

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

OFFICER-INVOLVED SHOOTING – 065-21

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X)
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North Hollywood	12/23/21		
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Officer(s) Involved in Use of Force	Length of Service
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Officer F	12 years, 2 months
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Reason for Police Contact

On December 23, 2021, at approximately 1124 hours, the Subject entered the Burlington department store located at 12121 Victory Boulevard. While inside the store, the Subject vandalized property with a black metal bicycle lock, assaulted numerous people, then repeatedly beat one customer with the bicycle lock. Due to the Subject's violent behavior, a radio call of an "Assault with a Deadly Weapon Suspect There Now" was generated. Several customers mistakenly believed the loud banging caused by the Subject to be gunfire, which led to additional 911 calls and a "Shooting Just Occurred" radio call. Officers responded and an Officer-Involved Shooting (OIS) occurred.

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
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Male, 24 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 (CUOF) 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 (FID) 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, including any Minority Opinions; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on November 22, 2022.

Investigative Summary

On Thursday, December 23, 2021, during the morning hours, the Subject committed multiple crimes against several women in a residential area. He then fled to the nearby area of Victory Boulevard and Laurel Canyon Boulevard before entering the Burlington store. While inside, the Subject attacked several women resulting in police response.

At approximately 1030 hours, the first reported incident occurred on a residential street. The Subject approached Victim 1, who was on the sidewalk near her residence. According to Victim 1, the Subject approached and blocked her path, preventing her from entering her residence. She described the Subject as having a smirk on his face and she believed he was dangerous. Victim 1 walked around him, then looked back and observed the Subject following closely behind her.

According to Victim 1, she reached into her purse and retrieved her pepper spray. She turned toward the Subject and repeatedly stated, "You need to stop. You need to go away." The Subject advanced toward Victim 1 causing her to scream for help. Victim 1 utilized her pepper spray onto the Subject's face, then ran. The Subject chased after her and pulled her down to the ground.

Victim 1 indicated that as she lay on the ground, the Subject was "like a dome" on top of her. The Subject threw approximately 20 punches toward Victim 1's face.

Witness A was across the street, seated inside his vehicle. He heard Victim 1 screaming and observed the Subject on top of her. Witness A exited his vehicle and shouted at the Subject to get off Victim 1.

According to Victim 1, Witness A's intervention caused the Subject to get off her. Victim 1 was able to run away from the Subject and into her apartment. Once safely inside, Victim 1 called 911. Communications Division (CD) subsequently generated a "Battery Just Occurred" radio call.

According to Witness A, the Subject then ran into an open parking garage. Witness A called 911 and also reported the attack.

Inside the garage, Victim 2 was unloading groceries from the rear of her parked vehicle when the Subject approached her. According to Victim 2, the Subject appeared to be under the influence of drugs, and his eyes appeared teary and red. The Subject asked her for milk. Victim 2 was concerned that the Subject might try to steal her car, so she quickly shut the doors. Victim 2 told the Subject that she did not have any milk before she walked into the apartment building lobby. The Subject followed her into the lobby.

Victim 2 tried to avoid the Subject as she walked toward her apartment.

Victim 2 wanted to prevent the Subject from following her into the apartment, as her children were home. She quickly opened her front door, entered the apartment, and immediately tried to close the door behind her. The Subject pushed against the door, preventing Victim 2 from shutting it completely. As Victim 2 pressed her weight against the door, she shouted for her daughter, Witness I, to call 911. Witness I heard her

mother screaming and observed the Subject trying to force his way inside their apartment. Witness I ran to the kitchen and grabbed her little brother. She ushered him to his bedroom and then went to retrieve her cellphone.

The Subject overpowered Victim 2 and entered the apartment. As he walked to the refrigerator, Victim 2 and Witness I backed away from him. He took a carton of milk and poured it over his head and face. Immediately after pouring milk over himself, the Subject fled the apartment.

CD received Witness I's 911 call and added it to the comments of the radio call generated by Victim 1's 911 call. Witness I and Victim 2 were not injured during the incident.

At 1059:43 hours, CD assigned the radio call to Police Officers A and B.

At approximately 1121 hours, security video obtained from a business on Laurel Canyon Boulevard captured the Subject walking south on the east sidewalk of Laurel Canyon Boulevard, toward Victory Boulevard. As he walked, the Subject pushed a black bicycle which had a black metal bicycle lock slung over its right handlebar.

The security video captured the Subject as he stopped on the sidewalk for several minutes and did pushups, as well as jumped in and out of the street. He continued to the northwest corner of Laurel Canyon Boulevard and Victory Boulevard and entered the shopping complex parking lot.

At approximately 1124 hours, the Subject walked through the automatic double doors of the Burlington store. As the Subject entered the store, he pushed the bicycle with the metal bicycle lock slung over his right shoulder. The Subject was wearing a tan baseball cap, black tank top, dark camouflage cargo shorts and black tennis shoes. He walked toward the escalators located at the north end of the store before he went to the second level of the store.

Witness B was working loss prevention for the store. Witness B's attention was drawn to the Subject because he had brought a bicycle up the escalator. Witness B noted it was a safety concern, so she used her walkie-talkie radio to alert her co-workers. Witness B followed the Subject to the men's clothing area located at the southwest corner of the store. The Subject placed the bicycle on the floor, blocking the walkway, and dressed himself in a multicolored jacket and blue jeans over his shorts.

Witness B alerted other store employees, Witness C and Victim 3. Witness C and Victim 3 joined Witness B in the men's clothing area of the store with the intention of asking the Subject to leave the store.

Witness C approached the Subject and told him to leave the store. According to Witness C and store employee Witness D, the Subject laughed and grabbed a pair of tan hiking boots from a display rack. The Subject ignored Witness C's request to leave, and then put on the hiking boots.

The Subject continued to walk around the store now attired in a multicolored jacket over his black tank top, a tan baseball cap, sunglasses, dark pants and tan hiking boots. Witness C and Victim 3 followed and repeatedly told him to leave the store.

The Subject then loitered near the escalators and elevator with his bicycle. Witness C, Victim 3, Witness D, and Witness B stood east of him, approximately ten to twenty feet away from him. The Subject continued to ignore their requests to leave.

At approximately 1135 hours, the Subject picked up his bicycle, raised it twice over his head and held it over the railing of the landing. According to Victim 3, she feared the Subject was going to throw the bicycle over the railing, possibly injuring people in the first-floor entryway below. Victim 3, along with other associates, pleaded with him not to throw the bicycle and urged him to take the elevator downstairs. The Subject placed the bicycle on the floor, turned toward Victim 3, and approached her. Frightened by his sudden encroachment, Victim 3 turned away from him. Simultaneously, the Subject reached with his right hand and struck Victim 3 across her buttocks.

Witness C used her radio to instruct all employees to evacuate the store. According to Witness C, she warned the Subject the police would be called. In response, the Subject swung the bicycle lock with his right hand, repeatedly striking a security monitor and hard drive affixed to a podium on the landing.

At approximately 1139 hours, Witness C called 911 and advised CD of the incident. She stated, "I have a hostile customer in my store attacking customers! ... He's breaking things, he's breaking things! ... He's inside on the second floor. ... He's walking around the store looking for people. ... He's using one of those bike locks." During the call, Witness C repeatedly yelled to warn employees and customers to evacuate the building

As the Subject was violently using the bicycle lock, Witness E was assisting a customer at a nearby register. According to Witness E, she heard a "big noise" and thought that it could have been a gunshot. Witness E left the register to see if everything was okay. As she neared the front of the store, Witness E heard screaming and an order to evacuate.

According to Witness E, as she was fleeing for safety, she heard glass breaking and multiple people saying, "There's a gun." Witness E called 911 and stated, "Can you send a unit to Burlington in North Hollywood please? There's a guy with a gun!" The 911 Dispatcher Emergency Board Operator (EBO) tried to obtain the address from Witness E and a suspect description; however, Witness E was panicked and unable to provide the information. Witness E stated, "We don't know Ms. It's just shots." The EBO asked specifically if the suspect shot the gun, to which Witness E responded, "Yes."

Witness C's 911 call was received by CD at 1139:20 hours. Witness E's 911 call was received by CD at 1141:29 hours. Separate incident numbers were generated by CD for the above-referenced calls.

After smashing the security monitor, the Subject moved toward the northwest portion of the sales floor, while maintaining possession of the bicycle lock. The employees continued to warn customers to evacuate the store. Witness C, along with several employees and customers, locked herself in an office room located at the southeast corner of the store.

At approximately 1141 hours, a female customer wearing a backpack ran south on the second floor, toward the escalator. As she rushed down the escalator, the Subject ran east in her direction, swinging the bicycle lock in his right hand. The woman appeared to be fleeing from the Subject. When she reached the first floor, she immediately ran out of the store. Simultaneously, the Subject stepped onto the descending escalator.

As the Subject rode the escalator to the first floor, another unidentified woman wearing a hat, long dark jacket and dark pants got onto the escalator and hurried down. The Subject, who was in front of the woman, looked over his shoulder in her direction as she began to step past him. When the woman was alongside the Subject, he reached out with his left hand and grabbed her. In response, the woman turned clockwise and lowered herself away from the Subject. After they reached the first floor, the Subject tackled the woman from behind. He briefly landed on top of the woman before standing up. The woman regained her footing and walked out of the store, while the Subject lingered in the area with the bicycle lock in his right hand.

A third woman, wearing a long coat with an umbrella, was descending the escalator. As she neared the bottom, the Subject lowered his pants. The woman reached the landing and moved to her left, trying to avoid the Subject. He reached out with his left hand and grabbed ahold of the collar of the woman's jacket. The woman was able to break away and leave the store. As she did so, the Subject took off the tan boots, removed his pants, and then stepped back into the boots.

Witness F, a store employee, was near the front doors of the location when the Subject was assaulting the women. Witness F observed the attacks.

At approximately 1142 hours, the Subject walked to the front doors of the store holding the bicycle lock in his right hand. For approximately four and a half minutes, the Subject lingered near the front doors of the store. He swung the bicycle lock against the theft prevention security sensors and shattered one of the glass doors. The disturbance caused by the Subject led numerous individuals to believe an active shooter situation was unfolding inside the store. Numerous customers and employees fled from the store, while others sheltered in place. Subsequently, several additional calls to 911 were made.

At 1143:14 hours, in response to Witness C's 911 call, CD broadcast, "North Hollywood units, an ADW suspect there now, 12121 Victory Boulevard. 12121 Victory Boulevard at the Burlington on the second floor [...]. Attempting to assault the customers with a bike like... bike lock."

At 1143:34 hours, in response to Witness E's 911 call, CD broadcast, "North Hollywood Units, Ambulance ... correction, Shooting just occurred. Victory Boulevard and Laurel Canyon, Victory Boulevard and Laurel Canyon at the Burlington Coat Factory."

One minute later, the ADW radio call was updated by CD, "North Hollywood Units, additional, ADW suspect there now, 12121 Victory Boulevard. The suspect is now at the entrance of the business. No longer wearing pants and attempting to break the glass door with a bike lock."

At 1144:54 hours, CD updated the Shooting call and broadcast, "North Hollywood Units, additional on your ADW shooting, Victory and Laurel Canyon. Suspect is still inside the location. PR [Person Reporting] advised that there are customers and employees hiding inside the location. Unknown suspect description at this time."

Of the six 911 calls made, one of them was answered by the Burbank Police Department (BPD) communications center at 11:48:00 (BPD timestamp). The PR for the BPD call was Witness J, an employee at the Burlington store who, along with several co-workers, was hiding in a breakroom at the time of her call. During her initial call to BPD, she used the term "active shooter" to describe shots she believed she had heard at the Burlington store. Witness J was on the phone with BPD for 52 seconds before being transferred to the LAPD CD (CD). After the transfer, she remained on the line for another seven minutes and 46 seconds.

During the transfer, the BPD operator informed the LAPD CD Police Service Representative (PSR) that she was transferring a caller reporting an "active shooter." The PSR then took over the call. Witness J then reported that she had not actually seen the Subject but had heard "five or three" gunshots. Neither Witness J nor the PSR used the phrase "active shooter" during their conversation, nor did CD broadcast to the responding officers that there was a possible "active shooter" incident occurring.

CD then assigned the shooting call to Police Officers C and D. Officer D notified CD they would be responding Code Three. While enroute, Officers C and D discussed a tactical plan, which included the deployment of a 40 millimeter (mm) Less-Lethal Launcher (LLL).

Based on the call, the following personnel also responded:

- Police Officers A, B, E and F.
- Sergeant A.

At 1146:30 hours, Officer D broadcast they were Code Six in the area of the Burlington store. Officer C positioned their police vehicle south of the store entrance. Upon their arrival, Officers C and D observed a crowd of people standing in the parking lot in front of the location.

Security video captured the Subject looking in the direction of Officers C and D as they arrived. Unbeknownst to the officers, the Subject appeared to be aware of the officers' presence. He ran back inside and moved back and forth between the front doors and the escalators.

Officer C notified Officer D that he/she would deploy the 40mm LLL, and he/she directed Officer D to deploy the shotgun. Upon exiting his/her police vehicle, Officer C

tried to gather information on the Subject's location by calling out to the bystanders in the parking lot. Officer C then directed the bystanders to back away from the location. Officer D equipped him/herself with the shotgun from the rack of their patrol vehicle.

Officers A and B joined Officers C and D in front of the store. Officer C handed the 40mm LLL to Officer B. Officer C explained, "I then saw [Officer B] and [Officer A] pull up along Victory. In order to be a team leader and start incorporating the command and control and incident commander role, I handed the 40-millimeter off to Officer B, who willingly accepted it, and started putting our team together."

Officer C directed the officers, "Let's get a stick" indicating they form a tactical entry team with designated roles. Officer D was the point officer with the shotgun, Officer A unholstered his/her pistol, Officer B was equipped with the 40mm LLL, and Officer C assumed the team leader role.

As the officers walked toward the entrance, Officer C called Witness F over and asked for information. Witness F indicated that the Subject was inside the store with a bicycle lock "smashing things around," and there were still people inside. Officer B interjected, "Ask him about the gun." Before Witness F replied, the entry team began to move toward the front doors.

Officer B decided to proceed forward with the team and opted not to wait for additional information. He/she made this determination believing there were potential victims inside and the Subject was armed with a bicycle lock that could "cause some serious damage to somebody."

As they approached the location, all the officers felt a sense of urgency to make entry. Officer C explained, "First of all, the numerous radio calls. They were upping in intensity and severity of what people were reporting from an ADW suspect to a shots fired call." He/she continued, "The addition of the weapon in the radio call of either a bike lock or a gun -- unfortunately we have to rely on the facts known to the officer at the time of the incident."

Officer D stated, "At that point in time, I mean it -- it just, like I said, there was people that were pointing inside. The comments of the call will be two calls that were generated ADW and ambulance shooting. My thought process is there's an active shooter in that location."

Officer B stated, "With the knowledge of a possible active shooter and the original comments of an ADW suspect that's armed with a weapon, I unholstered my weapon approaching the target location. At that point, [Officer C], who is the primary unit, is part of the primary unit along with [Officer D], started to formulate a team to go inside due to the possible active shooter that we had, so we started to form a stick of a point, basically a [tactical] formation."

Officer B provided his mindset, "So the sense of urgency we had from it was getting that information that, one, he has the -- the [Subject] has the deadly weapon, he's inside of a store with access to multiple victims -- potential victims, and seeing the broken glass already on the front of the location shows that there's already some sense of hostility in

the [Subject]. Don't know what could possibly happen to any victim inside. It could be somebody that just triggers him, some type of -- some type of unknown inside that can cause him to either kill or seriously hurt somebody. Based off of that, necessary to make entry and at least render aid, definitely make sure that we try to keep everybody else inside safe.”

While Officers E and F were enroute, Officer F broadcast, “Advise I’m [patrol rifle] equipped.” Officer F explained, “Because generally during active shooter or something like that, usually they'll request a [patrol rifle]. They'll request for one. So to let them know that I was equipped. I went ahead and broadcasted it.”

Officer C broadcast, “Roger, we are moving up, standby.” Officer D led the team toward the front doors. According to Officer D, he/she paused when he/she observed the broken glass from the automatic door. Officer D visually cleared the lobby through the glass door from the outside as he/she announced, “LAPD! Anybody inside come on out with your hands up!” At approximately 1147:50 hours, Officer C directed the contact team forward as he/she stated, “Keep going in, we got people inside.” As this was occurring, Officers E and F entered the store parking lot.

At 1147:54 hours, Officer C broadcast “Hold the frequency, please. And we’re going to be moving up right now [...] No need to answer it. Hold the frequency. We have one suspect, no pants, with a bike lock. We are making contact.”

Officers F and E were inside the parking lot approaching the store. A review of Officer F’s BWV determined that Officer C’s broadcast referencing the bicycle lock was audible at 1147:54 hours. At 1148:11 hours, Officer F exited his/her vehicle. According to Officer F, he/she did not hear Officer C’s broadcast. Officer F indicated the only broadcast he/she heard related to a bicycle lock was the initial radio call broadcast by CD.

As described by Officer F, “I think that one of the [...] comments was [...] that someone may have been assaulted with a bike lock -- bike lock. Um, but when we’re hearing that, we got additional information that it was shots fired or possibly shooting.” Officer F added that when you have multiple calls come in, information varies with different callers, “So we’ll go with the most, like, probably the highest level -- or rather with multiple calls of possibly shooting or shooting in progress. And I just remember hearing something about a bike lock once.”

Officer F indicated he/she heard a “shots fired” call broadcast while he/she and Officer E were enroute to a restraining order violation call, and also stated that he/she believed he/she first heard a call of an “ADW suspect there now, maybe with a bike lock at -- at an address. Then after that the shooting call came out and then another shooting call came out.”

According to Officer F, one call gave a street address “and the shooting calls, I believe, actually said Burlington. So I was like okay. Me and my partner were saying, okay, is this the same call? Is this different? They sound like two different locations. So we were worried about the shooting call.”

Officer F was asked by FID, "And if I'm understanding correctly, it was your belief that the ADW call involving the bike lock was a separate incident different than the multiple calls that involved shots fired? Officer F replied, "Yes sir. I thought it was probably just coincidence that these things are happening on Victory [Boulevard]. But I thought they were separate, or I thought it was a mistaken -- a mistaken, like, you know, comment."

Officers F and E's BWVs did not capture them discussing whether the radio calls referred to separate incidents.

As the contact team moved toward the escalators, Officer C broadcast, "Have one unit come in from the east side. He's on the second floor. Make that a backup on that call."

From the time the contact team arrived at scene to when they entered the store, approximately one minute and twenty-five seconds had elapsed.

Store security video captured the Subject as he ran up the escalator at the time the contact team entered the store.

At 1148:08 hours, Officers E and F parked near the entrance. Officer E observed the contact team making entry, and immediately hurried to catch up with them. Officer E unholstered his/her pistol and entered the store. Officer F exited the passenger seat and walked to the trunk of his/her police vehicle, obtained his/her rifle and loaded it. As he/she did so, he/she heard members of the crowd providing a description of the Subject.

At 1148:20 hours, the contact team began to ascend the escalators. Officer D shouted as the team traversed up the escalator, "LAPD, we're coming up, if you're upstairs, make yourself known, do it now!" Officer C stated to Officer E, "[Officer E], let [Officer B] hit him with the 40, alright."

At 1148:45 hours, Sergeant A entered the store behind Officer E. Officer F followed behind Sergeant A four seconds later. As described by Sergeant A, as he/she was exiting his/her vehicle, "I see a group of officers about six or so walking into the [...] location [...] Since I [...] have active shooter [...] in my mind I figured they had the same thing in their minds so their Immediate Action [...] Rapid Deployment. So, I was happy to see that they were already [...] going to be taking care of what [...] they needed to take care of." Sergeant A saw Officer F retrieving his/her rifle, which Sergeant A thought "would be useful in that type of situation."

Sergeant A was asked by FID, "Did you hear [the officers] broadcast anything, make any radio transmissions prior to them entering that you recall?" Sergeant A replied, "I don't recall."

The Subject had ascended the escalators, as the contact team made entry and walked to the east aisle north of the escalators.

As the contact team moved toward the second level, the Subject charged Victim 4 from behind. Victim 4 was pushing a shopping cart and appeared to be unaware of the

emergency that was unfolding inside the store. In an unprovoked attack, the Subject repeatedly struck her on the head with the bicycle lock. Victim 4 raised both hands over her head to protect herself; however, the Subject continued to bludgeon her.

Victim 4 tried to position her shopping cart between them to stop the Subject's assault. She backed away momentarily before the Subject grabbed her by her hair and dragged her to the floor. Victim 4 lay in the east aisle near a display shelf endcap. Once she was down on her back, the Subject stood over her. He reared back and struck her four more times, while she laid on the floor.

The Subject grabbed Victim 4 by the collar of her jacket with his left hand and dragged her between two display shelves. The Subject then continued to violently strike her head with the bicycle lock. Victim 4 tried to crawl away, while also covering her head with her hands. He struck Victim 4 eight additional times with the bicycle lock then kicked her in the face. The brand-new boots that the Subject had taken earlier were stained with her blood. Victim 4 believed the Subject was trying to kill her. Security video depicts the Subject striking Victim 4 in excess of 20 times with bicycle lock.

Witness G was inside a fitting room and had remained inside for approximately ten minutes before she decided to exit. At 1149:00 hours, Witness G exited the fitting area and observed the Subject assaulting Victim 4 and drag her into the aisle. Witness G heard the Subject saying something unintelligible to Victim 4 in English. Afraid that the Subject would notice her and hit her as well, Witness G moved away quickly to avoid him.

As the attack was occurring, the entry team was ascending the escalators to the second floor. Officer E had entered the store and was moving toward the escalators, when Officer C directed him/her, "Get up here. You and I are going to be arrest team."

Officers A, B, C and D reached the landing of the second level. Officer D again called for a tactical formation. Officer B covered the north side of the store with his pistol. Officer D covered the west side of the store with the shotgun. Officer B covered the south side of the store with the 40mm LLL. Officer C stood slightly behind the other team members and announced, "All victims, LAPD! All victims come to us, all victims come to us!" According to Officer C, his/her intention to hold at the second-floor landing at the apron of the escalator was to wait for additional units to arrive and conduct a systematic search for the Subject.

Officer E ascended the escalator and joined the team as Officer C made the announcement. Sergeant A was at the bottom of the escalator and waved Officer F to move up the escalator in front of him/her. Sergeant A explained, "I walked into the location. [Officer F] came right in behind me and I stopped. As a supervisor, I don't want, you know, I don't want the rifle behind me so I -- I stopped and let [Officer F] on the -- on the escalator ahead of me and then I started proceeding up." Officer F ascended to the second level and Sergeant A followed immediately behind him/her.

Officer B made verbal contact with Witness C, who opened and exited the office with several other people. Officer C stated, "They were offset to the left to the one/two corner. I'm going to call that, again, a small office. They were barricaded and they

looked very frightened and they were pointing in the general direction northbound in the mall area.” According to Officer B, one of the employees indicated that the Subject was still upstairs.

Officer A scanned the walkway area toward the north end of the store. This was the location where the Subject was attacking Victim 4. According to Officer A, there was a white pillar blocking his/her view, so he/she stepped to his/her left to see further north in the aisle. Officer A stated, “As I -- my view was not obstructed anymore, I did see the [Subject], who was a male Hispanic with no pants, armed with a large black metal object in his left hand standing in the middle of the walkway who -- that was -- he was facing me. He was facing southbound. I was facing northbound. I saw the [Subject] walk eastbound towards the fitting room. I heard a female screaming and I saw female legs on the ground.” According to Officer A, he/she believed that the Subject was aware of the officers’ presence.

Officer A continued, “... as the victim was on the ground, he was standing above the victim and he had the large metal possible bike lock in his hand in a striking motion, which was meaning like he was raising it above his head as he was going to intentionally hit the victim to cause either great serious bodily injury or possible death by hitting her.”

Officer A indicated that he/she observed the Subject swinging the “black metal object” in a “striking motion” toward Victim 4. Officer A additionally described his/her observation stating, “I had a belief that it was a large metal bike lock based off of the way it was shaped and he was holding it in his hand. And also, with the knowledge from the radio call, the first radio call initiated.”

Officer A did not alert the other officers that he/she saw anything in the Subject’s hand.

Immediately after seeing the Subject, Officer A called out “We got a guy right here, no pants. Oh, wait. We have a victim down! Victim down! Push!” Officer A moved north in the aisle toward the Subject. At the same time, Officer F joined the team with his/her rifle.

As the contact team followed behind Officer A, Officer D moved in front of him/her to reestablish the point position with the shotgun. Officer D said, “Slow down B, I got point, I got point.” Officer A allowed Officer D to advance past him/her.

Officer F called out, “Hey slow down! Slow down. Let me take point with the rifle.” He/she moved toward the front of the team, bypassing Officers A and B. Officer F then moved alongside Officer D who asked, “You got it?” Officer F responded, “Yeah.” Officer A called out, “He’s hitting... Behind... To the right... Where the fitting rooms...Fitting rooms.”

Approximately 20 seconds elapsed from the time Officer A stated “We got a guy right here” to his/her statement regarding the fitting rooms. Officer A also pointed toward the fitting rooms, identified by large letters on the east wall, as he/she referenced that location.

Officer F explained, "And they said they had contact and the [Subject] on the right side. So I said, 'Wait.' During my training they want -- they told us to have the long gun in the front. So I had my rifle. So I thought I should take point because it is such a big area, and we started to -- to kind of push forward towards the sounds of -- the sounds of the commotion and towards where they said they saw the -- the -- the [Subject]." According to Officer F, he/she was unaware that the area they were advancing toward was the fitting rooms. Officer F only heard that the Subject was to the right.

The contact team continued to move north toward the Subject's last known location. He had moved out of view in the aisle, and was now in between the display shelves, adjacent to the fitting rooms. Witness G who had been hiding in the fitting rooms was able to avoid the Subject. She moved past the officers and was directed out of the store.

The following officers also responded to the backup request. They moved up the escalator to the second floor as the contact team was advancing north toward the Subject's location.

- Police Officers G, H, I and J.

Officer C and Sergeant A directed the contact team to slow down from their position at the rear of the team. Officer C stated, "I told the team to slow down. This was an order for us to assess get -- render aid in order to preserve life and then get people squared away and then we could stop and assess."

Officer F slowed his/her pace as he/she led the team in the point position. He/she described, "I didn't see -- they -- they had mentioned a victim down or a person down. ... I didn't see it. Um, I saw it looked like it may have been a little bit of blood on the -- on the ground. ... Um, and I saw some of the clothing racks may have been moved or kind of disheveled. Um, but then you could kind of hear a little bit of, like, noise. I felt like -- sounded like activity farther ahead on the right-hand side. ... And I just assumed that that was the activity that the officers had mentioned when they say, 'Hey, up to the right, to the right.'"

As Officer F continued north in the aisle, he/she observed blood on the floor. Officer F indicated that after taking the point position, he/she slowed down. He/she also heard the direction to slow down but did not know who said it. He/she continued walking forward slowly until Victim 4 came into his/her view. Officer F announced, "Hey, she's bleeding! She's bleeding!"

According to Officer F, the situation changed at that moment. He/she explained, "... so we have a radio call and once again, I go back to the training I just had, and we didn't see a victim as we're -- as we're walking through. We didn't see the [Subject] yet. So we could -- we have the opportunity to tactically slow down because we don't have visual. We don't -- we didn't see a victim yet. We didn't -- we didn't see it. So I slowed down to make sure we're not passing any threats or anything like that. But as soon as I saw that lady's face, her coming out of the aisle with blood everywhere, that changes

the scenario. It -- it -- not scenario, but it changes the whole situation. You have to take immediate action.”

Officer F observed Victim 4’s face and shoulders as she crawled away from the Subject. Officer F stated, “Um, she was crawling. She was kind of crawling out of the aisle. She was like -- like, in a prone position, like, face down kind of on the ground, and she was kind of crawling out on her -- almost, I think like an Army crawl. ... she kind of rolls to her right and she’s facing me and I see her face, and her face -- her face was like -- she -- her hair, her face, everything was just covered in blood. It wasn’t like there’s blood running down her face. It’s like she was -- this red. ... Like a Coca-Cola can. ... And you could just see, it looked like her face was all swollen. You could -- you could see it from that far away her face looked kind of disfigured. You could see almost like masses in her hair almost like maybe chunks, like meat or something. It was -- it was the -- the gnarliest just the -- it was in indescribable. It was like a movie.”

Victim 4 was crawling from between the display shelves toward the aisle, where the officers were advancing through. As she made it to the endcap, Victim 4 briefly looked in Officer F’s direction and then looked back into the aisle. This caused Officer F to believe that the Subject was in the immediate area. After seeing Victim 4 on the floor severely injured and believing the Subject was close by, Officer F quickened his/her pace toward Victim 4.

Officer F described his/her mindset, “... I thought she got shot, shot in the head or shot somewhere and she’s just covered in blood. I knew it was real. I knew it was real. I was like, okay, go. That’s why I just -- I didn’t know what to say. She’s bleeding. I’m just like, she’s bleeding. I got to get to her right now. And -- and then she’s looking down the aisle. So I know he’s got to be somewhere close, like, we got to stop this. He’s going to kill her. He’s going to kill someone.”

According to Officer F, he/she moved the selector switch of his/her rifle from “Safe” to “Fire” at the time he/she called out, “Hey, she’s bleeding! She’s bleeding!” The selector switch movement is not captured on BWV, however a clicking sound can be heard on Officer F’s BWV at 1149:36 hours.

After the Subject kicked Victim 4 in the face, he picked up a long rectangular painted canvas that was leaning against the east end of the display shelf. The Subject stepped toward Victim 4, holding the bicycle lock in his right hand, and the canvas in his left. As the team of officers approached, the Subject backed away. Security video depicted the Subject turning his head to the left, in the direction of the approaching officers. He continued to backpedal as Officer F turned to face east at the opposing end to the display shelves. The Subject held the bicycle lock in his right hand down along his right side, approximately at waist level.

Officer F described his/her observations as the Subject came into his/her view. He/she described the Subject as looking in a “rage” and “intent to do some damage.” Officer F stated, “So as I come, I saw his hand and I saw the dark object in his hand and I immediately saw it moving, that’s when I immediately came up. It was -- it was like super quick. And I was, like, I thought he was going to -- I thought he was pointing a gun and he was going to shoot either me or try to shoot her, the lady on the ground.”

The Subject bladed his body to his left, while turning counter-clockwise to the south. As he turned, the Subject's right arm moved down along his right side. His arm bent at the elbow and swung slightly upward. Additionally, the Subject lifted the canvas with his left hand and held it positioned between himself and Officer F.

Officer F described the Subject's movement as a "lunge." He/she stated, "Really quick. And then he moves and out of my peripheral as I'm looking straight, he moves and I see his right hand, his right arm kind of bend up, and he starts to -- he starts to lunge to my right. I think he's going to -- trying to shoot and get cover, shoot -- and either shoot at me or shoot at the lady who's down next to me and -- and kill her and then make sure he's got -- because he sees my gun. He obviously has to see my gun."

Officer F further stated, "Yeah, he had some -- I could see had the black object in his hand. I thought it was a gun. So as soon as I saw that gun kind of move and get up and him moving, I thought he was going to -- I thought he was going to shoot. So I shot."

Officer F raised his/her rifle and targeted the Subject's right rib area, through his/her rifle optic. Officer F indicated as he/she looked through the optic, the Subject's right hand was no longer in his/her field of view.

At approximately 1149:39 hours, Officer F fired his/her rifle three times, targeting the Subject's torso, from a distance of approximately 16 feet.

In describing the Subject's movements as he/she fired, Officer F stated, "...I squeeze the trigger one shot and his body is still moving to the right. And I'm -- he was moving to the right, I thought I he was trying to get cover behind the -- behind the end cap of the aisle. And he kept moving to the right, so I -- I pulled the trigger again. He's still moving to the right. I pulled the trigger a third time and I can see him kind of dropping down. He's kind of falling to the ground actually."

In describing his/her assessment of the Subject as he/she fired, Officer F stated, "...when I shot, his -- he was still moving to the -- to the left, so I thought he was still trying to gain cover."

The investigation determined that Officer F fired three rounds; however he/she initially believed that he/she fired two rounds. Officer F described his/her sequence of fire as "consecutive" and indicated that his/her decision making was based on his/her firearms training. Analysis of BWV recordings established that all three rounds were fired within a time-span of one second.

Officer F stated, "Generally, we during our firearms qualification and during rifle [qualification] in closer combat situations, we're -- we're taught to shoot in pairs. So for instance, a command may be two shots to the right body of a target, two shots to the left body of the target -- target, and then come back and shoot a head shot on each, which simulates what they call a failure drill. And the failure drill is basically if you shoot a person in the body, you hit him with those two shots and the -- he's still a threat, he's still moving, or he -- his actions haven't changed or stopped, then you want to -- the

terminology that I've heard used is you want to stop the computer, which is the brain. So you attempt the head shot or another body shot. We -- so yeah. That's -- that's just generally how we -- how all the training has been since I've been on the Department. Usually it's two to the body, one to the head, failure drill ...Well, that's -- and you assess after every shot. So after every shot, you're going to assess because one shot may do the trick, or not the trick, but one stop may stop the threat, or it may take four shots. You continue to shoot until -- until the threat is stopped, until the action is stopped."

At the time Officer F fired, Victim 4 was lying on the ground and not in his/her field of fire. The background behind the Subject was a wall, which contained shelving with artwork.

Officer F believed beyond the wall behind the Subject was the store's exterior brick wall, which his/her rounds would not be capable of penetrating.

Regarding Officer F's belief, he/she stated, "...I'm shooting at a wall. Behind this wall is outside. And outside this building, it's like brick. So it's not going to -- my round's not going to go through this wall, go outside, and hit someone outside." Unbeknownst to Officer F, the women's fitting rooms were behind the Subject. Officer F indicated he/she did not hear Officer A yell "fitting rooms," nor did he/she see the large letters mounted on the wall identifying the location of the fitting rooms. As described by Officer F, "I was focused kind of straight ahead, coat rack or clothing rack level, just in case someone was to pop out."

The Subject was struck by gunfire and continued to rotate counter-clockwise, as he fell to the ground. As he landed in a supine position, the bicycle lock was pinned beneath him.

At 1149:58 hours, Sergeant A broadcast to CD "[S]hots fired." Simultaneously, Officers F, B, and D moved forward into the aisle toward the Subject. Officer D covered the Subject, as he/she directed him to turn on his stomach. Officers A, G and E advanced down an adjacent aisle toward the Subject.

Victim 4 had crawled to the endcap area and was assisted to her feet by Officer C. Officer C guided her south, away from the OIS location and began to assess her injuries. At 1150:00 hours, Officer C broadcast, "We're gonna need two RAs one for a female, head trauma, conscious and breathing, and one for a male, gunshot wounds." Officer C directed Victim 4 to sit down and then handed her an article of clothing to stop the bleeding from her head.

Officer B slung the 40mm LLL around the front of his/her neck, positioned him/herself on the Subject's right side, and grabbed the Subject's left arm and wrist with both of his/her hands. Officer E positioned him/herself next to Officer B and held the Subject's legs. Officer G grabbed the Subject's right hand and elbow with both of his/her hands and assisted Officer B, as they rolled him over to his stomach. As they did so, Officer G stated, "Where's the gun?"

As Officer B turned the Subject over to his stomach, the bicycle lock was discovered underneath his abdomen. Officers B and G brought the Subject's arms behind his back. Officer D handed his/her shotgun off to Officer F and handcuffed the Subject.

At 1150:15 hours, as the officers were taking the Subject into custody, Officer F called out, "Get an RA, RA!" He/she then walked toward Officer C, who was attending to Victim 4. Officer C asked Officer F if he/she was okay and reassured Officer F by stating, "You're good." Officer F responded, "Hey check her, check her, it's in her head" referring to Victim 4's injuries. Officer C then directed Officer F to stay with Sergeant A.

At 1151:21 hours, Officer C directed Officers B and H to escort Victim 4 downstairs in order to expedite her medical care. Officers C and H assisted Victim 4 out of the store to an awaiting ambulance.

At approximately 1151:30 hours, Officer F walked back to where the Subject had been taken into custody. Officer D had rolled the Subject to a recovery position. Officer F handed Officer G an article of clothing and instructed them to apply pressure. Officer D indicated he/she was unable to locate the gunshot wound the Subject had sustained. Officer F instructed them to remove his clothing. Officer G used his/her folding knife to cut through the Subject's jacket and his tank top in order to locate the wound. At 1153:17 hours, Officer D checked for a pulse. When none was found, Officer D began cardiopulmonary resuscitation (CPR) at 1153:35 hours. Officer C joined and assisted Officer D in providing medical treatment.

At approximately 1155:55 hours, Officer C removed the bicycle lock from underneath the Subject with his/her gloved left hand and placed it on the floor next to the Subject. He/she instructed Officers A and D to secure it as he/she applied compressions to the Subject. Officer A removed an empty plastic booking bag and Officer D moved the bicycle lock with his/her gloved right hand into the booking bag and placed it on top of an ottoman.

Simultaneous to the Subject's handcuffing, the officers heard screaming from the Witness H, who was sheltering in place in a fitting room.

Officers A, J, I and H entered the fitting room to check for additional suspects and victims. They positioned themselves outside of the fitting room where Witness H and Victim 5 were located. Officer J announced "Police, Police" and Witness H opened the door. Victim 5 was lying on her left side, next to Witness H. Witness H was screaming Victim 5's name and was extremely distraught.

At approximately 1150:13 hours, Officer A announced, "We might have another victim down." Officer A stepped in to visually assess Victim 5. He/she reached his/her hand toward her and touched her shoulder as he/she stated "It's gonna be a head wound. It's a head wound."

Based on Officer A's BWV, approximately 40 seconds elapsed from the time Officer A announced that they "might have another victim down" (11:50:13) to his/her announcement of, "it's a head wound" (11:50:53). During that time, Officer A did not check Victim 5 for a pulse or to identify the location(s) of her injury/injuries. Rather,

his/her evaluation of Victim 5's condition was limited to looking at her and touching her shoulder. BWV from this point in the incident shows the presence of a pool of blood underneath the area of Victim 5's head.

Officer A was initially standing outside the threshold of the open fitting room door when he/she announced there may be another victim. As seen on his/her BWV, Victim 5 was laying on her left side within inches of the east wall, near the south end of the fitting room. Witness H was initially lying on the floor west of Victim 5, extremely distraught, rolling from her stomach to her back. At 11:50:14, Witness H rolled to the area near the west wall, approximately 1-2 feet away from Victim 5. As depicted by Officer A's BWV footage, at 11:50:17, Victim 5's hips and upper torso moved slightly. Meanwhile, Officer A was still near the exterior threshold of the doorway.

Officer A then entered the room and approached Victim 5. At 11:50:25, Officer A reached down and touched Victim 5's right shoulder with his/her left hand. He/she later explained he/she intended to check her pulse at the time, but "due to the mother's behavior," stopped "touching the victim."

Officer A then stood back up and announced "we have one down, one down," while simultaneously directing his/her attention toward Witness H. At 11:50:32, Officer A turned back toward Victim 5, leaned down and lightly pulled on the right-side of her sweatshirt. Officer A again stood up and directed his/her attention back toward Witness H, who had moved north, closer to the door. At 11:50:50, an unusual sound became audible on all of the officers' BWVs that were standing in or near the fitting room. The sound lasted approximately 1.3 seconds and Victim 5 could be seen on BWV to slightly move immediately after the sound concluded.

Officer A appeared to redirect his/her attention back to Victim 5 during the sound, turning his/her head and shoulders slightly counterclockwise in Victim 5's direction. He/she then pivoted toward her and was facing her when her hips slightly moved. Officer A then leaned down and touched Victim 5's right shoulder with his/her left hand before standing up and announcing, "It's gonna be a head wound, it's a head wound."

None of the officers who were present in the area of the fitting room described hearing the unusual sound captured on their BWVs. The nature and source of the sound could not be determined from the BWV evidence.

Officer A was asked if he/she saw Victim 5 "appear to move or make any noises or [give] any indications that she might be alive." Officer A responded that he/she had not.

During the incident, Officer A did not attempt to render aid, nor did he/she cause other officers to render aid, such as Cardiopulmonary Resuscitation (CPR), to Victim 5. Officer A explained that, "Due to the woman, this second woman that was not down acting extremely erratic, I wanted to clear her out of the room. That's why I did not render aid right away. I wanted her to get out so I had a safe environment. I didn't want her to push me off of that victim. I didn't want her to grab my weapon from behind me, not knowing her mental state. So I assisted [Officer J] and [Officer I] to help get this lady out."

Officer A was additionally asked if he/she assessed Victim 5 again after Witness H was “eventually moved to the other side of the dressing room.” According to Officer A, “[...] I still did not feel safe to render aid because if I started touching the daughter [Victim 5], the mom could have got more upset and came aft- -- you know, could have jumped on top of me, could have started fighting the officers. So I didn’t feel like touching the daughter until the mother was out was an ideal -- was ideal.”

Officer J did not attempt to render aid to Victim 5, nor to cause other officers to do so. Officer J reported seeing “a big pool of blood” near the rear of Victim 5’s head and believed she had been shot in the head.

Regarding not rendering aid, Officer J explained that the area had not been secured and “the mother being in that changing room being hysterical [...],” factored into his/her decision. At one point during Officer J’s interview, investigators queried, “...it seems like you’re in a secluded area. The victim’s in her own little room. And it seemed like at that point, you described seven or eight officers minimum were present.” The investigators continued, explaining that they were “just trying to get your mindset [...] why you thought you would [be] in peril in the waiting of the code four.” Officer J responded, “So because of all the commotion that was going on outside I assumed that there may have been other people around and because of what I saw in the changing room I thought I saw a victim, the gunshot wound to the head. And unfortunately, we’re not trained to treat, you know, gunshot wounds to the head. All -- all we have, you know, basic CPR training. That’s why.”

Officer J was not asked, and did not indicate, whether he/she observed any movement by Victim 5.

Officer I accompanied Officers A and J as they responded to the fitting room. As Officers A and J announced their presence and made entry into the fitting room, Officer I continued past them and cleared the remaining fitting rooms before returning approximately 14 seconds later. When he/she returned, Sergeant A moved out of the threshold of the door, and Officer I replaced him/her.

Meanwhile Officers A and J had made entry and Witness H was on the floor, in a highly distressed state. Officer I assisted with removing Witness H from the room and remained outside until he/she later assisted Officer L perform CPR on Victim 5. During that time, Officer I checked for a pulse with negative results.

When asked why he/she did not “immediately render aid to the victim when she was in the fitting room after the mom [Witness H] was removed,” Officer I stated, “So at the time of the incident, again, I thought it was an active shooter. So my primary attention was outside to see if I was needed, you know, to get on another contact team or to, you know, engage another shooter. And, you know, it wasn’t until that [Officer C] kind of came in and said, “Hey, start rendering aid,” that, you know, we started rendering aid, because I was in a different mindset, a different mode.” Officer I was not asked, and did not indicate, whether he/she observed any movement by Victim 5.

Officer E told investigators that, after assisting with taking the Subject into custody, he/she heard screaming from the area of the fitting rooms. As described by Officer E, “I

walked into that fitting room I saw a female, younger female on the ground. She was bleeding profusely from the [...] mouth, what appeared to me from the mouth. There was a lot of blood under her head.”

Officer E’s BWV shows that he/she arrived at the fitting room at approximately 11:50:37. Officer E did not attempt to render aid, nor to cause other officers to render aid, to Victim 5. Officer E was not asked, nor did he/she indicate, why he/she did not do so.

During his/her interview by FID, the following exchange occurred between an FID detective and Officer E:

Detective: “And from there, you said you heard a female voice screaming and then you went to go inspect what was going on, right?”

Officer E: Right.

Detective: And then you go in there and you see a female laying on the [...] ground in one of the fitting rooms?

Officer E: Yes.

Detective: Were the officers tending to her when you first went in there to -- to look at her?

Officer E: Yes.

Detective: What were they doing that you saw? What kind of medical attention or what were they doing with her?

Officer E: No. At -- at first when I [...] walked in, they had -- they were just in there with her. I can’t recall if they were -- they definitely weren’t doing like CPR or chest compressions [...] It looks like maybe they [...] were more of like securing the scene trying to see what they had. Try -- they were just noticing that there [...] was also a victim and broadcasting that over the -- but nobody was tending to her as of yet.

Detective: Uh-huh. Okay. Did you see when somebody began to start rendering aid to her?

Officer E: Yes.

Detective: And how long after would you say the OIS did you first begin to see that?

Officer E: It could have been another five minutes.”

Officer E was not asked, nor did he/she indicate, whether he/she observed any movement by Victim 5.

According to Sergeant A, "So, I walked in the fitting room. There was some more officers back there and there was an hysterical lady. And, you know, I found out [...] later that there was a victim in there but I didn't see the victim down. I see them dealing with a hysterical lady." Subsequently, as described by Sergeant A, "I was kind of monitoring the different locations trying to -- trying to see. And then I went back to the [...] back room again and that's when I see we had a [...] secondary victim. She was laying on her back and there was a lot of blood around her head and, you know, there's nothing we can do MT wise to, you know, for a head wound."

Sergeant A's BWV shows that, at approximately 11:53:23, he/she approached the fitting room area for the second time and was informed that there was a "victim down." After clarifying that this was an additional victim, at approximately 11:53:32 Sergeant A briefly looked into the fitting room where Victim 5 was located.

According to Witness H, while the store was being evacuated, she and Victim 5 were sitting in the fitting room. Victim 5 was seated to Witness H's left next to the west side of the wall, facing north. They were praying together when a bullet entered the wall to the left side of Victim 5. Victim 5 was struck by the bullet and they both fell to the ground. Witness H stated, "...we heard arguing, fighting, like a loud fight, and I told her, put, we put the latch on the door because we thought they were going to come in and fight, and we hugged each other and remained sitting on the seat. We remained sitting like this and then a gunshot came in."

One of the rounds fired during the OIS struck the floor behind the Subject. The round deflected upward through the drywall of the fitting room, where Victim 5 and Witness H were located. The round struck Victim 5 in the left side of her torso. One round penetrated an ottoman behind the Subject and was lodged in the wall. One round struck the Subject. The investigation was unable to determine the sequence of impacts.

Officers J, E and I attempted to assist Witness H to her feet and move her away from Victim 5.

Police Officers K and L arrived and entered the fitting room area. At 1152:51 hours, Officer L checked Victim 5 for a pulse and also conducted a visual assessment. Based on his/her assessment, Officer L believed that Victim 5 was deceased.

Officer I relayed to Officer C that a third Rescue Ambulance (RA) was needed.

At 1152:11 hours, Officer C broadcast, "Let's hold the frequency. Calm everything down. We need one additional RA for a third victim. Female, conscious and breathing. Blunt trauma to the body." At the time of his/her broadcast, Officer C was unaware of the nature of Victim 5's injury.

Sergeant A directed Officer F to a bench at the south side of the fitting room aisle and instructed him/her to remain seated. Sergeant A directed Officer G to conduct a search of the rest of the store. Officer G led the search and determined there were no additional victims.

At 1158:41 hours, Officer C was advised by Officer J that Victim 5 had no pulse and was not breathing. According to Officers J, L, and A, they believed that Victim 5 had been shot in the head and was deceased. At 1158:45 hours, Officer C directed them to render medical aid. At 1158:54 hours, Officer L began CPR. Officers L, I and J alternated providing compressions to Victim 5 until the paramedics' arrival.

Los Angeles Fire Department (LAFD) records indicated that an Advanced Life Support (ALS) Unit was dispatched to the scene at 1153:03 hours and arrived at scene at 1156:35 hours. The ALS unit was staged in the parking lot until the scene was declared safe to enter by LAPD.

According to Sergeant A, Officer F appeared distraught. Sergeant A delegated Officer K to stand by with Officer F, who was seated near the fitting rooms. Officer K stood next to Officer F and took possession of his/her rifle. According to Sergeant A, he/she was standing in an area of the walkway and aisle where he/she felt he/she could simultaneously keep the OIS scene secure, and monitor the officers, the Subject and the dressing room area. Sergeant A explained, "So, just get -- getting [Officer F] in a separate location with one -- one [officer] there for moral -- moral support seemed like that was as -- as -- as good as I could get at that -- at that point. [Officer F] follow me around is not going to help because I have, like I said, I have a half a dozen other guys that need to be -- they're going to have to be, you know, monitored and everything. And I can't pull them all off of their duties if they're doing -- doing CPR and, you know, dealing with the victim's mother and all this other stuff that had -- I had going on."

At approximately 1158:48 hours, Lieutenant A broadcast he/she was at scene and declared him/herself Incident Commander. According to Lieutenant A, he/she had been monitoring the incident via the radio. He/she was aware that there were a limited number of patrol personnel available and coordinated Lieutenant B to direct detective supervisors to respond to the scene for monitoring and separation of the involved officers, scene containment and witness identification.

Officers D, C, A, and H provided chest compressions to the Subject until the paramedics' arrival. At 1202:00 hours, paramedics assessed the Subject and declared him deceased at scene.

At 1205 hours, paramedics assessed Victim 5 and declared her deceased at scene. At approximately 1210 hours, Officer I escorted Witness H from the fitting room area.

BWV and DICVS Policy Compliance

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Sergeant A	Yes	Yes	Yes	N/A	N/A
Officer F	Yes	Yes	Yes	Yes	Yes
Officer E	Yes	Yes	Yes	Yes	Yes
Officer L	Yes	No	Yes	Yes	Yes
Officer C	Yes	Yes	Yes	Yes	Yes
Officer A	Yes	No	Yes	Yes	Yes

Officer B	Yes	Yes	Yes	Yes	Yes
Officer I	Yes	Yes	Yes	Yes	Yes
Officer D	Yes	Yes	Yes	Yes	Yes
Officer J	Yes	Yes	Yes	Yes	Yes

Los Angeles Board of Police Commissioners’ Findings

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

A. Tactics

The BOPC found Officers B, C, D, and L’s tactics to warrant a finding of Tactical Debrief. The BOPC found Officers A, E, F, I, J and Sergeant A’s tactics to warrant a finding of Administrative Disapproval.

B. Drawing and Exhibiting

The BOPC found Officers A, D, E, F, I, J and L’s drawing and exhibiting of a firearm to be In Policy

C. Lethal Use of Force

The BOPC found Officers F’s lethal use of force, round one, to be In Policy. The BOPC found Officer F’s lethal use of force, rounds two and three, to be Out of Policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every “use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. The Los Angeles Police Department also recognizes that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

The Department’s guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the

Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

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

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

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

Use of De-Escalation Techniques: It is the policy of this Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

Verbal Warnings: Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is already aware of those facts.

Proportionality: Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

Fair and Unbiased Policing: Officers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct in the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

Use of Force – Non-Deadly: It is the policy of the Department that personnel may use only that force which is “objectively reasonable” to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;

- Prevent escape; or,
- Overcome resistance.

Factors Used to Determine Objective Reasonableness: Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines the reasonableness of any particular force used: a) from the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;
- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the suspect to escape;
- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the suspect;
- Officer versus suspect factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

Drawing or Exhibiting Firearms: Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall conform with this policy on the use of firearms. Moreover, any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

Use of Force – Deadly: It is the policy of the Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or another person; or,

- To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent feasible under the circumstances.

Note: Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

The Department's Evaluation of Deadly Force: The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*.

Rendering Aid: After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, suspects, persons in custody, suspects of a use of force and fellow officers:

- To the extent of the officer's training and experience in first aid/CPR/AED; and
- To the level of equipment available to the officer at the time assistance is needed.

Warning Shots: It is the policy of this Department that warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers and property damage.

Shooting at or From Moving Vehicles: It is the policy of this Department that firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with this policy regarding the use of Deadly Force.

Note: It is understood that the policy regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgement, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by

case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

Requirement to Report Potential Excessive Force: An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer, shall report such force to a superior officer.

Requirement to Intercede When Excessive Force is Observed: An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a suspect.

Definitions

Deadly Force: Deadly force is defined as any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

Feasible: Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Imminent: Pursuant to California Penal Code 835a(e)(2), "[A] threat of death or serious bodily injury is "imminent" when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to a peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed."

Necessary: In addition to California Penal Code 835(a), the Department shall evaluate whether deadly force was necessary by looking at: a) the totality of the circumstances from the perspective of a reasonable Los Angeles Police Officer with similar training and experience; b) the factors used to evaluate whether force is objectively reasonable; c) an evaluation of whether the officer exhausted the available and feasible alternatives to deadly force; and d) whether a warning was feasible and/or given.

Objectively Reasonable: The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, "The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly

evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.”

The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.

Serious Bodily Injury: Pursuant to California Penal Code Section 243(f)(4) Serious Bodily Injury includes but is not limited to:

- Loss of consciousness;
- Concussion;
- Bone Fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and,
- Serious disfigurement

Totality of the Circumstances: All facts known to or reasonably perceived by the officer at the time, including the conduct of the officer and the suspect leading up to the use of force.

Vulnerable Population: Vulnerable populations include, but are not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

Warning Shots: The intentional discharge of a firearm off target not intended to hit a person, to warn others that deadly force is imminent.

A. Tactics

Tactical De-Escalation

- Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Tactical De-Escalation Techniques: **Planning; Assessment; Time; Redeployment and/or Containment; Other Resources; and, Lines of Communication.**

Planning – This was Officers F and E’s first time working together. Before the radio call broadcast, they discussed tactics, specifically contact and cover, foot pursuit concepts, the use of an airship, their weapon systems, and Officer F’s rifle system. Hearing multiple broadcasts regarding a shooting at the store, Officer F, who had recently attended Immediate Action Rapid Deployment (IARD) Training, planned to respond to the scene and deploy his/her patrol rifle.

Officers C and D had worked together approximately three times before this incident. During their time working together, they discussed contact and cover roles, weapon systems including the Remington 870 shotgun, the ammunition used, and the effective range for each system. Per the BWV footage, as they were responding to the location, Officer C directed Officer D to deploy the 40mm LLL when they arrived at the scene. Arriving at the scene, Officer D deployed his/her Department approved shotgun as Officer C deployed the 40mm LLL. According to Officer D, he/she discussed tactics with Officer C in the past and explained he/she would deploy his/her shotgun at incidents and wanted to stick with the original plan. According to Officer D, he/she and Officer C also had an understanding that Officer D would deploy the shotgun when responding to high-priority calls and Officer C would deploy a less-lethal option.

Officers A and B had been partners for approximately one year. During the past year, they discussed tactics including contact, cover, less-lethal, lethal, arrest team, communications, and the equipment they carried. Due to the type and comments of the calls, Officers A and B responded to the store. Arriving at the scene, Officers A and B met with Officers C and D. Officer C handed Officer B the 40mm LLL. Using the 40mm LLL, Officer B functioned as the less-lethal cover officer during this incident. Officer C, who was the senior officer at the scene, formulated a team, coordinated a plan, met with a witness and obtained pertinent information before going into the store.

While standing in front of the location, Officer D employed IARD tactics, directing the team to establish a tactical formation. Before entering the store, Officer C used his/her hand-held radio and broadcast the Subject's description, the number of subjects believed to be involved, and that the Subject was armed with a bicycle lock. Approaching the second floor, Officer C advised Officer D if they were to see the Subject to let Officer B "hit him with the 40." When Officer E entered the store, Officer C directed him/her, "Get up here. You and I are going to be arrest team." As additional resources arrived, Officer C designated roles.

As Officer F was reaching the top of the escalator, he/she heard Officer A call out that he/she saw a victim down and began to move north in a main aisle. Officer F announced that he/she would take point as he/she moved to the front of the team. Officer F saw Officer D in the point position with the shotgun but believed the rifle would be a better selection for the situation. After the contact team reached the second-floor landing, the rapidly unfolding events limited the officers' ability to plan further.

Assessment – Officers C and D were the primary unit assigned to the ADW call. As they were responding to the location, a shots fired call was also broadcast. As Officers C and D arrived, they saw a crowd of people standing in the parking lot looking and pointing toward the store. Officer C exited his police vehicle and called out to the crowd to find the Subject. In response, the crowd pointed toward the store.

Officers A, B, C, and D made their approach to the front of the location. Assessing the scene, Officer C spoke with Witness F and obtained the Subject's description. Witness F advised that the Subject was inside the store armed with a bicycle lock and that there were still people inside. As the team of officers approached the location, they all felt a sense of urgency to make entry due to the comments of the call, the size of the store, potential victims down, and their belief an active shooter may be inside.

While responding to an unrelated radio call, Officer F heard a radio call for shots fired. Monitoring the police radio, Officer F heard a second broadcast regarding shots fired at the Burlington store, which heightened his/her awareness. Based on the comments of the call, the location, and the time of year, Officer F opined the call was an active shooter. Arriving at the scene, Officer F observed "a lot of people" outside the store and described the scene as "chaos" and "like a huge commotion." Officer F opined that the people in the parking lot left the store in a "hurry." Officer F believed "something really serious was going on" because the crowd gathering was not typical of a "fight." Officer F explained, "people spilled out in the street, and was like a big deal like something really big was happening." Officer F further explained that people appeared frantic and were yelling that the Subject was inside.

Officer F exited his/her vehicle and walked to the trunk to retrieve his/her patrol rifle. As he/she obtained his/her rifle from the trunk, he/she heard a female's voice in the background frantically giving the Subject's description. Per Officer F, there was an urgency in her voice, almost as if she was telling him/her to "hurry up." Officer F believed he/she needed to gather his/her gear and enter the store as soon as possible to stop the threat. Based on the "multiple radio calls" at the store, and having just attended IARD training, F believed that the Subject was inside the store shooting people. Officer F wanted to get in the store as fast as possible and stop the threat.

Sergeant A walked into the store before Officer F. Sergeant A stopped at the base of the escalator and waved Officer F to go in front of him/her. Officer F described his/her mindset at that time as being urgent, due in part to the lady's tone of voice and Sergeant A waving him/her on. Officer F believed he/she was going into an active shooter situation and needed to get to the second floor to see what was happening. Due to the time of year, and the large store, Officer F believed when he/she reached the second level, he/she was going to see people everywhere and "pure chaos."

According to Officer F, as he/she was reaching the second level, he/she heard Officers speaking and formulating a plan. Then he/she heard Officer A call out "victim down!" Officer F observed the officers on the second floor in a tactical formation, employing IARD tactics, with Officer D as the point with the shotgun. Officer F wanted to replace the shotgun with his/her rifle because he/she opined that the rifle is more accurate at farther distances. According to F, CD had advised that multiple people were hiding in the store, and he/she did not want to risk injuring bystanders by discharging a shotgun due to the spread of buckshot.

As Officer F took point with the rifle, he/she continued his/her assessment with his/her focus drawn to the east side of the building. According to Officer F, he/she heard someone say, "slow down!" Officer F complied. While assessing, Officer F saw Victim 4 covered in blood crawling out of the aisle as she looked back. In response, Officer F increased his/her pace toward her.

Officer F believed Victim 4 had been shot and was looking back down the aisle toward the Subject. This led him/her to believe the Subject was near to her. Continuing toward Victim 4, Officer F rounded the corner of a display rack and saw the Subject holding a dark metal object in his right hand. The Subject saw officers and lunged to the left as he bent his right arm slightly while still holding the object. Assessing the Subject's actions, Officer F believed the Subject was raising a gun to shoot as he (the Subject) moved to obtain cover behind the aisle endcap. Officer F raised his/her rifle, looked through the rifle's optic, obtained a sight picture of the Subject's center body mass, and discharged three rounds.

During the OIS, Officer F assessed his/her background. Officer F believed his/her background was a blank wall containing merchandise and that beyond the wall was an exterior brick wall, which his/her rounds would not be capable of penetrating. Unbeknownst to Officer F, the women's fitting rooms were behind the Subject.

Time/Redeployment and/or Containment – Before entering the store, the contact team paused at the front doors, using distance and cover to assess and announce their presence. Due to the nature of the shooting broadcasts, the time of year, the location, and possible victims inside the store, officers felt a sense of urgency to move quickly to get inside to look for suspects and victims. Ascending the escalators to the second floor, Officer C directed the contact team to hold at the top of the escalator. Observing the Subject and Victim 4, Officer A called out his/her observations and moved toward the threat as the team followed. Officer C called out for the team to slow down. As they slowed, Officer F took the point position. As Officer F moved north in the aisle, the team called for him/her to slow down. Officer F complied and then increased his/her pace when he/she saw Victim 4 crawling out of the aisles. Officer F believed Victim 4 had been shot and that the Subject was still in the area. Locating the Subject, Officer F believed he was holding a firearm. Believing that the Subject was going to shoot Victim 4, his/her partners, or him/herself Officer F believed he/she had to act.

The BOPC considered that the Use of Force Review Board (UOFRB) noted Officer C had planned to methodically search the store for the Subject and use a less-lethal device to stop his actions, if appropriate; however, the rapidly evolving nature of this incident caused the circumstances to change.

Other Resources – Due to the nature of the calls, officers responded quickly. Before entering the location, Officer C ensured that the team was equipped with lethal and less-lethal options. After gathering information and entering the location, Officer C requested a backup. Observing Officer E enter the store, Officer C directed him/her to join the team.

Lines of Communication – While responding to the call, Officers C and D discussed tactics and the use of weapon systems. Arriving at the scene, Officer C communicated with arriving officers and established a contact team. Before going into the store, Officer C spoke with Witness F and obtained pertinent information regarding the Subject, possible victims, and the weapon used. As additional officers arrived, Officer C assigned roles and broadcast updates.

While Officers E and F were en route, Officer F broadcast, “Advise I’m [patrol rifle] equipped.”

At 1147:54 hours, Officer C broadcast “Hold the frequency, please. And we’re going to be moving up right now [...] No need to answer it. Hold the frequency. We have one [Subject], no pants, with a bicycle lock. We are making contact.” During Officer C’s broadcast, Officers F and E were inside the parking lot approaching the store. A review of Officer F’s BWV determined that Officer C’s broadcast was captured at 1147:54 hours.

At 1148:08 hours, Officers E and F parked near the entrance. At 1148:11 hours, Officer F exited his/her vehicle. According to Officer F, he/she did not hear Officer C’s broadcast. Officer F indicated the only broadcast he/she heard related to a bicycle lock was the initial radio call broadcast by CD.

Arriving on the second floor, Officer D directed the contact team to assume a tactical formation. Officer C made an announcement directing all victims to come to the officers and exit the store. Observing the Subject and Victim 4, Officer A alerted the team and announced, “victim down!”

Officer F entered the location with his/her rifle and ascended the escalator as the team held at the top of the escalator. As F stepped off the escalator, video footage depicts Officer C pointing toward him/her while stating, “sling, sling that.” A review of Officer F’s BWV determined Officer C’s voice was faint and not clearly heard. Based on the FID investigation, it is unclear if Officer C was talking to Officer F or if he/she heard him/her.

Arriving on the second floor, Officer F told the team to slow down and let him/her take point with his/her rifle. Officer F moved quickly to reach the front of the tactical formation. Officer D acknowledged that Officer F now had the point. Officer F was not informed the Subject was armed with a bicycle lock. Officer A called out to Officer F that the Subject was to the right near the fitting rooms. According to Officer F, he/she did not hear “fitting rooms,” only that the Subject was to the right. After the OIS, a help call was broadcast and the store was cleared for additional victims.

The BOPC considered that the UOFRB noted it is the policy of this Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation. The Board also noted that in determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use

other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer. As such, the UOFRB assessed Officer F's use of de-escalation techniques before the OIS. The UOFRB was not unanimous in its conclusion.

The BOPC noted that the UOFRB Majority was critical of Officer F's planning, assessment, and communication. In terms of his planning and communication, the UOFRB Majority opined that Officer F failed to formulate a plan with the officers already at the scene. While there was some communication, it was limited to Officer F's request to take point and his/her observations of Victim 4 bleeding. The UOFRB Majority opined that had Officer F asked someone on the team for an update, he/she may have learned that Witness F had stated the Subject was armed with a bicycle lock and the plan was for Officer B to use the 40mm LLL.

In terms of Officer F's assessment, the UOFRB Majority opined that Officer F was hyper-focused on his/her belief that this was an active shooter scenario and may have failed to conduct an objective assessment when he/she arrived at the scene. This was demonstrated in part by Officer F's decision to disengage his/her rifle's safety selector switch before identifying a target. While there were some indications that this was an active shooter scenario, the UOFRB Majority opined that had Officer F further assessed he/she would have determined that this was not an active shooter, albeit an immediate action rapid deployment incident based on the Subject's use of a blunt instrument. Additionally, there was discussion by the UOFRB Majority as to whether Officer F reasonably assessed the dark object in the Subject's hand. Based on the totality of the circumstances the UOFRB Majority opined that the tactics employed by Officer F were a substantial deviation, without justification, from Department-approved tactical training.

The BOPC noted that the UOFRB Minority disagreed with the UOFRB Majority. In reaching its conclusion, the UOFRB Minority opined that Officer F reasonably planned as he/she recently attended tactical training for mass casualties, was current on IARD tactics, reasonably assessed the information known to him/her at the time, utilized time afforded to him/her and the team, and communicated with the contact team of officers as he/she made his/her approach leading up the OIS. In Officer F's assessment leading up to his/her assumption as taking the point position in the tactical formation with the contact team, Officer F considered the nature of the radio calls' comments, bystanders' demeanor outside the store upon arrival, and the fashion that additional customers exited the store as he/she ascended the escalator to the second floor, and information Officer A provided upon seeing the Subject and Victim 4. Due to the totality of the circumstances, it was not reasonable for officers to contain the location or redeploy at the time. The UOFRB Minority opined that an officer with a similar background, training, and experience as Officer F would have reasonably taken similar actions in an effort to preserve lives. Based on the totality of the circumstances the Minority opined that the tactics employed by Officer F were a substantial deviation, with justification, from Department-approved tactical training.

Based on the totality of the circumstances, the BOPC concurred with the UOFRB Majority that the tactics employed by Officer F in this regard were a substantial deviation, without justification, from Department-approved tactical training.

Regarding Officer F's decision to replace the shotgun with his/her rifle, the BOPC considered that the UOFRB noted Officer F's belief that the rifle is more accurate at farther distances as well as his/her concern for the of risk injuring bystanders by discharging a shotgun. In assessing this decision, the UOFRB noted the testimony of an IARD instructor from Training Division who testified that it was appropriate for Officer F to replace the shotgun with his/her rifle given that IARD tactics were prudent based on the Subject's actions. The UOFRB also noted the testimony of a Subject Matter Expert from Training Division who testified that the rifle would be preferred in this situation because it is a more accurate weapon system, especially where distance may be a factor and the subject may be near civilians.

Further assessing Officer F's decision to replace the shotgun with his/her rifle, the UOFRB noted Officer F's assessment of his/her background during the OIS as well as his/her belief that his rounds would not be capable of penetrating the store's exterior brick wall. While Officer F was unaware that the fitting room was behind the blank wall, the UOFRB noted that, per Department training, a rifle round from a patrol rifle may lack the ability to penetrate objects such as walls and glass. The Board also noted that, per a Department firearms instructor and expert in the field of ballistic testing, the .40 caliber pistol round penetrated further on average than the Department's standard-issue rifle round during testing. Per the expert, the Department's tests mirrored the FBI's protocols. Another Department expert indicated that tests have also shown both the 9mm and .45 caliber rounds will penetrate further than the Department's standard-issued rifle round.

Based on the totality the UOFRB opined that Officer F's decision to replace the shotgun with his rifle was appropriate, and the BOPC concurred with this determination.

- During its review of this incident, the BOPC noted the following tactical considerations:

1. Code Six

When they arrived at the scene, neither Officer F nor Officer E advised CD that they were Code Six; however, they had advised CD that they were responding. Officers F and E were the third unit to arrive at the scene.

The BOPC noted that the UOFRB assessed Officers F and E's adherence to the Code Six policy. The UOFRB noted that when interviewed by FID, neither officer recalled if they advised CD they were at the scene. However, the UOFRB also noted that the Code Six policy's intent is to advise CD of an officer's location in the event assistance is needed. Here, Officers F and E advised CD that they were responding to the shooting call at the Burlington store. The UOFRB also noted that they were the third unit to arrive at the scene of what many believed to be an active shooter situation. According to Officer F, the scene was chaotic and he/she felt compelled to quickly enter the store to address the threat. Officer E had seen the team entering the store and jogged to the store to catch up with them. As Officer E entered the store, Sergeant A was close behind. As Officers

F and E reached the second floor, multiple officers were present and additional officers were responding to the scene. The UOFRB opined that had Officers F and E needed assistance, multiple officers would have quickly located them and assisted as needed. While the UOFRB would have preferred that Officers F and E had advised CD that they were Code Six, in this unique situation the UOFRB opined that it was better they kept the frequency clear, as evidenced by Officer C's request to hold the frequency.

Based on the totality of the circumstances, the BOPC determined that the tactics employed in this regard by Officers F and E were not a substantial deviation from Department-approved tactical training.

2. Patrol Rifle Protocols

Before locating the Subject, Officer F preemptively moved his/her rifle's selector switch to the fire position. Officer F had seen Victim 4 emerge from the aisle, crawling on the floor, her face covered in blood. As Victim 4 made it to the endcap, she had briefly looked in Officer F's direction and then looked back into the aisle. This caused Officer F to believe the Subject was in the immediate area. In response, Officer F announced, "She's bleeding! She's bleeding!" as he/she moved his/her rifle's selector switch from safe to fire and continued toward Victim 4.

The BOPC considered that the UOFRB assessed Officers F's decision to preemptively move his/her patrol rifle's selector switch to the fire position. The UOFRB noted that per the BWV footage, it appeared that Officer F moved the switch to fire approximately three seconds before the OIS. The UOFRB also noted that officers are trained not to move the switch, disengaging the safety, until they intend to shoot.

The UOFRB noted Officer F's belief that the Subject was in the aisle near Victim 4. While the UOFRB opined that Officer F's belief was reasonable based on his/her observations, the UOFRB Majority opined it was unreasonable for him/her to move his/her rifle's selector switch to fire before identifying his target, aligning his/her sights, and intending to shoot. The UOFRB Majority opined that by prematurely disengaging his safety, Officer F increased the risk of having an unintended discharge, especially given the stress of this incident. What is more, Officer F's actions were contrary to his/her training. Based on the totality of the circumstances, the UOFRB Majority determined that the tactics employed by Officer F were a substantial deviation, without justification, from Department-approved tactical training.

The BOPC also considered that the UOFRB Minority dissented from the UOFRB Majority's opinion. Based on the totality of the circumstances, the UOFRB Minority opined that it was reasonable for Officer F to preemptively place his/her rifle's selector switch to fire. The UOFRB Minority noted that although Officer F had not seen the Subject, he/she believed the Subject was near Victim 4 and that he/she would have limited time to react if the Subject attempted to shoot Victim 4, his/her partner, or him/her. The UOFRB Minority opined that moving the

selector switch preemptively was a tactical decision dictated by the circumstances of the engagement and the unique positioning of the involved individuals. This tactical deviation was made to stop an imminent threat of death and save the life of a victim. Based on the totality of the circumstances, the UOFRB Minority opined that the tactics employed by Officer F were a substantial deviation, with justification, from Department-approved tactical training.

Based on the totality of the circumstances the BOPC concurred with the UOFRB Majority and determined that the tactics employed by Officer F in this regard were a substantial deviation, without justification, from Department-approved tactical training.

- The BOPC also considered the following:

Rendering Aid – In this case, Officers A, E, I, and J encountered Victim 5 and Witness H in the fitting room area. None of these officers immediately requested an RA for Victim 5, nor did they promptly provide first aid to her or cause others to do so. An ambulance for Victim 5 was subsequently requested by Officer C at 11:52:17. Officer C broadcast this request seconds after he/she was informed by Officer I that a third RA was needed (in addition to the two that had already been requested), and just over two minutes after Victim 5 had been located in the fitting room by officers.

Until Officer L initiated a physical examination of Victim 5 approximately three minutes after the OIS, none of these officers physically examined Victim 5 in order to identify the location and nature of her injury/injuries, nor to establish whether she had a pulse.

Subsequent to Officer L's examination of Victim 5, and approximately nine minutes after the OIS had occurred, Officer C prompted Officers I and L to initiate chest compressions on Victim 5.

In his/her statement to FID regarding the nature of the injury/injuries Victim 5 had sustained, Officer J indicated that he/she believed Victim 5 had a gunshot wound to her head.

Officer A stated that Victim 5 "had blood coming from her head" and added that he/she "saw a bullet hole" to his/her right "so [he/she] did assume that she was struck in the head with a head wound."

Officer E told investigators that it appeared to him/her that Victim 5 was bleeding from the mouth.

Officer I did not indicate to FID what he/she believed the nature of Victim 5's injury/injuries to have been.

In his/her statement to FID regarding his/her reasoning for not rendering aid, Officer J indicated that the fitting room not having been cleared and Witness H "being hysterical" were factors in his decision. Officer J also stated that he/she believed

Victim 5 had sustained a gunshot wound to her head and that he/she was not trained to treat gunshot wounds to the head.

Officer A indicated that he/she wanted to clear Witness H from the fitting room, explaining, "That is why I did not render aid right away. I wanted to get her out so I had a safe environment. I didn't want her to push me off the victim. I didn't want her to grab my weapon from behind me, not knowing her mental state. So, I assisted [Officer J] and [Officer I] to help get this lady out." When asked whether he/she assessed Victim 5 after Witness H moved to the other side of the fitting room, Officer A stated, "I still did not feel safe to render aid because if I started touching the daughter [Victim 5], the mom [Witness H] could have got more upset and [...] could have jumped on top of me, could have started fighting the officers. So I didn't feel like touching the daughter until the mother was out was an ideal -- was ideal."

When asked why he/she did not "immediately render aid to the victim [Victim 5] when she was in the fitting room after mom [Witness H] was removed?" Officer I stated, "I thought it was an active shooter. So my primary attention was outside to see if I was needed, you know, to get on another contact team or to, you know, engage another shooter. And, you know, it wasn't until [Officer C] kind of came in and said, "Hey, start rendering aid," because I was in a different mindset, a different mode."

Officer E was not asked, and did not indicate, why he/she did not render aid to Victim 5.

The BOPC noted that in its review of this case, a UOFRB Majority recommended findings of Administrative Disapproval for Officers A and E based on their failure to render aid to Victim 5 in accordance with Department standards. The BOPC further noted that a UOFRB Minority recommended a finding of Administrative Disapproval for Officers I and J, also for their failure to render aid to Victim 5 in accordance with Department standards.

The BOPC considered that none of the officers being discussed here - Officers A, E, I, and J - took action to ensure that an additional RA was immediately requested for Victim 5 upon learning that she was injured, despite having the opportunity to do so. Additionally, and also despite having the opportunity to do so, none of these officers promptly examined Victim 5 to determine whether she had a pulse or to determine the location and nature of her injury/injuries, as preparatory step to providing first aid to her in accordance with their training. Accordingly, by a 3-2 vote, the BOPC determined that the actions of Officers A, E, I, and J were a substantial deviation, without justification, from Department-approved tactical training.

Command and Control

Arriving at the scene, Officer C observed a crowd of people standing in the parking lot in front of the store. Officer C advised Officer D to deploy the shotgun as he/she (Officer C) deployed the 40mm LLL. When Officer B arrived, Officer C handed him/her the 40mm LLL, designating him/her as the less-lethal cover officer.

Officer C directed the officers to form an entry team by stating, “get a stick.” Officer D was the point officer with the shotgun, Officer A unholstered his/her service pistol, Officer B was equipped with the 40mm LLL, and Officer C assumed the team leader role. As the officers walked toward the entrance, Officer C briefly spoke to Witness F who told him/her the Subject was inside the store with a bicycle lock, smashing things, and that there were people still inside. Officer B told Officer C to “ask him about the gun.” However, the question was not asked and the entry team began to move toward the front doors.

Based on the comments of the calls, numerous people rapidly exiting the store, the location, the time of year, the information that the Subject was armed with a deadly weapon, and yelling/screaming from inside the store, Officer C felt there was an active shooter/active assault going on inside. Officers C also felt there was an exigency to enter the store.

Before the team entered the store, Officer C broadcast “Hold the frequency, please. And we’re going to be moving up right now [...] No need to answer it. Hold the frequency. We have one [Subject], no pants, with a bike lock. We are making contact.” As the contact team moved toward the escalators, Officer C broadcast, “Have one unit come in from the east side. He’s on the second floor. Make that a backup on that call.”

Approaching the second floor, Officer C advised Officer D if they were to encounter the Subject to let Officer B use the 40mm LLL. Continuing up the escalator to the second floor, Officer C informed Officer B he/she was going to be on the arrest team. As additional resources arrived, Officer C designated roles. Although Officer C initially communicated roles and a plan, he/she did not repeat the plan to arriving officers, specifically Officer F.

Officer C saw Officer F walk by him/her at a fast pace and join the contact team as they were moving forward toward the Subject’s last known location. Officer C attempted to slow Officer F down by yelling “[Officer F], slow down!” Officer C’s direction to slow down was heard and repeated by Sergeant A and Officer B. Officer F and the team did briefly slow their pace until Officer F saw Victim 4 bleeding. Seconds later, the OIS occurred.

Immediately following the OIS, Officer C gave the officers directions to handcuff the Subject and to search him. Officer C escorted Victim 4 to safety, broadcast a request for two RAs, and told responding officers to holster their service pistols. Officer C also broadcast a request to get a Command Post established and officers staged. Officer C identified Officer F as the officer who used lethal force and advised him/her to stay with Sergeant A. Officer C also advised officers to render aid to Victim 5 and to continue rendering aid to the Subject until relieved by LAFD. Officer C later reminded Sergeant A he/she needed to monitor Officer F.

The BOPC determined that the actions of Officer C were consistent with Department training.

Sergeant A was the first sergeant to arrive on scene before the OIS occurred. He/she observed officers form into a team and enter the store. Sergeant A exited his/her vehicle and walked into the store in front of Officer F. At the base of the escalator, Sergeant A directed Officer F to go in front of him/her because Officer F was equipped with a rifle and Sergeant A believed there was an active shooter. While ascending the escalator, Sergeant A followed close behind Officer F but did not communicate with him/her.

Reaching the second-floor landing, Sergeant A observed officers "rushing" in a northerly direction. While trailing behind the team of officers, Sergeant A did not provide direction or communicate a plan with the officers. Sergeant A did attempt to slow the situation down by saying, "slow down."

After the OIS, Sergeant A heard Officer C acting as the team leader and giving direction to Officers B, D, and G to complete handcuffing and start chest compressions on the Subject. According to Sergeant A, he/she believed Officer C was "very tactically minded" and opined Officer C "had control of the situation." Sergeant A further explained that Officer C directed officers the same as he/she would have. Before chest compressions were started on the Subject, Sergeant A walked to the fitting room area and was notified by officers that an additional victim was inside the fitting room. Sergeant A stepped forward, peered into the fitting room, and backed away without providing any direction or communicating with officers inside. Sergeant A then began overseeing a search of the store for additional suspects and victims until he/she obtained information that there was only one subject involved. He/she relayed that information using his/her hand-held radio. Sergeant A identified Officer F as the shooter, asked him/her if he/she was okay, and directed him/her to sit down near the location where the OIS occurred. Sergeant A directed Officer K to monitor Officer F then walked away to oversee the crime scene.

The BOPC noted that the UOFRB assessed Sergeant A's command and control. The UOFRB noted that Sergeant A was the first supervisor to arrive at the scene; however, he/she did not declare him/herself as the IC, nor did it appear that he/she was willing to assume the role. Based on the video footage, the UOFRB opined that as he/she entered the lobby and proceeded to the second floor, Sergeant A showed no sense of urgency. While the UOFRB understood why he/she allowed Officer F to go ahead of him/her, the UOFRB opined that he/she should have provided some direction to Officer F.

As Sergeant A was nearing the second floor, the team was starting to move forward. Instead of attempting to embed him/herself with the team of officers, Sergeant A elected to trail behind Officer C. The UOFRB noted that before the OIS, Sergeant A's sole contribution was to yell, "slow down!" one time. Based on the nature of this situation, the UOFRB opined that Sergeant A should have provided more active leadership and made a greater effort to attempt to control the team as they moved toward the potential threat.

The UOFRB also noted after the OIS, instead of remaining with Officer F, Sergeant A directed a police officer to monitor him/her. While the UOFRB understood that

Sergeant A was focused on clearing the store and searching for additional subjects and/or victims, they would have preferred he/she had designated this responsibility to a senior officer and remained with Officer F. The UOFRB also would have preferred Sergeant A had admonished Officer F not to talk to anybody after the OIS. Additionally, the UOFRB would have preferred that Sergeant A had asked if an additional RA was needed before walking away from the fitting room.

Based on the totality of the circumstances the BOPC determined that the tactics employed by Sergeant A were a substantial deviation, without justification, from Department-approved tactical training.

- 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.

In conducting an objective assessment of this case, the BOPC determined that the tactics of Officers B, C, D, and L did not deviate from Department-approved tactical training. The BOPC also determined that the tactics of Officers A, E, F, I, and J, and Sergeant A were a substantial deviation, without justification, from Department-approved tactical training, warranting a finding of Administrative Disapproval.

B. Drawing and Exhibiting

Officer F (Rifle)

According to Officer F, he/she and Officer E heard a radio call broadcast for a shooting. While using the Mobile Data Computer (MDC) to look for the call, a second shooting call was broadcast. Officer F told Officer E they would respond. Responding to the call, Officer F broadcast he/she was equipped with a rifle. Arriving at the location, Officer F told his/her partner he/she was going to deploy his/her rifle. According to Officer F, he/she drew and exhibited his/her patrol rifle because he/she believed he/she was going to an active shooter call. He/she believed the rifle would be the best option to deploy given the size of the store, the amount of people shopping (based on the time of year), and his/her belief there was an active shooter.

Officer L

According to Officer L, upon meeting with officers in front of the location and before making entry into the Burlington store, he/she unholstered his/her service pistol. Officer L believed there was an active shooter inside on the second floor and was unsure if the first floor had been cleared of any additional suspects.

Officer A

According to Officer A, he/she unholstered his/her service pistol due to a possible active shooter inside the Burlington store and that it could be necessary for deadly force to be used in the location.

Officer I

First Occurrence

According to Officer I, while entering the location, he/she observed the front glass door was broken and believed it could have been caused by a bullet. Officer I met officers on the second floor and unholstered his/her service pistol after the OIS occurred. Officer I joined the team that was converging on the Subject.

Second Occurrence

Upon seeing two other officers taking the Subject into custody, Officer I located his/her partner and continued to the fitting rooms. Believing there was still a possible threat of an active shooter inside the location and not wanting to be ambushed, Officer I unholstered his/her service pistol a second time and joined Officers A and J in clearing the dressing rooms.

Officer D (Shotgun)

According to Officer D, he/she and Officer C responded to a radio call of an assault with a deadly weapon. Arriving at the scene, Officer D obtained the shotgun from inside his/her police vehicle rack, chambered a round, and continued to the front of the store. Based on the tactical situation, comments of the call, and observation of people standing outside when they arrived on the scene, Officer D believed there was an active shooter inside the location.

Officer J

First Occurrence

According to Officer J, he/she responded to a radio call of a shooting just occurred at the Burlington store. Reaching the entrance of the store, Officer J unholstered his/her service pistol because there was possibly a subject inside who had "just" shot somebody; Officer J did not want to be shot by the subject.

Second Occurrence

Entering the store, Officer J heard screaming and knew he/she had to go to the second floor. To maintain balance as he/she ascended the escalator, Officer J holstered his/her service pistol. While ascending the escalator to the second floor, Officer J heard more screaming. Reaching the second floor, Officer J unholstered his/her service pistol because he/she believed a shooting had occurred and he/she was going to help search for the subject.

Third Occurrence

Helping search the store for additional subjects after the OIS, Officer J unholstered his/her service pistol while clearing a closet that he/she opined could contain an armed subject.

Officer E

As Officer E entered the location, he/she saw Officers C and D ascending the escalator to the second floor. Reaching the second floor, Officer E saw officers establishing a tactical formation and heard Officer A say that he/she saw the Subject. Because the comments of the call indicated shots had been fired, Officer E unholstered his/her service pistol and took the right flank of the tactical formation.

The BOPC noted that the UOFRB assessed Officers A, D, E, F, I, J, and L's drawing and exhibiting of their firearms. The UOFRB noted that Officers A, D, E, F, I, and L all indicated a belief that they were responding to an active shooter situation inside the store. While he/she did not use the term "active shooter," Officer J believed that a shooting had occurred inside the store and that an armed subject or subjects were inside. Although the UOFRB debated whether the officers should have recognized that this was not an active shooter scenario, they did agree that it was reasonable for the officers to believe they would encounter an armed subject, be it a gun or a blunt instrument. However, while the UOFRB agreed that it was reasonable for the officers to believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified, this should not be confused with whether the use of lethal force was proportional, objectively reasonable, and necessary.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officers A, D, E, F, I, J, and L 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 A, D, E, F, I, J, and L's Drawing/Exhibiting to be In-Policy.

C. Lethal Use of Force

Officer F – Patrol rifle, three rounds in an easterly direction, from approximately 16 feet.

Background – The background behind the Subject was a wall, which contained shelving with artwork. Officer F believed beyond the wall was an exterior brick wall, which his/her rounds would not be capable of penetrating. Unbeknownst to Officer F, the women's fitting rooms were behind the Subject.

Foreground - According to the FID investigation, at the time Officer F discharged his/her rifle, Victim 4 was lying on the ground and not in his/her field of fire.

According to Officer F, he/she heard officers behind him/her telling him/her to slow down. As he/she slowed, he/she continued to look down the aisles. He/she saw Victim 4 covered in blood, crawling on the floor near the endcap of an aisle. According to Officer F, he/she believed Victim 4 had been shot, so he/she advanced and picked up his/her pace. As soon as Officer F got to the aisle where Victim 4 was laying, he/she saw the Subject. Officer F saw the Subject holding a dark object that Officer F believed to be a gun. According to Officer F, he/she saw the Subject raise his right arm and lunge as if he was going to shoot while seeking cover.

Officer F believed the Subject had just shot Victim 4 and was now going to shoot him/her, his/her partners, or Victim 4 again. To stop the threat, Officer F discharged three rounds from his/her patrol rifle.

The BOPC noted that the UOFRB assessed the proportionality, objective reasonableness, and necessity of Officer F's use of lethal force. Despite extensive deliberations, the UOFRB was not unanimous in its decision. For clarity, the UOFRB's assessment will be separated into two segments. The first segment is regarding Officer F's first round, and the second segment is regarding his/her second and third rounds.

As it pertains to Officer F's first round, there was a UOFRB Minority and a UOFRB Majority opinion, with the UOFRB Minority opining that Officer F's first round was Out of Policy and the Majority opining that it was In Policy. In reaching its conclusion, the UOFRB Majority noted that Officer F had responded to a shooting call that he/she believed involved an active shooter. Based on his/her articulation as to why he/she believed it was an active shooter incident, the UOFRB Majority opined that Officer F's belief was reasonable.

The UOFRB Majority noted that as Officer F moved with the team in the tactical formation, he/she observed Victim 4 emerge from the aisle. Based on Victim 4's appearance, Officer F believed she had been shot, and based on her actions, Officer F believed that the Subject was near to her. Rounding the endcap, Officer F observed the Subject holding a dark object that he/she (Officer F) believed was a gun. Based on the Subject's actions, Officer F believed that the Subject was raising the gun and was going to shoot while simultaneously seeking cover. Based on the totality of the circumstances, the UOFRB Majority opined that Officer F reasonably believed the Subject was armed with a gun and that he posed an imminent deadly threat, justifying the use of lethal force for his first round.

The UOFRB Minority disagreed with the UOFRB Majority's assessment regarding Officer F's first round. The UOFRB Minority opined that beginning with his/her arrival at the scene, Officer F failed to assess that this incident was not an active shooter scenario. The UOFRB Minority noted that while there were people in the parking lot, it was not the chaotic scene that an officer would expect to find had there been an active shooter. The UOFRB Minority also noted that as Officer F entered the store, he/she observed the shattered glass door; however, he/she did not hear gunfire, as would be expected had there been an active shooter inside. Additionally,

while the UOFRB Minority noted Officer F's belief that the Subject was seeking cover when Officer F discharged his rifle, based on the video footage, the UOFRB Minority opined that the Subject was attempting to flee at that point.

The UOFRB Minority noted that upon locating the Subject, Officer F observed him holding a "dark object" and believed he was going to shoot while moving to cover. The UOFRB Minority opined that Officer F failed to reasonably assess the Subject's movements as well as the "dark object" in his hand. The UOFRB Minority also opined that Officer F disregarded the initial radio call that indicated the Subject was armed with a bicycle lock. In the UOFRB Minority's opinion, the confluence of Officer F's lack of situational awareness going into this incident along with the misidentification of the dark object, in concert with the early disengagement of his/her rifle's selector switch, amounted to Officer F inaccurately assessing the immediacy of the threat of death or serious bodily injury the Subject posed when Officer F elected to discharge his/her first round.

Regarding Officer F's second and third rounds, again there was a UOFRB Minority and a UOFRB Majority opinion, with the UOFRB Minority opining that Officer F's second and third rounds were In Policy and the UOFRB Majority opining that they were Out of Policy. In reaching its conclusion, the UOFRB Minority opined that round two was part of an accelerated pair fired as recommended per policy and training, and that round three was fired as the Subject still had forward momentum. The UOFRB Minority also opined that there is no minimum amount of time that constitutes a proper assessment between shots and that the length of the time available to an officer is directly correlated to the urgency created by the circumstances of the incident. The UOFRB Minority further opined that an evaluation of reasonableness must consider the natural human delay in perception and reaction.

The UOFRB Minority noted that the UOFRB Majority had opined Officer F's first shot was In Policy. The UOFRB Minority opined that this finding for round one established that Officer F was indeed reacting to a Subject who posed an imminent threat of death or serious bodily injury. The UOFRB Minority also opined that Officer F reasonably inferred that he/she was saving the life of a shooting victim at the scene of an active shooter situation and that he/she did so by applying three rounds of deadly force until the Subject fell. The UOFRB Minority believed that Officer F fired the number of rounds that Officer F believed would stop the Subject's actions in defense of a gravely injured victim.

The UOFRB Majority disagreed with the UOFRB Minority's assessment. Similar to the UOFRB Minority's belief regarding round one, the UOFRB Majority opined that Officer F inaccurately assessed the imminence of the threat of death or serious bodily injury the Subject posed. The UOFRB Majority noted that during his/her FID interviews, Officer F stated that he/she was trained to fire in pairs, describing his/her rounds as a single three-round burst. The UOFRB Majority also noted that Officer F stated that "you" assess after every round and described seeing the Subject continue to move as he/she fired, ceasing when the Subject fell to the ground. Although Officer F described assessing as he/she discharged his rounds, the UOFRB Majority opined that he/she actually fired a three-round burst and then

assessed. As such, the UOFRB Majority also opined that his/her decision to discharge rounds two and three were based on his/her training to fire in pairs and not on his assessment of an imminent deadly threat. Additionally, two of the UOFRB Majority members for rounds two and three had opined that Officer F's first round was also out of policy, as stated above.

Based on the totality of the circumstances, for round one, by a 3-2 vote, the BOPC concurred with the UOFRB Majority and determined that an officer with similar training and experience as Officer F, in the same situation, would reasonably believe that the use of deadly force was proportional, objectively reasonable, and necessary.

For rounds two and three, by a 4-1 vote, the BOPC concurred with the UOFRB Majority and determined that an officer with similar training and experience as Officer F, in the same situation, would not reasonably believe that the use of deadly force was proportional, objectively reasonable, and necessary.

Therefore, the BOPC found Officer F's Use of Lethal Force, first round, to be In Policy, and rounds two and three to be Out of Policy.