

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

**OFFICER-INVOLVED SHOOTING – 067-16**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On (X) Off ( )</u></b>	<b><u>Uniform-Yes (X) No ( )</u></b>
Northeast	10/23/16		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	9 years, 6 months
Officer B	8 years, 3 months
Officer D	10 years, 4 months
Officer F	9 years, 10 months

**Reason for Police Contact**

Officers arrived at the scene of a fight outside a local bar and observed that one of the subjects involved in the fight was holding a pistol. When that subject turned toward the officers, an OIS occurred. The Subject was not hit and fled on foot. During the subsequent foot pursuit, another OIS occurred, resulting in injury to the Subject, who was then taken into custody.

<b><u>Subject(s)</u></b>	<b><u>Deceased ( )</u></b>	<b><u>Wounded (X)</u></b>	<b><u>Non-Hit ( )</u></b>
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Subject: Male, 25 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 state law prohibits 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 October 10, 2017.

## **Incident Summary**

Off-duty Officer A and three civilian friends took a taxi to a bar. The taxi driver (Witness A) pulled into the rear parking area of a restaurant directly across the street from the bar, to conduct a U-turn. At that time, several males approached the taxi on foot. The driver proceeded to drive out of the parking lot and onto the street, followed on foot by the Subject and three other males. The driver then drove on the next cross street and all the subjects that had been approaching them returned to the restaurant parking lot. Officer A and his friends subsequently exited the vehicle.

The exterior of the bar had four security cameras operating at the time of the incident that recorded various portions of the incident. Camera 1 covered the sidewalk in front of the bar. Camera 2 covered the sidewalk on the corner where the bar was located. Camera 3 covered both sides of the street on one side of the bar, Camera 16 covered the parking lot to the rear of the bar, and a portion of street adjacent to the restaurant. Some of the times and actions noted were obtained from these security cameras.

In addition to Witness A, Witness B, was also in the taxi vehicle. According to Witness A, for security reasons, Witness B frequently accompanied her while she worked.

According to Witness A, a verbal altercation had taken place between Officer A and the other subjects standing in the restaurant parking lot. She stated that Officer A was stating loudly, "This is my hood, this is my hood." She said that the subjects in the parking lot were clearly antagonistic toward the occupants of the taxi and approached the car shouting "What you say, fool?" Witness A said that she was extremely uncomfortable and thought that she and the people she had just dropped off were about to get into trouble with the subjects in the parking lot. Witness A indicated she was scared and turned the car around.

The security camera documented multiple individuals in the restaurant parking lot. However, due to the quality of the video and distance of the camera to the parking lot, the video did not provide a clear depiction of the events in the parking lot.

After exiting the taxi, Officer A and his friends (Witnesses C, D, and E) walked to the corner of the street, where Witness C requested another taxi to take Witness E, who was intoxicated, home. After a period of time, the taxi arrived and Witness E left.

Officer A walked on the sidewalk to the area of a planter bed adjacent to the rear parking lot of the bar, directly across the street from the restaurant parking lot. Witnesses C and D followed approximately 15 seconds later.

On the video from bar, Camera 3, Officer A can be seen walking and carrying a cup, which he appeared to be using to spit into. Both Witness C and Witness D followed approximately 40 feet behind Officer A. Witness C handed a glass bottle to Witness D as they walked, and Witness D can be seen drinking from this bottle.

As Officer A was standing by the planter, Witnesses C and D walked as two males exited the restaurant parking lot, walked west across the street to the area where Officer A, Witness C, and Witness D were standing. The two males stood on the sidewalk, near Officer A and his friends. The first male stated, "What the [expletive] are you guys doing here?" According to Witness C, the second male lifted his shirt up and exposed a black handgun that was in his front waistband.

As they were being confronted by the two males, the Subject and several additional males exited the restaurant parking lot and began to cross the street. As they did so, the first male threw a bottle toward Officer A, and in response Witness D struck him with a bottle. A physical altercation ensued between Officer A, Witness C, and Witness D with the original two males. As the altercation continued, the Subject and the other men ran across the street and took a position on the sidewalk near Officer A, Witness C, and Witness D, while the remainder of the group took positions on the sidewalk and on the street. Officer A, Witness C, and Witness D were then encircled by the group of males and engaged in an altercation.

Once the Subject reached the side of the group, he used his right hand to strike Officer A twice on the head. According to Officer A, because of being struck in his head, he felt, "dazed, shocked and delirious."

Officer A kicked at the Subject, which caused the Subject to fall and drop a blue steel revolver onto the ground. The Subject then picked the revolver up from the sidewalk and, according to Officer A, pointed the pistol at his center body mass. When he was later interviewed, the Subject stated, "And the gun fell, when the gun fell, I picked it up and I turned and I just ran."

Upon seeing the pistol, Officer A yelled, "[H]e's got a gun." The altercation continued. At one point during the altercation, as Officer A moved toward the Subject, he fell to the ground and quickly stood up. According to Officer A, while he was on the ground, an unknown person whom they were fighting with yelled, "Shoot them!" According to Witness C, he did not hear anything said about a gun. According to Witness D, he did not hear anyone say anything about a gun and did not see anyone with a gun.

According to Officer A, while he was on the ground, the Subject pointed the pistol at him. Officer A also stated that the Subject removed the pistol from his right front pants pocket. The security camera did not definitively document the location from where the Subject removed his pistol or whether the Subject pointed the pistol at Officer A while he was on the ground.

Meanwhile, as the altercation continued, according to Officers B and C, they were now conducting patrol activities in the area where the bar was located.

**Note:** Based on the time-stamps of the bar security videos, approximately 20 minutes passed between the time Officer A and his friends were dropped off and the time the OIS occurred. During this time, Officer A and

his companions stood outside on the sidewalk in the area between the bar and the restaurant. Also during this time period, Officer A made seven phone calls to on-duty police officers, including Officers B, C, and D. Officer D also stated that there were two calls placed to him from Officer B between the time they received the calls from Officer A and the time they arrived at the scene of the OIS.

During much of the video provided by Cameras 2 and 3, Officer A, while using his cell phone, appeared to be monitoring the activity of the subjects in the rear parking lot of the restaurant, where he had been involved in the verbal altercation. On Camera 3, Officer A and Witness C can be seen walking in the roadway, up to the entrance to the parking lot at the restaurant. Both subjects looked into the lot and then turned around, returning to the corner. Officer A lowered his cell phone, and approximately 50 seconds later, as he and his companions stood across the street from the restaurant parking lot, they were confronted by subjects who had walked over from that parking lot. Within seconds, a physical fight broke out between the two parties.

According to Officer B, he has had previous conversations with security personnel at the bar. During those conversations, Officer B received information and complaints regarding gang activity at the bar, at the restaurant, and in the immediate area.

According to Officers B and C, they were driving in the area when Officer B observed the fight that was in progress on the street. Officer B alerted Officer C of his observation. Officer C immediately negotiated a right turn, which caused the police vehicle headlights to illuminate the group involved in the altercation. As the police vehicle's headlights illuminated the group, Officer A pushed the Subject, which caused the Subject to step backward.

At this time, Officer C stopped the police vehicle in the roadway, at an approximately 30-degree angle to the group. As the Subject moved backward, he removed his right hand from his right front pants pocket area, while holding a pistol that was pointed downward. Officer B exited the vehicle and stood near the open right front passenger door. Officer B immediately unholstered his pistol and held it in a two-handed, low ready grip, with his finger along the frame. Officer B yelled, "Gun, gun, gun."

According to Officer B, once the Subject was pushed backwards, he observed the Subject holding a pistol in his right hand and believed it was pointed in the direction of the fighting group. With the Subject holding the pistol in his right hand and his elbow in a 90-degree angle, per Officer B, the Subject began to turn his upper torso to his right, in Officer B's direction. According to Officer B, as the Subject turned his upper torso, the pistol in his hand began to be pointed in his direction as well. Officer B then aligned his sights on the Subject's torso, placed his finger on the trigger and discharged one round from a distance of 36 feet, firing over the roof of the police vehicle. Officer C, who was exiting the police vehicle, flinched, ducked his head, looked to his right, and placed

his left hand over his left ear, as he turned his body, in a semi-circle, to his right. Regarding his decision to shoot, Officer B stated, "I see him moving towards his - - looking to - - looking over his right shoulder. And at which time I believe he was - - you know, it was eminent (*sic*) that he was going to take rounds either at me or at people that he was already pointing the gun towards. At which point I raised my gun to acquire a sight picture. And believing that he was getting ready to fire at me - - shoot at me, I fired one round toward his direction."

In the video footage from Camera 3, the Subject is seen holding the gun in his right hand as he turned and faced the arriving officers. The Subject is seen keeping the gun pointed downward and appears to attempt to conceal it behind his right leg as he turned to his right. When Officer C had not yet stepped out of his police vehicle, the Subject began to run from the officers and had already run several steps laterally away from the officers, down the street, when Officer B fired a round at him over the roof of the police vehicle. Simultaneously, Officer C is seen stepping out of the driver's position and beginning to stand up, almost directly into Officer B's line of fire, as Officer B fired the round. Officer C immediately reached up to his left ear as he spun to his right. He momentarily dropped his left hand and then reached back up to his left ear. He turned a complete circle to the right before he realized his partner Officer B had gone in foot pursuit of the Subject.

Officer C stated that the Subject was pointing the gun toward the group of people that were fighting; the Subject then turned to his right, toward the officers and continued to turn to face toward the street. Officer C also stated that he unholstered his pistol upon exiting the police vehicle. Detectives reviewed the bar security video and observed that Officer C did not unholster his pistol when he exited the car as he had stated during his interview.

Meanwhile, Officer A stated that he was on one knee, with his back toward the street, when he heard one gunshot. He claimed he did not see Officers B and C arrive and did not know that the gunshot he heard was from an Officer-Involved Shooting (OIS).

In the video from Camera 3, Officer A is seen illuminated by the police vehicle's head lights as the officers arrive. As the police vehicle comes to a stop, Officer A is seen moving forward toward the Subject, reaching out and pushing him away. Officer A initially turned to his left away from the arriving officers, and then turned back to his right, and was actually facing Officer B as the officer fired the round toward the Subject. As the officers went in foot pursuit of the Subject, Officer A is seen taking several steps toward their direction and can be seen looking toward the officers and the police vehicle as the officers began to run after the Subject.

Witness C stated that he heard the gunshot prior to the officers' arrival, and that the gunshot emanated from the sidewalk area. Witness D stated he heard two gunshots.

Witness F was one of the subjects from the restaurant that had been involved in the fight. He stated that he believed Officer B fired two rounds and shot two people who were fighting.

The round fired by Officer B did not appear to have any effect on the Subject as he ran away from the fight accompanied by an unidentified male.

As Officer C followed his partner, he unholstered his police radio to broadcast the foot pursuit; however, as he passed the front entrance to the bar, Officer C inadvertently dropped his radio, which slid along the concrete sidewalk and came to rest in the gutter adjacent to a parked vehicle. Officer C stopped briefly to retrieve his radio as Officer B continued to run after the Subject. Upon recovering his radio, he observed Officer B running, about to turn the corner into a gas station. Officer C broadcast, "Help! Shots fired! We're in foot pursuit[.]" Regarding his decision to pursue the Subject, Officer B stated, "[T]he whole plan is keep our distance and just track the individual."

According to Officer B, as the Subject ran, he ran with his hands to his side, in a running motion, which allowed Officer B to see the pistol in the Subject's hand. At one point, the Subject placed his hands in his front waistband area where Officer B could no longer see the Subject's pistol. According to Officer B, as the Subject ran, he turned his upper torso to the right and looked over his right shoulder, in Officer B's direction. Officer B then heard what he believed to be a gunshot and opined that the Subject had shot at him. Officer B indicated he heard a loud pop and believed that the Subject took a shot at him. The Subject's pistol was later inspected and it was documented that the hammer was in the down position and it was loaded to capacity with six live rounds of .38 caliber ammunition, indicating that it had not been fired during this incident.

The video from Camera 1 covers the area of the sidewalk directly in front of the bar. In the video, the unidentified male and the Subject can be seen running with Officers B and C following. The Subject can be seen running with a handgun in his right hand.

As Officer B passed the front of the bar, it appears that his flashlight falls from him, striking the sidewalk and sliding to a stop. Within 1 second of this, Officer C enters the video and can be seen dropping his handheld radio, which strikes the sidewalk and then slides into the gutter. Officer C can be seen dropping to his hands and knees to recover his radio before getting back up to re-join the pursuit. There is no point in the video where the Subject can be seen appearing to look over his shoulder. There is a point, just after the flashlight falls, where the unidentified suspect, running in front of the Subject, can be seen looking back over his left shoulder.

The Subject and the unidentified male ran into the gas station located near the bar. According to Officer B, he continued to pursue the subjects, activated his holstered radio and yelled that he was in foot pursuit. The unidentified male ran between the gas pumps toward the corner of the gas station, then turned and ran out of sight. Simultaneously, the Subject ran around the end of the gas pump island, transitioned the revolver from his right hand to his left hand, making the transition in front of his torso

and discarded the revolver in a planter located at the end of the gas pump island as he continued to run past the gas pumps. According to Officer B, he did not see the Subject discard the revolver in the planter.

Security camera footage recovered from the gas station documented the Subject discarding the revolver in the planter and the subsequent officer-involved shooting.

There were 12 security cameras from the gas station that provided video depicting different portions of the foot pursuit and OIS. Video from Cameras numbered 10, 12, 14, 18, and 21 show the Subject as he runs, switching the gun from his right hand to his left and then dropping it in a planter at the end of one of the gas pump bays. The video from Camera 21 shows the Subject entering the gas station property. It also shows Officer B entering the gas station property approximately 3 seconds later. In one frame, both Officer B and the Subject are seen in the same frame, and the Subject can be seen holding the gun in his right hand. Prior to dropping the gun in the planter, the Subject fanned out to the right, as the unidentified subject fanned out to the left.

The Subject stated that he was running toward the gas station, when another police vehicle arrived, which caused him to change his direction of travel. Detectives reviewed the gas station security video and noted that there were no police vehicles visible in the video.

As the Subject ran to an area of parked vehicles at one side of the gas station property, he attempted to run between the vehicles and the building; however, there was an unidentified male dressed in a security guard uniform sitting on the hood of a parked vehicle, smoking a cigarette.

The presence of the security guard appeared to startle the Subject as he stopped and turned to his left. Simultaneously, Officer B ran between the gas pumps toward the parked vehicles. When the Subject stopped, and turned to his left, he momentarily faced in Officer B's direction, before running in the direction of the front doors to the business.

According to Officer B, he could not recall seeing the location of the Subject's hands when the Subject turned in his direction; however, due to the Subject's sudden movements, Officer B believed that the Subject was going to shoot at him. At that time, Officer B held his pistol in his right hand as he aligned his sights on the Subject's upper torso and discharged one round, from a distance of approximately 31 feet. Regarding his decision to discharge his second round, Officer B stated, "at that point I believed that he was getting ready to take another shot at me. At which point, you know, being in fear for my life and fearing for my partner's life, I took another round - - shot another round toward his direction." The round did not appear to have any effect on the Subject as he continued running. According to Officer B, he could not remember if he had given any commands to the Subject prior to the OIS.

According to Officer C, he was mid-block and had not entered the gas station property when he heard the gunshot.

The male wearing the security officer uniform was not affiliated with the gas station. The security officer left the gas station parking lot prior to the arrival of responding officers and was not identified or interviewed.

Surveillance camera video from gas station depicts the Subject's hands moving back and forth, alongside his body, as in a running motion at the time of the OIS.

In the video from Camera 19, the Subject can be seen running toward the security guard and upon seeing him, he stopped abruptly, and turned to his left, where he is suddenly facing Officer B. As the Subject turned to his left and then ran away from Officer B, both of his hands were in view and he did not appear to be holding anything with either hand.

After the gunshot, the Subject then ran through the gas station, back toward the street he had run from, as Officer B placed his pistol into a two-hand grip.

Meanwhile, Officer C entered the gas station, unholstered his pistol and held it in a one-hand, low ready position, with his finger along the frame and his police radio in his left hand. Officer C ran west to contain the Subject. Officer C broadcast that the officers were in foot pursuit and provided a description of the Subject. According to Officer C, when he entered the gas station, the Subject was bent at his waist in about a 45-degree angle with his right arm tucked close into his side and his right hand pointing in his direction. According to Officer C, he saw Officer B out of his peripheral vision and did not believe that there was a cross fire concern.

According to Officer B, he still could not see the Subject's hands and believed them to be in his front waistband area. Additionally, according to Officer B, the Subject looked in his direction, and he believed that the Subject was attempting to acquire a target to shoot at him. At this time, Officer B aligned his sights on the Subject's torso and discharged a third round from a distance of approximately 31 feet.

In the video from Camera 20, Officer B can be seen firing a round at the Subject as he is running away from the officer. The Subject can be seen pumping his arms as he ran, with his hands visible. As the Subject continued to run away from Officer B, Officer B can be seen tracking the Subject as he shifted into his two-handed grip and fired an additional round at the Subject.

The Subject placed his left hand on his lower back area as the bullet struck him. As the Subject continued to run, Officer B held his pistol in a two-handed grip, with his finger along the frame, in a low-ready position, as he and Officer C tracked the Subject. Upon the Subject reaching the side of the gas pump island, he fell to the ground.



Officer B provided cover, holding his pistol in a two-handed, low ready position, as Officer C holstered his pistol and radio. Officer C approached the Subject, placed his right knee on the Subject's lower back area and utilized his body weight to control the Subject's movement. Officer C took a firm grip of the Subject's right wrist, with his right hand, a firm grip of the Subject's left wrist with his left hand and guided the Subject's hands to his lower back. Officer C transitioned to a one-handed firm grip of the Subject's hands, as he retrieved his handcuffs from his belt with his right hand. Officer C held the handcuffs in a pistol grip in his right hand, as he placed a cuff on the Subject's right wrist, followed with the cuff on his left wrist, completing the handcuffing. Officer C conducted a pat down search of the Subject, but did not locate any weapons. Officer B broadcast their location and that the suspect was in custody.

According to Officer B, he and Officer C did not communicate prior to placing handcuffs onto the Subject; however, Officer C stated that officers did communicate a plan to arrest the Subject.

Officer B requested an RA for the Subject. In response to the help call and foot pursuit, additional officers responded to the area. Upon his arrival, according to Officer E, he observed the Subject, handcuffed and lying on the ground. Officer B directed Officer E to conduct a search of the gas station for the Subject's revolver. During the search, Officer E located the revolver in the planter near the gas pumps on the side of the gas pump island. Officer E stood guard at that position without recovering the pistol.

Regarding the search for the weapon, Officer B stated, "I told them start checking the area, at which point [they] located a gun."

According to Officer E, Officer B's search directions were specific to the area around the planter in which the revolver was found. Officer B advised Officer E to check around the area of a tree/planter because he believed that the Subject had tossed a weapon. Officer E observed a blue steel revolver. In an effort to confirm the search parameters given by Officer B, Officer E was asked, "[D]id he say, 'Check the planter?' Did he just give you a general area to check in?" Officer E replied, "I mean, I don't remember if he said check the planter immediately behind me, or if he signaled me, but I knew, like, what he was talking about because it was just behind us [...] [I]t was the only one that's in the immediate area that, you know, that's the first place I checked."

In response to the help call and foot pursuit, Officers D and F responded to the location. Officer B directed Officers D and F to secure their police vehicle. Officers D and F drove to the location of the original OIS, parked in the roadway behind Officer B's vehicle, and secured it.

According to Officer F, he heard Officers B and C's earlier radio broadcast that multiple subjects had fled on foot. While at the location of the original OIS, the officers saw Witness F exit the rear parking lot of the restaurant. Officer F stated Witness F was sweating, had a shaved head and tattoos, which caused Officer F to form the opinion that Witness F was possibly involved in the incident. Officers D and F detained Witness

F as he walked. At that time, there were no other individuals in the immediate area. Officers D and F's arrival on scene and the contact and detention of Witness F was captured on surveillance cameras at the bar.

Officer D directed Witness F to face the wall, place his hands behind his head, and to go down to a kneeling position. Witness F complied with Officer D's commands.

Officer D stepped behind Witness F as he removed his handcuffs from his belt with his right hand and held the cuffs in a pistol grip position. Officer F stood in a position of cover to the right of Officer D.

Officer D took a firm grip of Witness F's fingers with his left hand as he placed a cuff on Witness F's right wrist. Officer D maintained a grip on the handcuff on Witness F's right wrist, as he grabbed Witness F's left wrist with his left hand. As Officer D guided Witness F's hands down behind his back to complete cuffing, Witness F leaned to his left, causing himself to be off balance and to tense up.

Officer F perceived Witness F's actions as possible resistance and stepped forward to grab Witness F's right arm to assist with cuffing. According to Officer F, when he took a firm grip of Witness F's arm, Witness F did not resist or pull away.

Simultaneously, Officer A approached the officers' location on foot. Officer A then reached past Officer F with his left hand, placed it on Witness F's forehead, and pulled Witness F's head backward. Officer D looked directly toward Officer A, and stated, "We have this." Officer A then released Witness F's head, walked away and left the location.

Prior to his interview, Officer A viewed segments of the security video footage from the bar. When investigators inquired about his actions depicted in the video, Officer A stated that he did not remember putting hands on Witness F, nor did he recognize Witness F and did not believe that he had any prior contact with him.

During the interview, Officer D stated that he recognized the person pulling on Witness F to be Officer A and was surprised to see him there. Officer D stated that he was focused on the OIS incident and did not know where Officer A went after he walked away or that Officer A was involved in the incident.

Officer F conducted a pat-down search of Witness F for weapons and did not locate any. Meanwhile, Officer D then turned his attention to directing responding officers to perimeter containment positions.

The actions of Officers D and F were obtained from the bar surveillance video.

Officer D said that because Witness F was simply handcuffed for the detention, he didn't believe the contact with Witness F constituted a use of force.

Officers completed a Field Identification (FI) Card and conducted a wants and warrant check on Witness F. The computer records query revealed that Witness F was on parole and there were no arrest warrants for him. Witness F was subsequently released and he walked away from the area.

Sergeant A responded to the help call and, upon arriving at the gas station, separated Officers B and C. Sergeant A contacted CD and confirmed that a Rescue Ambulance was responding to the scene for the Subject. Sergeant A isolated Officer B and obtained a Public Safety Statement (PSS). Sergeant A admonished Officer B to not discuss the incident with anyone other than legal counsel.

Both Officers B and C were subsequently transported to the station, where they were both monitored by supervisors.

Los Angeles Fire Department personnel arrived and administered medical treatment to the Subject for a single gunshot wound. The Subject was then transported to the hospital.

Real-Time Analysis and Critical Response (RACR) Division was notified of the Categorical Use of Force. Real-Time Analysis and then notified Force Investigation Division (FID) that an OIS had occurred.

Force Investigation Division Detectives reviewed all documents and circumstances surrounding the separation, monitoring and the admonition not to discuss the incident prior to the officers being interviewed by FID investigators. All Department protocols concerning a Categorical Use of Force (CUOF) investigation were complied with and appropriately 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). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers' benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC, made the following findings:

#### **A. Tactics**

The BOPC found Officers A and B's tactics to warrant Administrative Disapproval. The BOPC found Officers C, D, and F's tactics to warrant a Tactical Debrief.

## **B. Drawing/Exhibiting**

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

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

The BOPC found Officer A's non-lethal use of force to be out of policy. The BOPC found Officers D and F's non-lethal use of force to be in policy.

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

The BOPC found Officer B's lethal use of force to be out of policy.

## **Basis for Findings**

### **Detention**

- While on patrol, the officers observed a group of men fighting and stopped to investigate. After stopping, the officers observed a subject standing away from the group, holding a handgun and pointing it toward the crowd, resulting in an OIS and an ensuing foot pursuit of the armed suspect. The officers' actions were appropriate and within Department policies and procedures.

### **A. Tactics**

- 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.

- **Tactical De-Escalation**

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.

In this case, the officers were faced with a rapidly unfolding tactical situation when the Subject turned towards them with a handgun. Perceiving that he was faced with an imminent threat of serious bodily injury or death, Officer B utilized lethal force to stop the perceived threat.

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

- 1. Tactical Vehicle Deployment**

The positioning of the police vehicle when conducting a pedestrian stop is critical in order to provide the officers a tactical advantage should the incident escalate.

In this case, Officer C was faced with a rapidly unfolding tactical situation whereby his initial focus was on the group fight. As he stopped and angled the vehicle to illuminate the crowd, he was confronted with a suspect who was standing apart from the crowd, armed with a handgun.

Officers should avoid tunnel vision and consider deploying their vehicle further away from any group that they believe may be involved in criminal activity. This would allow them to assess the circumstances in order to determine the best tactical approach.

Based upon the totality of the circumstances, the BOPC determined that although identified as an area for improvement, Officer C's actions were reasonable and not a substantial deviation from approved Department tactical training.

## **2. Code-Six**

Officers B and C did not advise CD of their Code-Six location before exiting their police vehicle.

The purpose of going Code-Six is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

Officers are required to balance officer safety considerations against the need to make a timely Code-Six broadcast. Officers must be afforded some discretion in determining the appropriate time to make their broadcast. Department tactical training allows for officer safety concerns to take precedence over making an immediate Code-Six broadcast.

In this case, as the officers' vehicle came to a stop, the officers' attention was directed to the immediate threat of a suspect armed with a handgun.

Based upon the totality of the circumstances, the BOPC determined that although identified as an area for improvement, Officers B and Cs' actions were reasonable and not a substantial deviation from approved Department tactical training.

## **3. Crossfire (Substantial Deviation – Officer B)**

Officer B fired his first round at the Subject while Officer C was in his foreground.

In this case, Officer B believed he fired his round over the hood of the police vehicle. However, surveillance video captured that Officer B fired his round over the roof of the police vehicle as Officer C was stepping out of the driver's door. The round narrowly missed Officer C, who grabbed his left ear and spun around after hearing the shot.

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

#### **4. Separation/Pursuing Armed Suspects (Substantial Deviation – Officer B)**

Officer B separated from Officer C while in foot pursuit of an armed suspect.

Containment of an armed suspect demands optimal situational awareness. The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, thus ensuring a coordinated effort and successful resolution.

In this case, Officer B stated that he and Officer C were pursuing the Subject in containment mode. However, Officer B continued in foot pursuit of the Subject after Officer C dropped his radio, resulting in the officers' inability to maintain sight of each other.

As Officer B closed the distance between himself and the armed suspect, he was presented with a possible deadly threat, without the presence of a partner to render immediate aid.

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

#### **5. Off-Duty Tactics (Substantial Deviation – Officer A)**

While off-duty, Officer A became involved in police activity by attempting to assist Officers D and F with taking a suspect into custody.

In this case, there were sufficient uniform personnel present to handle the situation. Officer A intervened and became involved in a non-lethal use of force with a suspect who was part of a street fight in which Officer A was also involved.

Officer A should have assumed the role of being a good witness and provided his assistance by remaining at scene and providing pertinent information to the uniformed officers. Additionally, he should have informed the officers that he been involved in the fight and witnessed the OIS.

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

- In conducting an objective assessment of this case, the BOPC found that the tactics utilized by Officers A and B substantially, and unjustifiably, deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

Additionally, the BOPC found that the tactics utilized by Officers C, D, and F did not substantially deviate from approved Department tactical training, thus warranting a finding of Tactical Debrief.

## **B. Drawing/Exhibiting**

- According to Officer B, as he was exiting the police vehicle, he observed the Subject get pushed back and then produce a revolver. Believing that the situation could rise to the use of deadly force, he immediately drew his service pistol.

According to Officer C, he observed 10 to 15 subjects fighting next to the bar and angled the car to illuminate them with the headlights. He then observed the Subject holding a firearm and pointing it at a citizen. Believing that the situation may escalate to deadly force, he exited the police vehicle and drew his service pistol.

In addition to the above listed employees, there were additional personnel that either drew or exhibited a firearm during the incident. This drawing and exhibiting of a firearm was appropriate and requires no specific findings or action in regard to these officers.

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

Therefore, the BOPC found Officers B and C's drawing and exhibiting of a firearm to be in policy.

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

- **Officer D** – Firm grip, body weight, and physical force.

According to Officer D, as he was handcuffing Witness F, Witness F tensed up and turned a little bit to the left. He did not know if Witness F was trying to spin on him, and then Witness F kind of went limp. He then completed the handcuffing of Witness F.

- **Officer F** – Firm grip.

According to Officer F, he observed that Officer D was having trouble with Witness F. He then approached Witness F and utilized a firm grip with both of his hands to control Witness F's right wrist and complete the handcuffing Witness F.

- **Officer A – Physical force.**

According to Officer A, he did not recall using any force against Witness F. However, video footage obtained from the bar captured Officer A placing his left hand on Witness F's forehead, then pulling him backwards and to his right.

- Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers D and F, while faced with similar circumstances, would believe this same application of non-lethal force would be reasonable to overcome Witness F's resistance.

Therefore, the BOPC found Officers D and F's non-lethal use of force to be objectively reasonable and in policy.

Additionally, based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would not believe his application of non-lethal force was reasonable to overcome Witness F's resistance.

Therefore, the BOPC found Officer A's non-lethal use of force to not be objectively reasonable and out of policy.

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

- **Officer B – three rounds in three sequences of fire.**

**First Sequence** – One round from an approximate distance of 36 feet.

According to Officer B, he observed the Subject point his handgun at the crowd and then looked to his right toward him. He believed that the Subject was either going to shoot him or the people in the crowd. In fear for his life and the lives of the people in the area, he fired one round at the Subject to stop his actions.

**Second Sequence** – One round from an approximate distance of 31 feet.

According to Officer B, as he followed the Subject through the gas station, the Subject stopped, turned, and faced him. He believed the Subject was still armed with his handgun and was going to shoot him. In fear for his life, he fired one round at the Subject to stop his actions.

**Third Sequence** – One round from an approximate distance of 31 feet.



According to Officer B, the Subject looked back at him as he ran away. Officer B couldn't see his hands and believed that the Subject was still armed with a handgun. Believing that the Subject was attempting to acquire a target and was going to shoot another round at him, Officer B fired a third round at the Subject.

Based on the preponderance of the evidence, the BOPC determined that when Officer B fired his first sequence, the Subject was not facing him and was attempting to flee the location.

Additionally, the BOPC determined that when Officer B fired his second and third sequences of fire, he did not observe the Subject to be armed with a handgun.

Thus, the BOPC determined that an officer with similar training and experience as Officer B, would not reasonably believe that the Subject's actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would not be objectively reasonable.

Therefore, the BOPC found Officer B's lethal use of force to be out of policy.