

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

OFFICER-INVOLVED SHOOTING – 083-13

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Southwest	09/11/13		
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Officer(s) Involved in Use of Force	Length of Service
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Officer C	11 years, 2 months
Officer D	1 year, 11 months
Officer E	4 years, 1 month

Reason for Police Contact

Officer E, along with numerous other officers, responded to a report of a shooting that had just occurred. As the subjects were being given commands, Officer became involved in an officer-involved shooting.

Subject(s)	Deceased ()	Wounded ()	Non-Hit (X)
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Subject 1: Male, 51 years of age.			
Subject 2: Female, 45 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 August 26, 2014.

Incident Summary

Subjects 1 and 2 became involved in a verbal dispute in the parking lot of a business. The verbal dispute quickly escalated to a physical altercation as Subjects 1 and 2 began to push one another. Witness A, a customer inside the business, looked out through the front window and observed Subjects 1 and 2 hit one another and fall to the ground. Witness A then observed the subjects wrestle on the ground near the passenger door of a parked silver vehicle.

Note: Many of the events noted in this report were captured on numerous video tape surveillance cameras at the business as well as the Digital In-Car Video Systems (DICVS), located in the police vehicle. At the conclusion of this incident, both Subjects 1 and 2 were arrested and admitted to being under the influence of alcohol.

Witness B, who was seated in the driver's side of the above-described vehicle, observed Subject 2 sit up and produce a pistol from her backpack.¹ Witness B immediately telephoned his wife (Witness C) who was inside the business. As Witness B instructed his wife to contact 911, he observed Subject 2 point the pistol in the direction of Subject 1, who was also seated on the ground. Subject 1 immediately grabbed Subject 2's hand, and as he moved the pistol upwards and away from his body, the pistol discharged. Both parties arose, and Subject 1 began to walk toward the business, with Subject 2 following behind.

Witness C contacted Communications Division (CD) and stated that a male and female were in the parking lot of the business with a pistol, and a round had been fired. Witness C then locked herself in the office of the business. Witness A, who remained inside the business, also contacted CD and reported that the Subjects entered the business and were in possession of a gun.

Note: CD issued an initial broadcast that a shooting had just occurred and further advised that the subjects were in the parking lot of the business. A separate broadcast was made describing the incident as a shooting in progress.

As Subjects 1 and 2 entered the front door of the business, located on the north side of the building, they walked southbound then eastbound, stopping at the restroom which was located on the northeast corner of the business.

Simultaneously, uniformed Police Officers A and B responded to the radio call and deployed on the east side of the building.

¹ Upon review of surveillance video, it was determined the backpack was actually a purse.

While still seated in his police vehicle, Officer A looked through the east-facing windows of the business and observed Subject 1 holding the pistol in his right hand and facing Subject 2, whose back was against the interior north wall. As he exited his police vehicle, Officer A moved behind his vehicle as he observed Subject 1 place the barrel of the pistol under the left side of Subject 2's chin.

Note: Officer A broadcast that he observed a male [Subject 1] inside the business, armed with a gun and holding the weapon to the head of Subject 2 and requested a back-up. Numerous officers ultimately responded to this incident.

Subjects 1 and 2 exited the north side of the building, and assisting officers immediately commanded them to raise their hands. As Subjects 1 and 2 did so, Air Support Division (ASD) arrived overhead and illuminated the parking lot.

Assisting officers deployed along the driver's side of a white vehicle, while other officers deployed behind the driver's side of the silver vehicle.

Simultaneously, uniformed Sergeant A arrived on scene and parked his vehicle facing the north parking lot of the business. Sergeant A exited and began to coordinate the staging of responding units.

Note: Sergeant A's police vehicle was equipped with a DICVS which captured both audio and video of the OIS.

After initially complying with the officers' commands to raise his hands, Subject 1 kissed Subject 2 and then lowered his hands as the two embraced. The officers continued with their commands and Subject 1 began to wave his arms as he addressed the officers as "pigs." Subject 1 told the officers, "Fuck you, go away," and then inquired, "What are you going to do, like shoot me?"

Other assisting officers arrived on scene and entered the north parking lot. Some deployed along the driver's side of the white vehicle, while others deployed behind the driver's side of the silver vehicle, joining other officers.

West of the parking lot and separated by a wrought iron fence was a north/south driveway which connected to a separate parking area. Deployed on the west side of the fence was Officer D and other assisting officers. From behind the fence, they were afforded an unobstructed view of both Subjects.

Due to Subject 1's failure to comply and believing his hugging and kissing of Subject 2 might be a goodbye, Officer D opined that the incident might constitute a "suicide by cop" scenario. Not observing a less-lethal weapon deployed, Officer D holstered his pistol and retrieved his beanbag shotgun from the trunk of his police vehicle. As he responded back to his original position in the north/south driveway, he heard officers inside the north parking lot request less-lethal munitions. Officer D entered the north

parking lot and took a kneeling position next to the officers deployed at the white vehicle.

Officer C, along with other officers, arrived at the scene and immediately responded to the northwest corner. Officer C unholstered his weapon immediately upon arriving on scene due to the nature of the call and the possibility the situation may escalate to deadly force.

Officer C deployed behind a pickup truck that was parked along the north curb and attempted to obtain a view of the Subjects' actions. Officer C positioned himself next to Officer F, who was armed with a police rifle and had deployed moments earlier.

Officer C, unable to obtain a clear view of Subject 1, crossed to the south side of the street. Officer C entered the north parking lot and deployed behind the driver's side of the silver vehicle, joining the other officers. Officer C peered over the roof of the silver vehicle and successfully obtained a clear line of sight on both Subjects as they were standing outside of the business. Officer C immediately focused on and attempted to locate Subject 1's hands, checking for a firearm. Officer C believed he heard Subject 1 state, "I'm going to kill her," as numerous officers ordered Subject 1 to, "Drop the gun on the ground, lay down on the ground," and, "step away".

Officer C continued to assess the situation and observed both Subjects waving their hands dramatically. He then saw what appeared to him to be a firearm on the ground, either behind or next to Subject 1.

Note: Video evidence showed that there was no firearm on the ground at this point in the incident.

Shortly thereafter, Officer E, entered the north parking lot and deployed to the rear driver's side of the silver vehicle. In addition, Officer F crossed to the south side of the street and deployed on the sidewalk, directly behind Officer C's position, but separated by a wrought iron fence and bushes. After directing responding units, Sergeant A began to deploy to the north parking lot, stopping at the mouth of the driveway, a few feet east of Officer F.

Subjects 1 and 2 stopped their embrace, and Subject 2 began to comply with the officers' commands by placing her hands in the air as she went down to her knees. Officers continued to direct Subject 1 to go to the ground and advised him he would be shot with the beanbag shotgun if he failed to comply. Subject 1 continued to ignore the officers' repeated commands.

With his hands out to his sides, Subject 1 took approximately four to five steps in a northwesterly direction toward the officers deployed at the white vehicle. Officer D, who believed Subject 1 was possibly armed, and was trying to prevent a deadly force situation from occurring, given his belief that Subject 1 was challenging the group of officers to fight, fired one less-lethal sock round from his beanbag shotgun, aiming at

Subject 1's center body mass. The sock round struck Subject 1 in the abdominal area, and Subject 1 immediately reacted by bending at the waist and clutching his abdomen.

Simultaneously, according to Officer C, Subject 1 made a sweeping motion toward what Officer C perceived to be the firearm, such that Officer C believed that he was going to pick it up and take Subject 2 hostage, shoot her or shoot at the officers. From his position behind the driver's side of the silver vehicle, Officer C fired one round from his pistol at Subject 1. Subject 1, with his hands at his abdominal area, then went down to the ground and laid down on his right side.

Note: Officer C's round missed Subject 1 and struck a window frame located west of the front door to the business.

Sergeant B, who had arrived at the scene moments prior to the OIS, was approaching the north parking lot with Sergeant C. Sergeant B heard a "single pop sound," and notified CD that shots had been fired. In response, CD initiated a "Shots fired, officer needs help" broadcast.

Note: Sergeant C was later advised by unknown officers at the scene that there had been no OIS, only a beanbag deployment.

Sergeant A heard a gunshot and believed only the beanbag shotgun had been discharged. Sergeant A entered the north parking lot and approached the officers near the white vehicle as Subject 2 crawled to Subject 1. Meanwhile Sergeant C, having observed Sergeant A already in the parking lot, redirected his attention to the officers on the perimeter and instructed them to holster their weapons in an effort to prevent any crossfire situations. As officers continued to give commands to Subjects 1 and 2 to show their hands and to lie face down, Sergeant A began to assemble a contact team, calling for two additional officers and a TASER.

Officers C and E, along with other officers, immediately deployed forward, joining Sergeant A and officers at the white vehicle.

Officer E immediately holstered his pistol and deployed his TASER. Sergeant A believed Subject 1 was armed and continued to monitor his actions while also providing assignments to the officers at the scene. Subject 1 was in a seated position facing the officers as Subject 2 lay across his lap with her back to them. The two continued to embrace each other and refused to comply with repeated commands to separate and put their hands up.

Note: Subject 2 removed the pistol from her front waistband area and placed it on the ground behind Subject 1. Additionally, from behind the wrought iron fence, assisting officers observed Subject 2's actions and verbally notified the contact team. Shortly thereafter, an unknown officer issued a "Code-Four, sufficient units" broadcast.

As Subjects 1 and 2 continued to refuse to separate and show their hands, Sergeant A verified his less-lethal options were present. As Sergeant A readied his team's approach, assisting officers entered the north parking lot and joined the contact team.

Note: Subject 1 picked up the pistol and placed it within his waistband area. An assisting officer verbally notified the surrounding officers that Subject 1 was now armed.

Sergeant A, having been advised that Subject 1 was armed, feared he may try to stand back up and in an effort to prevent him from accessing the weapon, authorized the use of less-lethal and initiated the approach of the contact team.

As officers neared Subjects 1 and 2's position, they ordered them to separate and show their hands but neither complied. Officer E, observing Subject 1's hands at his waistband area aimed at his upper front torso area, immediately fired his TASER. The five-second burst from the TASER momentarily incapacitated both Subject 1 and 2. Subject 1 lay flat on his back and Subject 2 was on her stomach, beside Subject 1, with her left arm across his abdomen.

Note: One of the TASER darts pierced Subject 1's outer right lower leg, while the other struck Subject 2's left arm. Although neither was struck with both darts, since Subjects 1 and 2 were in contact with each other, the circuit was completed and both experienced the electrical current.

Officers again ordered Subjects 1 and 2 to separate and show their hands, however they both failed to comply. As the contact team continued their approach, Officer E observed the pistol lying on the ground between Subjects 1 and 2, and in an attempt to prevent them from arming themselves, activated the TASER a second time.

Immediately following the second activation, assisting officers took control of Subject 2's arms, separated her from Subject 1 and handcuffed her without further incident. Officer G, who was nearest Subject 1's left side, observed a pistol lying on the ground next to Subject 1's left leg. Officer G feared for the safety of his fellow officers and to get it away from the officers who were going hands on, reached down and recovered the pistol. Assisting officers then moved forward, took control of Subject 1's arms, rolled him onto his abdomen and handcuffed him without incident.

Note: Captain A requested a Rescue Ambulance (RA) to respond.

Officer G, unaware an OIS had just occurred, donned gloves and unloaded the pistol. Once rendered safe, Officer G placed the pistol, along with the five live rounds and one expended cartridge case, inside a gun bag and secured it in the trunk of his police vehicle.

Sergeant C entered the north parking lot and began to assemble a search team to clear the business of any additional Subjects or victims. While standing in the north parking

lot near the front doors of the business, Sergeant C called out to officers to assist in the search. Officer C, who was nearest Sergeant C at the time, stated, "Sergeant, I am a shooter." Sergeant C believed that Officer C was volunteering to be the point officer in the search team and directed him, along with several additional officers, to clear the interior of the business.

Note: Officer C advised investigators that when he told Sergeant C he was a shooter, he was informing Sergeant C that he was involved in an OIS.

An RA arrived and treated Subject 1, who complained of abdominal pain, based on where he was shot with the sock round, and for right shin pain from where the TASER dart struck and remained imbedded. Subject 2 had been struck with a TASER dart. Both Subjects were transported to a local hospital for treatment.

During the initial clearing of the business, Officer C advised Officer F that he had fired his pistol. Officer F, realizing the incident was still fluid, continued with his clearing of the interior. When the search team had one last door to breach, Officer C realized there were sufficient resources to complete the search, and having not been separated thus far, separated himself from the search team and exited the business. Utilizing a cell phone, Officer C contacted his immediate supervisor, Lieutenant A, and informed him he had been involved in an OIS. Lieutenant A advised Officer C that he was on the south side of the building and would respond to Officer C's position.

Note: The officers cleared the location, and no further Subjects or evidence were recovered. A broadcast indicating the incident had been resolved was made.

Shortly thereafter, Officer C, who was standing near the east side of the parking lot north of the front doors of the business, advised Officer I that he was involved in an OIS. Upon Officer I's questioning if a supervisor had been notified, Officer C replied in the affirmative.

Officer F, who had also exited the front door of the business, observed a spent shell casing on the ground near the silver vehicle. In an attempt to preserve the OIS scene, he approached Lieutenant B and Sergeant A, to advise them that Officer C had earlier advised him he was involved in an OIS. Lieutenant B, having arrived after the OIS and unaware that an OIS had even occurred, discussed with Sergeant A who would handle the Non-Categorical Use of Force (Non-CUOF) investigation. Lieutenant B immediately ensured that Officer C was separated and instructed Sergeant A to obtain a Public Safety Statement (PSS) from Officer C and to monitor him.

Los Angeles Board of Police Commissioner's 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 unanimously made the following findings.

A. Tactics

The BOPC found Officer C and F's tactics to warrant a finding of Administrative Disapproval. The BOPC found Officers D and E, along with Sergeant A, B and C's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officers C, D, E and F's drawing and exhibiting of a firearm to be in policy.

C. Less Lethal Use of Force

The BOPC found Officers D and E's less-lethal use of force to be in policy.

D. Lethal Use of Force

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

Basis for Findings

A. Tactics

- In its analysis of this incident, the BOPC identified the following tactical considerations:
 1. Back-Up Versus Help Call broadcast

Officer A observed Subject 1 pointing a revolver at Subject 2's head and conducted a back-up request rather than a help call.

Officers are given discretion regarding the appropriate broadcast to conduct based on the ongoing tactical situation. In this circumstance, Officer A perceived that Subject 2's life was in imminent danger; therefore, the situation required the immediate aid of other sworn personnel to the location in order to assist with the preservation of Subject 2 and other individuals' lives within the business. Under these circumstances, which included the comments of the radio call, a help call broadcast was the appropriate option and not a back-up request broadcast.

The BOPC would have preferred that Officer A had made an "Officer Needs Help" broadcast in order to facilitate properly the communication under urgent circumstances to responding units. Nonetheless, the BOPC determined that Officer A's actions did not substantially deviate from approved Department tactical training.

2. Situational Awareness

In this circumstance, arriving officers made a radio broadcast which ensured that all available pertinent information was disseminated to the responding units. Additionally, the broadcast ensured that a detailed description of Subjects 1 and 2, along with verifying that the resources were safely responding to the location, thereby enhancing the operational effectiveness.

Although the philosophy behind a Tactical Debrief is to enhance future performance by discussing areas where improvements could be made, often times discussions pertaining to positive aspects of the incident lead to additional considerations that would be beneficial to future incidents. Therefore, the topic of Situational Awareness will be discussed during the Tactical Debrief.

3. Body Armor/Load Bearing Vests (LBV) – Substantial Deviation, Officers C and F

Officer F, in plainclothes, failed to don body armor during a potentially life-threatening incident involving an armed subject. Additionally, Officer C appropriately donned his LBV over his plainclothes attire; however, he did not have the appropriate markings on the front of his vest to identify himself as a police officer.

Officers C and F were attired in plainclothes during their assignments, when Officer A's back-up request was broadcast. Officer A's broadcast advised involved and responding units that Subject 1 was holding Subject 2 at gunpoint inside the business.

Based on the reported circumstances by CD and officers at the scene, it was clear that this situation could escalate to a deadly force situation. As such, it was the BOPC's expectation where officers in plainclothes responding to a situation that enforcement action may become necessary during a tactical incident don their body armor in order to protect their lives and the safety of others.

During the evaluation of Officer F's actions, the BOPC took into consideration several factors. Officer F knowingly responded to a fellow officer's back-up request involving an armed subject without donning tactical body armor. The investigation was unable to determine if Officer F's body armor was in his vehicle. However, the investigation did reveal Officer F did not don his body armor throughout the entire incident

Based on the totality of the circumstances, the BOPC determined that Officer F should have taken the necessary time to don his vest prior to becoming involved in the incident.

In conclusion, the BOPC found that Officer F's actions substantially deviated from approved Department tactical training without justification, thus his actions warrant a finding of Administrative Disapproval.

Officers are required to display "POLICE" on their LBV to maximize their visible identification while involved in tactical incidents. This ensures that they are identifiable as police officers to other officers and the public in order to avoid compromising the tactical operation. In this circumstance, Officer C was involved in a tactical situation where a subject was armed with a revolver. As a result, Officer C donned his LBV. However, Officer C's LBV did not bear the proper markings on the front of his vest identifying him as a police officer.

In conclusion, the BOPC's expectation is that all sworn personnel are aware of the documented policy related to their safety equipment. In this instance, Officer C did not have the proper law enforcement markings displayed on his LBV to clearly identify him as a police officer to responding units from multiple divisions and community members in the immediate vicinity during a rapidly unfolding tactical incident. Although Officer C donned his vest as required by Department policy during a tactical incident the lack of required law enforcement markings on the front of his LBV was an unjustified and substantial deviation from Department policy.

4. Simultaneous Commands/Tactical Communication

Subjects 1 and 2 exited the north side of the business and walked into the north parking lot. Subsequently, numerous officers issued multiple, simultaneous commands to Subject 1 and 2. Additionally, the Area radio frequency received a large number of broadcasts by personnel at scene and the responding units.

Regarding simultaneous commands, officers must utilize clear and concise commands to ensure a Subject has a clear understanding of the directions being issued. In this instance, the officers were aware of the tactical situation and deployed accordingly. Upon exiting the location, several officers deployed within the business parking lot and gave numerous non-conflicting verbal commands to Subjects 1 and 2. As a result, the commands may have impeded the process of

taking the Subjects into custody. Simultaneous multiple commands typically result in confusion on the parts of all involved in a tactical situation. Multiple commands may also cause an incident to escalate.

It is the expectation of the BOPC that one officer is designated as the person giving direction to the Subject(s) during a life-threatening situation to prevent confusion and increase the likelihood of taking the Subjects into custody in a quick and effective manner. Based on the totality of the circumstances, the BOPC determined that the actions of these officers did not substantially deviate from approved Department tactical training. However, in an effort to enhance future tactical performance, this topic will be addressed during the Tactical Debrief.

Regarding the radio broadcast, officers must attempt to maintain control of an incident and give clear direction for responding resources thus enhancing the tactical operation. In this circumstance, none of the officers mentioned above located in the business north parking lot advised the officers at the scene, including those officers located on the south side of the business, that Subjects 1 and 2 had exited the business to the north parking lot area. Furthermore, any pertinent information updating the Subjects' status that may have been broadcast went unheard due to simultaneous radio broadcasts.

At the same time, several additional officers formed as a rapid deployment contact team and entered the business via the south side of the parking lot under the assumption that an active shooter scenario was taking place inside the location. As a result, several officers entered the location. Prior to making entry into the business, none of the officers broadcast their intentions, thus placing the officers on the contact team and the other officers in the north parking lot at a tactical disadvantage.

Note: Several attempts were made by investigators to identify all the officers mentioned above, and most were identified from video footage. Due to the large number of officers who responded to this scene, coupled with the delay in the knowledge that an OIS occurred, officers at scene that did not appear to be significantly involved in what initially appeared to be a Non-Categorical Use of Force were released from the scene. Therefore, ascertaining the exact location and/or roles of some personnel at the scene could not be accomplished.

In this circumstance, the lack of a broadcast by the contact team placed the other officers located in the north parking lot at a tactical disadvantage by preventing pertinent information from being disseminated to the involved personnel. Such a lack of communication may have hindered the necessary tactical response by the involved personnel and unnecessarily compromise the safety of the involved officers. It is the BOPC's expectation that involved officers in a tactical situation

privy to pertinent information disseminate that information in a timely manner to maximize all officers' response to a life-threatening situation. However, based on how rapidly the action was corrected by the involved officers, the exposure to any safety concerns transpired over a short period of time.

Based on the totality of the circumstances, the BOPC determined that the aforementioned officers in the north business parking lot and IARD contact team officers' actions did not substantially deviate from approved Department tactical training. Although none of these officers received formal findings, in an effort to enhance future tactical performance this topic will be addressed during the Tactical Debrief.

5. Tactical Planning/No Cover/Approaching Armed Subject

Sergeant A developed a tactical plan to approach Subjects 1 and 2 while standing inside the north parking lot without adequate cover and directed other officers into the parking lot to participate in the tactical planning without the benefit of cover from a known armed subject.

Approaching a potentially armed subject, without the benefit of cover, places officers at a tactical disadvantage. In this circumstance, Sergeant A developed a tactical plan to take Subjects 1 and 2 into custody. Sergeant A developed a plan involving less-lethal and lethal force options along with an arrest team for Subjects 1 and 2. Although a portion of the officers that were a part of the contact team remained behind cover, the remaining officers that were directed by Sergeant A into the north parking lot were not afforded any cover during the planning of their approach.

It is the expectation of the BOPC that sergeants and officers be decisive in their actions during a rapidly unfolding life-threatening situation. The BOPC also took into consideration that police work is inherently dangerous and that this is compounded with a non-compliant armed subject. Although, the necessity for the officers to approach two non-complying subjects was inevitable, the involved personnel should have considered the utilization of the remaining cover inside the north parking lot.

The BOPC appreciated that Sergeant A assumed a leadership role during a rapidly unfolding tactical situation. Additionally, the BOPC was aware that Sergeant A was a probationary field sergeant; however, his decision to move the contact team into position with limited cover placed them at a tactical disadvantage.

In conclusion, although it would have been prudent for Sergeant A to ensure that all involved personnel were behind cover during the tactical planning phase and redistributing available resources to increase their advantage while approaching an armed Subject, the BOPC determined that, although Sergeant A's actions

constituted a substantial deviation from approved Department tactical training, it was justified based on the totality of the circumstances. This topic will be discussed during the Tactical Debrief.

6. Cross-Fire

While involved in the clearing of the business, the officers assigned to the IARD contact team inadvertently pointed their weapons at the officers deployed in the north parking lot.

In this circumstance, the business video footage depicted the IARD contact team entering the business from the south side of the building with their service pistols or Police Rifles at a low-ready position and moving northbound approximately midway into the location. Simultaneously, the officers located on the north side of the parking lot were forming a tactical plan to approach Subjects 1 and 2. The video further depicted the IARD contact officers and/or the officers within the north parking lot observing the potential crossfire situation. As a result, the IARD contact officers immediately discontinued their search of the building.

It is the expectation of the BOPC that during a life-threatening situation, such as this incident, that all available resources at scene assist with stopping the deadly or potential actions of a Subject in a safe manner.

The BOPC determined that based on the totality of the circumstances, although the officers' actions deviated from approved Department tactical training, such deviation was not substantial, and corrective action was taken immediately upon discovering the tactical error.

Therefore, the actions by the contact team and the officers in the north parking lot immediately following the OIS were not a substantial deviation of Department tactical training. Although none of these officers received formal findings, the BOPC believes that in an effort to enhance future tactical performance, this topic will be addressed during the Tactical Debrief.

While taking Subjects 1 and 2 into custody, the arrest team created a situation of possible crossfire when they encircled Subject 1 with their weapons drawn or exhibited. In this circumstance, officers handcuffed Subject 2 without further incident, while at the same time, other officers handcuffed Subject 1. Moments later other officers encircled the arrest team and Subject 1.

In reviewing this matter, the BOPC took into consideration the involvement of multiple officers in close proximity of each other, as they were faced with an armed subject, who displayed erratic and unpredictable behavior, and while attempting to achieve a tactical advantage, may have increased the possibility of crossfire becoming a factor. As such, officer discipline during such an incident would be required in this situation in order remain focused on the potential threat,

while balancing individual awareness of their surroundings and that of their fellow officers.

The BOPC determined that the actions of these officers were not a substantial deviation from Department tactical training. Although none of these officers received formal findings, in an effort to enhance future tactical performance this topic will be addressed during the Tactical Debrief.

7. Command and Control

Sergeant A arrived at the location and about three minutes thereafter, Sergeants B and C arrived at the location.

As the first supervisor at scene, Sergeant A approached the northeast side of the building near the front entrance of the north parking lot. According to his vehicle's video camera, Sergeant A immediately began discussing a tactical plan with the officers on the northeast side of the building. Approximately three minutes later, Sergeant A heard the beanbag and/or the service pistol being discharged by Officers C and D, respectively. This caused Sergeant A to redeploy into the north parking lot to evaluate the present situation.

After redeploying to the north parking lot, Sergeant A utilized multiple resources to develop a tactical plan in order to approach the Subjects. The tactical plan included multiple force options by the identified contact team officers, which included their roles and responsibilities. Although the BOPC would have preferred that Sergeant A utilize the cover available within the parking lot and reduced the amount of officers who approached the Subjects, as well as redeploy some of the officers in possession of their Police Rifles to maintain a position of advantage, his collective actions during this incident are what the BOPC expects from field supervisors.

In evaluating Sergeant A's actions, including his command and control of this incident, the BOPC assessed his actions from the time of his arrival until when Subjects 1 and 2 were taken into custody. The BOPC also noted at the time of the incident that Sergeant A was a probationary sergeant with relatively little field experience, although Sergeant A at the time of the incident had over 17 years on the Department.

The BOPC further considered the large number of officers who responded to the location from several different divisions/specialized units in uniform and plainclothes. From the time Sergeant A arrived at scene, he was fully engaged in attempting to resolve this incident and was decisive throughout the incident. Sergeant A took a proactive role in managing a complex scene, which resulted in the arrest of Subjects 1 and 2 with reasonable force necessary to subdue the Subjects in order to ensure the safe approach of the arrest team and cover officers in close proximity of the armed Subjects.

Ordinarily, the BOPC would prefer that a field supervisor remain in a position to maintain a wide perspective in order to critically assess a rapidly unfolding incident in an effective manner; however, in this set of circumstances a supervisor would be compelled to reduce his global perspective and lead from the front. The BOPC also considered the dynamic nature of this critical incident, and understood that sometimes supervisors have to involve themselves directly in police action depending on the circumstances, the number of officers on-scene, and the amount of time available to take action.

After taking into consideration the totality of the circumstances, the BOPC found that Sergeant A's actions were consistent with what is expected from a field supervisor and that Sergeant A's actions did not substantially deviate from approved Department tactical training.

Upon Sergeants B and C's arrival at the location, Sergeant A was involved in a significant portion of the incident within the north parking lot area. As such, Sergeant A had control of the officers within the north parking lot area. However, there were a number of officers that were at the scene during this incident on the perimeter and outer areas surrounding the location. It was during this time that the radio frequency was inundated with a number of broadcasts by officers at the scene disseminating information. Some of this information was incorrect and other information was broadcast prematurely, resulting in unnecessary confusion for the personnel at scene. This reduced the effectiveness of the available resources at scene.

It is the expectation of the BOPC that when feasible, a supervisor oversees the entire operation to ensure the resources at scene are managed effectively and the pertinent information is disseminated in a timely and accurate manner. Since Sergeant A was tasked with the coordination and subsequent arrest of Subjects 1 and 2, the BOPC would have preferred that Sergeants B or C had taken the initiative to ensure the overall management of the incident was completed in a unified manner.

Although Sergeants B and C directed a portion of the officers during this occurrence, the overall management of the incident was not adequately covered. In conclusion, based on the totality of the situation, the BOPC found it would be beneficial for this topic to be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:
 1. Use of Force Warning

Prior to the discharge of the beanbag and the activation of the TASER, Officers D and E did not verbally warn Subject 1 of the use of the respective less-lethal force option. Although there are exceptions to the use of force verbal warning

mandate, which appeared to be satisfied in this case, the BOPC found it would be beneficial to discuss during the Tactical Debrief when it is appropriate for a use of force verbal warning to be given.

2. Preservation of Evidence

Following the arrest of Subjects 1 and 2, Officer G observed the revolver in both Subjects' possession at different times throughout the incident and advised the contact team of his observations. Officer G then recovered the revolver from the ground, removed it from the area, placed latex gloves on, unloaded the revolver and secured it in the trunk of his vehicle prior to FID's arrival to the scene.

During the review of the actions by Officer G, the BOPC looked at two areas related to this matter. Initially, Officer G's removal of evidence from the immediate vicinity of the Subjects at the time of their arrest was reasonable and met the BOPC's expectations of an officer under these circumstances. However, the removal of rounds from the revolver was not necessary and was a deviation from Department Post-CUOF protocol. Although Officer G did not receive a formal finding, the BOPC found that Officer G would benefit from a discussion regarding Preservation of Evidence.

3. Handcuffing

Officer H, a member of the contact team, approached Subjects 1 and 2's location. Subject 1 was lying on his back at the time when Officer H approached on Subject 1's right side and went around the top of his head while still in control of Subject 1's left arm. Officer H placed his knee on Subject 1's back and handcuffed him with the assistance of another officer.

Officers are reminded of the points of contact when completing the handcuffing technique, as well as that it would have been preferable to have directed Subject 1 to rollover onto his stomach, instead of placing himself at a tactical disadvantage by pulling Subject 1 into a prone position. Although Officer H did not receive a formal finding, the BOPC found that Officer H would benefit from a discussion regarding handcuffing.

4. Rifle deployment

Following the OIS and beanbag deployment, Sergeant A directed several officers to become a part of the contact team, including Officer F, who was directed to enter the north parking lot. Upon Officer F's entry into the north parking lot, he positioned himself a few feet east of the parked white vehicle, in a prone position on the ground without cover, while deploying his Police Rifle. The BOPC understood the reason why Officer F placed himself in a prone position was to give the Subjects the smallest target possible, considering the number of officers already deployed in the north parking lot with the weapons systems pointing in

the direction of the Subjects while behind cover. Officer F placed himself in a position of disadvantage that was unnecessary. Although Officer F did not receive a formal finding, the BOPC believes that Officer F would benefit from a discussion regarding the topic of Rifle deployment.

Also, Officer F, in plainclothes without a vest on while in possession of a Police Rifle, arrived at the scene, and moved multiple times outside the north parking lot area attempting at street-level to acquire a position of advantage to cover Subjects 1 and 2 with his Police Rifle. However, each time he positioned himself into a location, officers in the vicinity would walk past his muzzle. In the evaluations of Officer F's actions, the BOPC took into consideration that his intentions to find the optimal position is expected of an officer trained to handle a Police Rifle. However, in a situation where there are numerous officers at the scene with multiple types of weapons systems drawn/exhibited, it was not necessary for Officer F to exhibit his Police Rifle. The BOPC would have preferred that Officer F disengage his attempts to acquire his sights on Subject 1 in order to prevent the likelihood of covering other officers within the north parking lot.

5. Plainclothes personnel conducting building search

The FID investigation revealed that the sergeants at the scene allowed plainclothes officers to conduct a building search of the business for additional Subjects and possible victims following the OIS. With a large number of uniformed personnel at scene, the BOPC would have preferred uniformed personnel conduct the search for outstanding subjects, rather than plainclothes personnel. In particular, two of the plainclothes officers, who were identified by the sergeants at the scene to participate in the search teams following the OIS, received Administrative Disapproval findings for not wearing body armor and not displaying the proper markings on the front of the LBV. This topic will be addressed during the Tactical Debrief.

- 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.

After a thorough review of the incident, the BOPC found the tactics of Officers C and F substantially deviated from approved Department training, without justification. As such, the BOPC found that the actions of Officers C and F to warrant Administrative Disapproval.

In conclusion, the BOPC found Officer C and F's tactics to warrant a finding of Administrative Disapproval. The BOPC found Officers D and E, along with Sergeant A, B and C's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- All the involved personnel, Officers C, D, E and F, and officers at the scene drew and/or exhibited their weapon systems due to the nature of the call of a shooting in progress with an armed Subject potentially holding a person hostage, as the officers responded to a backup request. The involved law enforcement personnel, including Officers C, D, E and F, exited their vehicle, positioned themselves on the perimeter, and drew or exhibited their respective weapon systems with the reasonable belief that the situation could escalate to the point where lethal force may be necessary. Therefore, their drawing and exhibiting of a firearm was determined by the BOPC to be in policy.

According to Officer C, he listened to the radio call and heard radio transmissions of an armed and dangerous man (Subject 1), possibly taking a hostage. As Officer C approached, he believed that the situation may escalate to where deadly force would be justified, so he drew his firearm.

According to Officer D, after he had exited his vehicle, he immediately drew his weapon. Based on comments of the call indicating that shots had been fired, the advisement from the officer at the scene was that Subject 1 was armed, had a firearm pointed at a female (Subject 2), and was approaching the location. Officer D was unsure how the situation might have escalated from when the broadcast had initially come out to the point where he had arrived on scene. Officer D felt that the situation may quickly escalate to the point where deadly force would be justified.

According to Officer E, upon arrival he saw that officers had their weapons drawn and they were pointing them at a male (Subject 1) and female (Subject 2). Officer E recalled that the radio call earlier indicated that either a female or a male was armed with a handgun. So at that moment, Officer E positioned himself on the southwest parking lot and was using his vehicle as cover. Officer F withdrew his weapon and pointed at the direction of the Subjects.

According to Officer F, he knew it was a tactical situation and initially heard the help call came out. Officer F recalls that Subject 1 was holding a gun to a female's [Subject 2's] head. There was a possibility of a hostage shot, and Officer F was more accurate with a rifle than with his service pistol. Officer F had his tactical sling on and had his rifle in his right shoulder

C. Less-Lethal Use of Force

- **Officer D** – (Beanbag Shotgun, one round)

As Officer D was positioned in the north parking lot with his service pistol drawn taking cover behind the silver vehicle, he heard an unidentified officer within the north parking lot request less lethal. Officer D recalled that several officers were giving commands to the Subjects. Officer D realized that no one had a beanbag

shotgun out yet, so he grabbed the beanbag from the black-and-white. Officer D racked a beanbag round inside the chamber and was going to redeploy. Officer D then repositioned himself behind the parked white vehicle inside the north parking lot. Officer D took a kneeling position next to an unidentified officer that was also positioned behind the white vehicle.

Officer D recalled hearing multiple officers giving commands to both Subjects to put themselves in a prone position so that officers could take them into custody. .”

Officer D recalled that Subject 1 continued to ignore the officer’s repeated commands. Soon thereafter, Subject 1 took approximately one to two steps in a northwesterly direction towards the officers deployed behind the parked white vehicle. Consequently, Officer D fired one super sock round from his beanbag shotgun aiming at Subject 1’s center body mass. The super sock round appeared to strike Subject 1’s abdominal area, causing him to bend over at the waist and clutch his abdomen.

- **Officer E – (Two TASER activations)**

Officer E responded to Sergeant A’s request for a less-lethal force option and positioned himself in the north parking lot with a TASER, as the contact officers prepared for their approach on Subjects 1 and 2. Sergeant A designated Officer E as the TASER officer on the contact team. The contact team approached Subjects 1 and 2 and issued several verbal commands to Subjects 1 and 2 with negative results. Officer E observed Subject 1’s hands near his waistband and discharged the TASER causing Subjects 1 and 2 to fall to the ground.

Officer E recalled that once the officers were approximately 10 feet of Subject 1, he refused to move. According to Officer E, at the moment after Subject 1 failed to comply, he deployed the Taser.

Following the first activation, the movement of Subjects 1 and 2 caused the revolver positioned behind them on the ground to be revealed to the officers on the contact team. Knowing Subjects 1 and 2 were within arm’s length of the revolver and continued to ignore the officers’ commands to separate and show their hands, Officer E activated the TASER a second time to prevent either one of them from arming themselves.

Officer E recalled that before Subjects 1 and 2 were able to get up, he observed the handgun. Officer E recalled that Subject 1 was still refusing to put his hands up and before the officers’ approached to recover the handgun, Officer E deployed the Taser a second time.

The BOPC determined that an officer with similar training and experience as Officer E would reasonably believe that the application of less-lethal force to stop Subject 1

and/or Subject 2's actions during this incident was reasonable and would have acted in a similar manner.

In conclusion, the BOPC found Officers D and E's use of less-lethal force to be objectively reasonable and in policy.

D. Lethal Use of Force

- **Officer C** – (pistol, one round)

Officer C arrived at the location and soon thereafter positioned himself in the north parking lot behind a parked silver vehicle. Officer C observed Subjects 1 and 2 failing to comply with the officers' verbal commands. Additionally, Officer C was aware that Subject 1 was armed with a handgun and believed that Subject 1 was holding Subject 2 hostage with a handgun. Officer C observed that Subject 2 appeared to be extremely hysterical. Officer C believed the handgun was on the ground either behind or next to Subject 1. Without warning, Officer C observed Subject 1 bend at the waist, lower his arms toward the ground and surmised that Subject 1 was attempting to arm himself with the revolver. Officer C recalled that in fear for Subject 2's life and/or Subject 1 taking her hostage, as well as his fellow officer's lives, he fired one round at Subject 1.

Officer C further recalled that simultaneous to discharging his weapon heard what he believed to be another gunshot. Officer C noticed that there were officers to his right, near the west side of the parking lot of the business. At that point Officer C believed a sergeant directed a team to move up.

Note: The business video footage depicted Subject 1 with his arms parallel to the ground and no items in his hands while walking toward the officers that were utilizing the white vehicle as cover. The FID investigation revealed that the beanbag round was discharged almost simultaneously to Officer C's OIS. Based on the FID investigation, Officers D and G's statements, Sergeant A's in-car audio recording, and the injury to Subject 1's abdominal area, his movement was consistent with a person being struck by beanbag super sock round.

The BOPC was critical of Officer C's actions. Officer C arrived at scene within two minutes or less before he discharged his service pistol at Subject 1. Officer C was positioned approximately 72 feet away from Subjects 1 and 2's location, as he took cover behind the silver vehicle.

Moreover, the time that lapsed between Officer C's arrival and his discharging of his service pistol would not reasonably give an officer with similar training and experience at the current distance enough information to properly assess the situation. The BOPC also took into consideration that Officer C's discharged round impacted the business front awning above the front door located behind Subjects 1

and 2, which tends to indicate Officer C may not have acquired the proper sight picture.

In conclusion, after taking into consideration a multitude of factors, the BOPC found that an officer with similar training and experience would not reasonably believe that the use of lethal force was reasonable under these circumstances.

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