bullet striking an innocent bystander, pedestrian, or motorist. Officer A stated he/she wanted to create distance to reduce the risk that the officers would be shot.

According to Witness A, the stolen vehicle turned when she observed an arm extend out of the driver's window, with a silver handgun in the hand. Witness A observed the Subject begin to shoot in the direction of the responding police vehicles. Witness A stated she heard two to three gunshots and then observed the stolen vehicle continuing to drive.

The DICVS microphones for Officers L and M's police unit captured what appears to be two gunshots emanating from the stolen vehicle. Officer L is heard saying the Subject had just fired two rounds. Officer L's BWV microphone also captured the audible sound of two gunshots.

During his/her interview, Officer L indicated he/she believed the Subject was firing at the pursuing officers. Officer M believed the Subject was firing at them. The DICVS did not capture video of the Subject shooting because the Subject was out of the camera's view.

Officer E and the pursuing officers did not see the Subject shoot the second volley of shots at the responding/pursuing officers or indicate they observed the Subject's hand out of the window.

The BWV microphones worn by Officers A and B captured Officer A telling Officer B to broadcast to the Air Unit that they were going to keep their distance because of shots fired. The stolen vehicle continued driving. Officer B advised the Air Unit they were

going to keep their distance as the stolen vehicle swerved and collided with an electrical pole directly in front of a grocery store.

Officers A and B's DICVS captured the Subject opening the driver's door of his vehicle. The Subject exited the vehicle, faced Officers A and B armed with a handgun in his right hand, and fired in the officers' direction. The BWV microphone worn by Officer A captured the audible sound of two gunshots as Officers A and B exited their police vehicle. The Subject then began to run toward the grocery store entrance/exit doors. DICVS depicted Officer A flinching while unholstering his/her service pistol. Officer A placed his/her left knee on the ground, positioning him/herself next to an open driver's side door. Officer A then discharged five rounds at the Subject as the Subject ran toward the grocery store's entrance/exit doors. Simultaneously, Officer B, who was still unholstered, stepped toward the outer edge of his/her open front passenger side door and discharged three rounds at the Subject. The Subject then entered the grocery store via the entrance/exit door. The investigation determined the Subject was struck one time in the left elbow.

At the time of the OIS, Officers A and B were the primary unit, Officers F and G were the secondary unit, Sergeant A was the third unit, Officers H and I were the fourth unit, Officers K and J were the fifth unit, and Sergeant B was the sixth unit.

Below is an account of the officers' actions during the OIS and their reasoning for their Use of Deadly Force:

Officer A was the driver of his/her police unit when the Subject's vehicle collided with an electrical pole in front of the grocery store. According to Officer A, he/she placed the police vehicle in park, opened the driver's door and noticed the Subject exiting the vehicle armed with a handgun. According to Officer A, the Subject got out of the car, immediately turned and faced the police car, pointed a gun, and shot.

Investigators asked Officer A what his/her background consisted of at the time of the OIS, and he/she stated that it was a grocery store, and that the Subject was at the wall near the entrance. Officer A said that there were civilians and people in the area, but they were not close to the Subject. Officer A fired his/her first round when the Subject was on the sidewalk near the traffic signal post. Officer A continued to discharge his/her pistol at the Subject as he ran toward the front doors of the grocery store, still holding his pistol.

Officer A told investigators, "So I did cease fire when the Subject began running into the grocery store out of reverence for human life. Because that is what guides our use of force policy. Because of the background, I didn't know how many people were in there. I saw people running in and out of the grocery store. So, instead of engage - - continuing to engage the Subject, I had to cease - - cease fire out of the reverence for human life."

Digital In-Car Video footage from Officers A and B's vehicle, shows that Officer A's final round was fired as the Subject completed his turn to enter the store.

From the time the Subject fired his two gunshots until the Subject entered the store, approximately three seconds had elapsed.

Officer B was the front passenger when the Subject's vehicle collided with the electrical pole. Officer B broadcast that the vehicle had crashed and opened the front passenger door. Officer B exited the vehicle, positioned him/herself behind the front passenger door, and then heard a gunshot. According to Officer B, he/she did not know who had fired that round. Officer B raised his/her service pistol and held it in a two-handed shooting position.

Officer B stepped to his/her right while utilizing the front passenger door for cover. Officer B stated he/she observed the Subject exit the vehicle, lean forward with both hands near his front waistband area, while running toward the front entrance of the grocery store.

According to Officer B, the Subject turned and fired a round at the officers. At that time, Officer B fired back three rapid rounds. Officer B said that he/she had a very good sight picture and that there wasn't anybody else who was going to be in the way.

Officer B said that in immediate defense of life of he/she and Officer A, he/she fired back three consecutive rounds.

Force Investigation Division investigators asked Officer B what his/her background consisted of at the time of the OIS, and Officer B stated it was a concrete wall, which he/she thought was working in his/her favor. Officer B said that if he/she missed, then the rounds would hit the concrete wall. Officer B was asked if there were any civilians in the area when he/she fired, and Officer B stated that there were, but that there was enough time and distance between the civilians and the Subject to shoot.

At the time of the OIS, Officers F and G were seated in their police vehicle, behind Officers A and B's vehicle, about to stop. Officer F placed the police vehicle in park and opened the driver's door. Officer F exited the vehicle, unholstered his/her service pistol and ran, taking cover behind a block wall that was 2 feet 5 inches in height and close to the grocery store's entrance/exit doors. Simultaneously, Officer G unholstered his/her service pistol, opened the front passenger door, and maintained his/her seated position utilizing the front passenger door as cover.

During the interview with investigators, Officer F was asked to describe the Subject's actions when the Subject exited the vehicle. Officer F said that as soon as he/she saw the Subject, the Subject had a weapon in his hand and he was pointing it in the direction of the primary unit. Officer G stated he/she did not see the Subject exit the vehicle, but did hear 3 to 4 gunshots as he/she exited his police vehicle.

Prior to the OIS, several customers and employees of the grocery store, including Victim D, were inside the grocery store when they heard a collision outside of the store. The grocery store's surveillance footage captured Victim D near the Manager's bridge, which is close to the store's exit/entrance doors. Upon hearing the collision, Victim D and other store employees are seen moving toward the entrance/exit, out of the camera's view. It was at this time that gunfire erupted outside between the Subject and Officers A and B.

Officer A's BWV depicts the Subject entering the store via the sliding glass door. After the OIS, the grocery store's video footage captured customers and employees scattering throughout the store as the Subject entered the store. The grocery store's video footage depicts Victim D in front of the Subject as Victim D moved toward the cash registers. The Subject is observed running through a store aisle, past fruit display stands and toward the back of the store, as Witness C enters the store through the entrance/exit door near the Manager's bridge.

The officers' BWV does not depict Victim D exiting the store. Officer A's BWV captured Witness C following the Subject into the store. The grocery store had one surveillance camera inside the business. The surveillance camera was mounted to face toward the interior of the store, which included the manager's bridge, several aisles, and cash registers. The camera did not cover the store's entrance/exit and was not in a position to capture Victim D's exact position at the time of the OIS.

Victim D was the on-duty manager inside the grocery store at the time of the incident. In the grocery store's surveillance video footage, Victim D is seen working in the area of the Manager's bridge (station) for several minutes prior to the incident. Apparently after hearing the collision outside the store, Victim D appears to rush toward the front entrance/exit.

Force Investigation Division investigators asked Officer A if he/she considered pursuing the Subject after the Subject entered the store. Officer A stated he/she did not pursue the Subject because the Subject was armed and still a threat.

Force Investigation Division investigators asked Officer B if he/she considered pursuing the Subject after the Subject entered the store, and Officer B stated that the officers did not pursue the Subject inside because they wanted to calm down from what just happened, regroup, and make sure that both partners were okay. Officer B wanted to wait for other officers to arrive because it wouldn't be smart for them to enter the store by themselves.

The grocery store's surveillance system captured the Subject running toward the front of the store and then stop, adjacent to a fruit display stand. The Subject raised his pistol, took a two-handed shooting position, pointed his pistol in the direction of where Officer F had taken cover, and then the Subject fired a round.

Investigators interviewed Witness C, who stated he was about to enter the store when he heard gunfire. Witness C entered the store and observed the Subject running down an aisle and people on the floor. Witness C stated he did not witness the OIS, and at no time did he observe that Victim D had been injured.

The Subject moved slightly, leaned over a fruit display stand in a two-handed shooting stance, and continued to fire at the officers through the glass entrance/exit doors. Simultaneously, Victim D was depicted on video moving toward the Manager's bridge. Upon reaching the Manager's bridge, Victim D knelt on her hands and knees behind the Manager's bridge, where she subsequently collapsed. Unbeknownst to the officers, a bullet fired by an officer had struck Victim D.

According to Officer F, after the Subject entered the store and while behind the block wall, he/she observed the entrance sliding glass door shatter. Officer A stated he/she noticed Officer F behind a block wall and believed the wall would give him/her (Officer A) a better vantage point of the entrance/exit and a better position of cover/concealment. As a result, Officer A left his/her position behind the driver's door of his/her police vehicle and ran toward Officer F.

As Officer A ran toward Officer F, Officer A's BWV microphone captured the sound of the sliding glass door shattering. Officer A took cover behind the block wall, near Officer F, as Officer F advised Officer A that the Subject was shooting through the window. Officer B left his/her position behind the passenger door of his/her vehicle and ran toward the area behind the wall to join Officers A and F.

Officer A's BWV microphone captured an additional gunshot followed by a bullet striking a metal pole that was adjacent to Officers A and F's positions. Officers A, B, and F ducked and remained behind the wall.

Three discharged cartridge cases were recovered inside the grocery store in the area where the surveillance system captured the Subject taking several shooting stances. The Department's Firearms Analysis Unit (FAU) determined the three cartridge cases were fired from the Subject's pistol.

After shooting at the officers from inside the store, the Subject walked around the store, gathered several hostages from within the store, and placed them near the front registers along one portion of the store.

Officer E broadcast a request for additional units for traffic control and for SWAT (Special Weapons and Tactics).

Sergeant D arrived at the scene and declared him/herself the Incident Commander. Sergeant D approached Sergeant B and asked Sergeant B what he/she needed. Sergeant B advised Sergeant D a Command Post (CP) needed to be established. Sergeant D advised Sergeant B that he/she would be the IC and then began to establish a CP.

DICVS captured a female hostage exiting the grocery store with her hands up. The female approached Sergeant A and advised him/her that the Subject wanted to negotiate. Sergeant A broadcast this information, advising units the Subject was inside the store and wanted to negotiate.

As the Air Unit orbited over the grocery store, Officer E looked inside the stolen vehicle and observed Victim A lying in the front passenger seat and apparently not moving. Officer E broadcast to the ground units that there was an injured person in the car.

Meanwhile, inside the grocery store, Witness D had been at a cash register when he heard gunshots and dropped to the floor. According to Witness D, the Subject approached him, told Witness D he needed to make a phone call, and requested Witness D's cell phone. The Subject took possession of Witness D's cell phone and released him, telling Witness D to give the police his phone number.

Witness D exited the store, approached Sergeants B and E, who had also responded to the incident, and told the sergeants that the Subject was in possession of his cell phone and wanted to talk to them.

Sergeant A approached Sergeant B and told him to formulate a rescue team to remove Victim A from the vehicle. A rescue team was formed.

Prior to approaching and conducting a rescue of Victim A, Sergeant A requested the Air Unit to advise all units at scene that a rescue was about to occur. Sergeant B then requested a Rescue Ambulance (RA) for Victim A and advised CD to have the RA stand by.

Sergeant A dialed Witness D's cellphone number to speak with the Subject. Witness E answered the phone, began a dialogue with Sergeant A, and told Sergeant A the Subject was armed with a gun and suffering from a gunshot wound. Several times throughout this incident, phone calls to the Subject were either disconnected or the Subject would end the phone dialogue.

The rescue team, with their ballistic helmets donned, approached the Subject's vehicle utilizing a police unit as cover. Sergeant B was the team leader. The officers arrived at the Subject's vehicle, approached the front passenger side door, and asked Victim A to open the door. Victim A opened the door, exited the vehicle, and was then placed in the rear passenger seat of the police unit. The rescue team transported Victim A to another location for medical treatment.

Sergeant A again dialed Witness D's phone number, making telephonic contact with the Subject, and attempted to have him surrender. The phone call was disconnected once again.

Sergeant A re-initiated telephonic contact with the Subject. It was during this conversation that the Subject advised Sergeant A that Victim D was injured and lying on the ground inside the store. According to Sergeant A, the Subject indicated he was going to have two hostages bring Victim D out of the store.

From the time of the OIS until police department personnel became aware Victim D was injured, approximately 18 minutes and 30 seconds had elapsed.

Sergeant A immediately broadcast that there was a victim down inside the grocery store, and advised that the Subject was going to have other hostages bring that person out so they could get medical attention for her.

The grocery store's surveillance video footage captured two hostages, Witnesses F and G, arriving at the manager's bridge as Victim D lay behind the bridge.

Witnesses F and G pulled Victim D around the bridge toward the store exit. As Witnesses F and G approached the exit, Witness F remained in the store as Witness G dragged Victim D out of the store. DICVS depicts Victim D being pulled out of the store and then placed on the sidewalk, close to the store exit.

Immediately, a rescue team began to approach Victim D to perform a rescue. The rescue team had their ballistic helmets donned.

The rescue team approached Victim D and directed Witness G to proceed down the street. Officers picked up Victim D and carried her away from the grocery store.

The officers placed Victim D on the street, utilizing a police vehicle as cover. Sergeant E requested an RA to their location, and advised that Victim D was unconscious and not breathing.

Captain A arrived at the scene and declared him/herself Incident Commander. Captain A began to take command and control of the crime scene and made notifications.

Sergeant E's BWV depicts SWAT Officer Q arriving at scene. Thereafter, Metropolitan Division SWAT personnel, including Lieutenant A, OIC, Sergeant F, Crisis Negotiations Supervisor, and Officer T, Crisis Negotiator, arrived at the scene.

As Sergeant A continued his/her phone dialogue with Witness E and the Subject, Sergeant A's BWV was deactivated. According to Sergeant A, he/she believed his/her Police Rifle sling inadvertently turned off his/her BWV. He/she later reactivated his/her BWV.

LAFD personnel arrived at the scene where Victim D lay. Due to the ongoing tactical situation, Victim D was placed on a gurney and placed in the RA.

Firefighter/Paramedics assessed Victim D and subsequently determined she had passed away.¹ Victim D remained inside the RA until the Coroner's Office conducted its investigation and transported Victim D's remains to the Coroner's Office

Approximately seven minutes transpired between the time of the RA request and the arrival of LAFD personnel at scene.

Metropolitan Division personnel took positions behind the block wall and relieved Officers A, B, and F. Officers A, B, and F holstered their service pistols, met with Sergeants A and E, as Officer F advised Sergeant E that Officers A and B were involved in an OIS. Sergeant E then walked the officers to the CP.

Northeast Patrol Division Sergeant G assumed monitoring duties of Officer B as Northeast Patrol Division Sergeant H assumed monitoring duties of Officer A. The sergeants separated the officers, took possession of their BWVs, and obtained Public Safety Statements (PSS) from them.

The Subject released hostages periodically throughout the lengthy telephonic negotiations with Sergeant A, despite the fact that the telephone conversations were at times disconnected.

According to Sergeant A, the Subject indicated during the dialogue that he was concerned about Victim A and wanted to speak with her. At one point during the dialogue, the Subject told Sergeant A he would free the hostages once he spoke with Victim A.

According to Captain A, SWAT took over the tactical responsibilities for this incident. A tactical plan was developed by SWAT personnel and approved by Captain A. A team of SWAT personnel conducted a stealth entry into the grocery store via a rear door and positioned themselves inside a refrigerator. This position allowed SWAT personnel to have a visual of the Subject and gave them the opportunity to quickly initiate Immediate Action Rapid Deployment if necessary.

A SWAT armored rescue vehicle positioned itself in front of the grocery store's entrance/exit.

Witness E advised Sergeant A that the Subject would allow himself to be handcuffed and then surrender. At the direction of Sergeant C, Officer Q obtained a set of handcuffs and then tossed the handcuffs into the store via the sliding glass door.

The grocery store's surveillance footage depicts Witness F walking toward the exit. Witness F retrieved the set of handcuffs and returned to the Subject and the remaining hostages.

¹ As previously noted in this report, the investigation later determined that Victim D was the civilian manager who worked at the grocery store and was the person who had passed away as a result of being struck by gunfire. See, *supra*, at 8-9.

Officer T took over negotiations from Sergeant A as the hostage ordeal continued.

SWAT personnel responded to the hospital and obtained an audio recording of Victim A. The recording was sent to Sergeant F and then played for the Subject to address his concerns regarding Victim A's condition.

Eventually, the Subject agreed to be handcuffed, at which time the Subject placed his hands in front of his body and allowed Witness E to handcuff him. Witness E took the gun from the Subject, and placed the gun in a grocery store bag.

The firearm was recovered and examined by FSD. The pistol was loaded with one 9mm cartridge in the magazine and one unfired 9mm cartridge in the chamber.

After the Subject was handcuffed, hostage Witnesses E, F, H, and I stood up and formed a circle around the Subject. Witness E advised Officer T that the Subject had been handcuffed and that they would be exiting the store. The hostages and the Subject exited the store, at which time the Subject was taken into police custody.

From the time the Subject entered the store until he was taken into police custody, approximately 3 hours and 9 minutes had elapsed.

A Rescue Ambulance was summoned from the CP and assigned to transport the Subject to the hospital. Firefighter/Paramedics contacted the Subject and provided medical treatment for a gunshot wound to the Subject's left arm.

Force Investigation Division reviewed all documents and circumstances surrounding the separation, monitoring, and the admonition not to discuss the incident to officers prior to being interviewed by FID investigators. Protocols and supervisor assessments were documented.

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 Captain A's, Lieutenant A's, and Sergeants A, B, and E's, along with Officers A and B's, tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Officers A and B's drawing and exhibiting of a firearm to be In Policy.

C. Lethal Use of Force

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

Basis for Findings

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

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

A. Tactics

- In its analysis of this incident, the BOPC identified the following tactical considerations:

1. Public Safety at Critical Incidents

Lieutenant A allowed a citizen to become involved in the tactical resolution of the incident by receiving handcuffs from the officers and taking them to the Subject.

In this case, officers were faced with an armed Subject in a position of tactical advantage, who was holding hostages. Lieutenant A and the CNT personnel were faced with limited tactical options to safely resolve what was a complex and perilous situation.

Through negotiations, the Subject agreed to surrender if he could handcuff himself and exit voluntarily. A tactical plan was formulated to have a citizen who was already inside the grocery store take handcuffs to the Subject. Prior to this

occurring, Lieutenant A ensured a plan was in place, utilizing the SWAT team inside the grocery store, to take immediate action if the citizens' safety was jeopardized. This plan was approved by Lieutenant A. Lieutenant A acknowledged that this was an unconventional tactic; however, he/she believed it was the best option to resolve the situation peacefully and without any additional loss of life.

Based on the totality of the circumstances, the BOPC determined that Lieutenant A's actions were a substantial deviation, with justification, from approved Department tactical training.

2. Basic Firearm Safety Rules

A review of Officer B's Body Worn Video (BWV) captured Officer B covering his/her right leg with his/her service pistol while seated inside the police vehicle. In this case, Officer B had understandably unholstered his/her service pistol in response to the Subject firing at him/her and Officer A. Nonetheless, for his/her own safety, Officer B was to be reminded of adhering to the Basic Firearms Safety Rules.

3. Immediate Action Rapid Deployment (IARD) vs. Barricaded Subject

The investigation revealed that officers determined the Subject was not actively shooting hostages inside the grocery store and treated the incident as a scenario that involved a Barricaded Subject. In this case, the BOPC determined that this was the best decision given the circumstances of this specific incident. The BOPC recommended that the involved personnel discuss the differences between IARD and Barricaded Subject incidents in order to enhance future tactical performance.

4. Firearm's Magazine Inspection

The investigation revealed that Officers A and B conducted a magazine inspection during the tactical incident. In this case, this inspection momentarily left the officers with only one round in their service pistols while still faced with a potentially deadly threat. To maximize performance and safety, the officers were reminded that while faced with a deadly threat, they were to either conduct a tactical reload, in-battery reload, or leave their magazines seated in their service pistols.

5. Ballistic Helmets

The investigation revealed that some of the officers did not don their ballistic helmets during this incident. All involved personnel were reminded of the importance of donning their ballistic helmets as soon as feasible while involved in a tactical situation with an armed suspect.

These topics were to be discussed at the Tactical Debrief.

- **Command and Control**

Sergeant A declared him/herself as the IC during the vehicle pursuit. After the OIS, Sergeant A assessed the situation, directed the deployment of two Patrol Rifles, and identified a need for a third Patrol Rifle. Sergeant A was unable to locate a third officer with a Patrol Rifle, so he/she made a deliberate decision to turn Command and Control over to Sergeant B and deployed his/her own Patrol Rifle.

The BOPC would have preferred that Sergeant A stay in a position of Command and Control, however, the BOPC believed Sergeant A's actions were reasonable given the tactical situation and acknowledged his/her deliberate act to verify that another supervisor was assuming the position of IC.

Sergeant B assumed the role of IC from Sergeant A and formulated a rescue team to extract Victim A from inside the Subject's vehicle.

Sergeant E arrived and assisted Sergeants A and B with formulating plans to conduct victim rescues. Sergeant E then formulated a tactical plan to rescue multiple children who were inside parked vehicles to the rear of the grocery store.

Sergeant D arrived after the OIS and established a Command Post.

Captain A arrived at the location and assumed the role of IC from Sergeant D. Throughout the incident, Captain A was notified of, and approved, the tactical operations.

Lieutenant A arrived at the scene, directed, and approved all SWAT operations, including CNT.

Sergeant H separated, monitored, and obtained a Public Safety Statement (PSS) from Officer A.

Sergeant G separated, monitored, and obtained a PSS from Officer B.

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

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

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

Therefore, the BOPC found Captain A, Lieutenant A, Sergeants A, B, and E, along with Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- According to Officer B, during the vehicle pursuit, the Subject's vehicle lost speed after losing a tire, which caused Officer A to close the distance on the Subject. Believing that the Subject was armed, Officer B drew his/her service pistol in the event the Subject stopped his vehicle. The Subject subsequently picked up speed, and the officers continued in pursuit as Officer B re-holstered his/her service pistol.

According to Officer B, after the Subject fired at the officers during the vehicle pursuit, he/she drew his/her service pistol a second time.

- According to Officer A, the Subject collided into an electrical pole in front of a grocery store. The Subject exited his vehicle, immediately turned towards officers, took a shooting stance while pointing a handgun, and fired at officers. Officer A exited the police vehicle, drew his/her service pistol, and assumed a position of cover behind the drivers' side ballistic door panel.
- According to Sergeant A, he/she wanted a rifle operator to provide cover for the officers behind the wall but could not locate any. Sergeant A then made a deliberate decision to turn Command and Control over to Sergeant B and deployed his/her Patrol Rifle.

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

C. Lethal Use of Force

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

According to Officer A, the Subject exited his vehicle, immediately turned towards the officers, took a shooting stance while pointing a handgun, and fired at the

officers. Officer A exited his/her police vehicle, drew his/her service pistol, and assumed a position of cover behind the driver's side ballistic door panel. In fear for his/her life, Officer A took a kneeling shooting position, and fired five rounds from his/her service pistol at the Subject to stop his actions.

- **Officer B** – (pistol, three rounds)

According to Officer B, he/she heard a gunshot upon exiting the vehicle and assumed a position of cover behind the passenger's side ballistic door panel. Officer B observed the Subject exit his vehicle and run towards the entrance of the grocery store. The Subject then turned his body toward officers and crouched towards his right side. Officer B then observed a yellow, orange flash, very close to the Subject's body, and knew they were being shot at. Believing that his/her life, Officer A's life, and the lives of the civilians in the parking lot were an imminent threat of death or serious bodily injury, Officer B lined up his/her sights and fired three rounds from his/her service pistol at the Subject.

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

The BOPC recognizes that a civilian tragically passed away during this incident. The BOPC carefully reviewed all of the evidence available, and applied it carefully to existing policy. Utilizing this analysis, the BOPC found Officers A and B's lethal use of force to be In Policy.