

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

**CHOKE-HOLD 018-22**

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

Topanga                      5/21/22

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

Officer A                                                                                      8 years, 9 months  
Officer B                                                                                      8 months

**Reason for Police Contact**

Officers initiated a vehicle pursuit of an attempted murder suspect (the Subject). The pursuit lasted a short distance and ended when the Subject's vehicle collided into a concrete wall. During the arrest of the Subject, a Categorical Use of Force (CUOF) occurred.

**Subject**                                                                                      **Deceased ( ) Wounded ( ) Non-Hit ( )**

Subject, Male, 25 years of age.

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division (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 (UOFRB) 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 April 4, 2023.

## **Incident Summary**

On May 21, 2022, Police Officers A and B attended day-watch roll call.

Lieutenant A provided the officers a crime bulletin, which contained the Subject's recent booking photograph and a black-and-white image of a vehicle he had been driving. The officers were informed that the Subject was wanted for an attempted murder.

Officer A was familiar with the Subject.

According to Officer A, after roll call, he/she and Officer B discussed tactics and their less-lethal force options in the event they came in contact with the Subject.

According to Officer A, after leaving the station, he/she and Officer B conducted extra patrol in an area known for a high volume of gang and narcotics activity. As the officers drove south, they observed an older model vehicle matching the description of the vehicle the Subject was believed to be driving.

Officer A stated that he/she observed the vehicle making a north turn in front of them when it came to a sudden stop. After momentarily stopping, the vehicle drove in reverse, out of the officers' view. The officers made a left turn, followed by a second left turn, and drove north in an attempt to overtake the vehicle.

The vehicle drove north and made an east turn through an intersection, failing to stop for a clearly-posted stop sign.

The vehicle drove east through another intersection, when it swerved to the left and collided with a vehicle parked on the northeast corner. The vehicle failed to stop and continued to drive east.

The vehicle continued through the next intersection, collided with a cement wall on the northeast corner, and came to an abrupt stop.

The Subject began to exit the vehicle through the driver's window as Officer A exited the police vehicle. Officer A stepped around the open door of the police car and unholstered his/her pistol. Officer A moved toward the vehicle as he/she held his/her pistol in a two-handed grip and pointed it in the Subject's direction.

Officer B exited the police vehicle and unholstered his/her pistol. Officer B assumed a two-handed grip on his/her pistol and pointed it toward the Subject as he/she stood in the apex of the open door.

The Subject continued to climb out of the open driver's window as Officer A shouted at him to show his hands. The Subject ignored Officer A's commands and climbed out of the window and on to the hood of the vehicle.

The Subject jumped from the vehicle as Officer A transitioned his/her pistol to a single-handed grip. Officer A ran between the police vehicle and stolen vehicle toward the Subject.

After the Subject jumped from the vehicle and landed on the sidewalk, Officer A ran toward the Subject and appeared to slip on the curb as he/she attempted to holster his/her pistol.

Officer A continued to close the distance as the Subject lost his balance and fell to the ground onto a grassy area along the north curb.

As the Subject fell to the ground, Officer B holstered his/her pistol, stepped around his/her open door, and began to run toward the Subject. Officer B obtained his/her police radio from his/her equipment belt and held it up as though he/she was going to make a broadcast.

The Subject rolled over and landed in a seated position and faced away from the officers. Officer A held his/her pistol in his right hand and grabbed the back of the Subject's hooded sweatshirt with his/her left hand. Officer A's momentum continued forward as he/she came down to one knee and brought his/her right arm down toward the Subject.

While Officer A's right arm moved forward and his/her pistol was out of camera view, a metallic sound can be heard. Officer A's right arm continued forward as his/her forearm contacted the Subject's right shoulder.

Officer A held the Subject's sweatshirt with his/her left hand as the Subject turned on his right side. Officer A placed his/her right hand, still holding his pistol, on the ground behind the Subject.

Officer A held the Subject down and holstered his/her pistol. Officer B momentarily grabbed the Subject's left foot before he/she released his/her grip and grabbed the Subject's left forearm. Officer A let go of the Subject's sweatshirt and grabbed his left bicep.

The Subject raised his head from the ground as Officer A grabbed the front and right side of the Subject's neck with his/her left hand.

After 1.132 seconds, Officer A released his/her grip from the Subject's neck.

After Officer A released his/her hold of the Subject's neck, the Subject immediately raised his torso and sat up. Officer A grabbed the Subject's right bicep with his/her left hand and used his/her right hand to push the Subject's upper torso toward the ground.

The Subject continued to resist as Officer A used his/her right knee and applied his/her bodyweight on the Subject's abdomen while holding his right wrist with a firm grip.

Officer A held the Subject's right wrist to the ground, with his/her knee still on his abdomen. Seconds later, Officer A grabbed the right and left side of the Subject's neck with his/her right hand. Officer A pushed the Subject's upper torso toward the ground.

While still holding the Subject's neck, Officer A continued to apply bodyweight as he/she moved his/her knee from the Subject's abdomen to his upper torso.

Officer A raised his/her right knee and applied his/her bodyweight on the Subject's right elbow with his/her left knee, holding it to the ground.

Officer A held the Subject's neck as the Subject pulled his arm from Officer B's grip and grabbed Officer A's right wrist. Officer B grabbed the Subject's left wrist as the Subject shouted.

Officer B used both of his/her hands and pried the Subject's left hand from Officer A's wrist and held it to the ground. While Officer A held the Subject's neck with his/her right hand, he/she attempted to punch the Subject two times on the face with his/her left hand.

Officer B broadcast a request for back-up as Officer A released his/her grip of the Subject's neck. Officer B continued to apply his/her bodyweight to the Subject's left arm and held it to the ground.

Officer B then used both of his/her hands as he/she attempted to pull the Subject's hand free from Officer A's wrist. Officer B was subsequently able to pull the Subject's hand free from Officer A.

The Subject raised his head from the ground as Officer A punched him on the right side of his face with his/her right hand.

After striking the Subject, Officer A began to roll him on to his stomach. While doing so, Officer A appeared to apply pressure with his/her left forearm along the right side of the Subject's head.

Officer A maintained control over the Subject's right arm as the Subject rolled over on to his stomach. Officer A used his/her left knee and shin to apply bodyweight on the Subject's upper back and neck area. Officer A moved the Subject's right arm behind his back. Officer B maintained control over the Subject's left arm and held it to the ground.

As officers continued to struggle with the Subject, he began to kick his legs. Officer B straddled the Subject's right leg and held it to the ground. As the officers continued to struggle with the Subject, Officer A raised his/her left knee and used his/her right knee to apply bodyweight to the Subject's upper back.

Officers A and B reached under the Subject and pulled his left arm out from underneath him. Officer A punched the Subject on the left side of his face with his/her right hand as

he/she ordered him to put his hands behind his back. Moments later, both officers held the Subject's right and left hand behind his back.

Officer A held both of the Subject's hands behind his back as Officer B handcuffed the Subject's left wrist. The Subject shouted as he used his legs to push off the ground, causing Officer B to fall forward toward Officer A.

Officer A utilized a knee strike with his/her right knee on the Subject's right shoulder area.

As Officer B attempted to apply the second handcuff, Officer A punched the Subject on the upper back with his/her right hand.

Officer A used his/her left knee and applied bodyweight on the right side of the Subject's back. The Subject kicked his legs as Officer B attempted to handcuff his right wrist. Officer A applied additional bodyweight on the Subject as his/her pressed his right fist against the Subject's head. Officer A lifted his/her fist off the Subject and punched him on the right side of his head.

Officer B handcuffed the Subject's second wrist as Officer A forcibly grabbed the back of his sweatshirt.

Officer A applied bodyweight as he/she kneeled on the Subject's upper back with his/her right knee and his mid back with his/her left knee. Officer A simultaneously held the Subject's head to the ground with his/her right hand.

Numerous units responded to Officer B's back-up request.

Officer A lifted his/her right knee and re-applied bodyweight to the Subject's back with his/her left knee. Officer B held both of the Subject's legs to the ground.

According to Sergeant A's body-worn video (BWV), he/she advised Communications Division (CD) that he/she arrived at scene.

Sergeant A directed the officers to put the Subject on his side. Officers completed a pat-down search on the Subject and placed him in a seated position.

The officers escorted the Subject to the front of their patrol vehicle and conducted a search incident to arrest. During the search, the officers recovered what was later determined to be a white substance in a plastic bindle, resembling cocaine, from the Subject's right-front pant coin pocket.

Officer A walked back to the passenger side of his/her patrol vehicle and picked up a side-handle baton off the ground. Officer A determined that the baton belonged to Officer B and was unsure how it wound up on the ground. Officer A placed the baton inside their vehicle.

According to Officer B, he/she previously stored the side-handle baton along the bottom of the passenger's seat. Officer B was not aware that the baton fell from the vehicle until he/she reviewed his/her BWV.

Officer B broadcast a request for a rescue ambulance (RA) for someone injured in a traffic collision.

According to Sergeant A, while at scene, Officer A advised him/her that there was a use of force. Sergeant A also said that Officer A mentioned that he/she had punched the Subject a couple of times in his head, and the rest of the force was firm grip and physical force."

Los Angeles Fire Department (LAFD) personnel arrived at scene and began to assess the Subject, who advised them he was not wearing a seatbelt during the traffic collision and had no medical problems.

An LAFD RA arrived at scene and transported the Subject to the hospital. The officers rode in the ambulance and maintained custody of the Subject.

The officers then transported the Subject from the hospital to the Topanga Station where he was processed for booking.

According to the related arrest report, the officers conducted a strip search of the Subject. During the search, the Subject was facing away from the officers when he reached down toward his groin area, and the officers heard the movement of a zipper. While still facing away from the officers, the Subject appeared to place an object inside his mouth. The officers ordered the Subject to remove the item, which was recovered and found to contain a white substance resembling cocaine.

Due to a concern that the Subject may have ingested narcotics, LAFD responded to Topanga Station and transported him back to the hospital to be assessed. The Subject was examined by the medical staff and again cleared for booking.

While conducting the Non-Categorical Use of Force investigation and reviewing the officers' BWV, Sergeant A observed what appeared to be a choke hold, which would cause the incident to be investigated as a Categorical Use of Force (CUOF).

Sergeant A advised Lieutenant A of his/her observations. Lieutenant A notified the Topanga Area Commanding Officer, who reviewed the video footage and directed them to contact Force Investigation Division (FID), which investigates all CUOFs.

Lieutenant A contacted FID and advised them of the incident. During a review of the related BWV footage, it was determined that because of the chokehold, a CUOF had occurred. FID contacted the Department Operations Center (DOC) and advised them that FID would assume investigative responsibility.

## **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 Officer B's tactics to warrant a finding of Tactical Debrief. The BOPC found Officer A's tactics to warrant a finding of Administrative Disapproval.

### **B. Drawing and Exhibiting**

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

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

The BOPC found Officer B's non-lethal use of force to be In Policy. The BOPC found Officer A's non-lethal use of force to be Out of Policy.

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

The BOPC found Officer A's lethal use of force 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 Techniques**

- **Planning**
- **Assessment**
- **Time**
- **Redeployment and/or Containment**
- **Other Resources**
- **Lines of Communication**

Tactical de-escalation does not require that an officer compromise his/her 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.

**Planning and Assessment** – Officer B graduated from the police academy six weeks before this incident and Officer A was his/her first field training officer. Over the six weeks, Officers A and B had regular discussions related to tactics, use of the police radio, contact and cover, pursuit driving, the Department's use of force (UOF) policy, and how they would react in certain scenarios. After attending roll call, Officers A and B discussed how they would contact the Subject if he was located. They discussed the tactics involved with contact, cover, lethal, and less-lethal roles. They also discussed the pursuit policy, force options, and radio procedures in the event of a pursuit or UOF.

**Time and Redeployment/Containment** – After the pursuit terminated, the Subject began climbing out of the vehicle's driver-side window. In response, Officer A exited his/her police vehicle, stepped around his/her ballistic door panel, and walked toward the Subject and the vehicle. Officer B exited the police vehicle and stood behind his/her ballistic door panel. When Officer A chased the Subject on foot, Officer B left cover and followed his/her partner.

The BOPC noted that the UOFRB was critical of Officer A's decision to immediately leave cover when he/she believed the Subject to be the suspect of multiple violent crimes involving a firearm and/or edged weapon. The UOFRB was also critical of Officer A's decision to run past the vehicle without clearing it and contact the Subject, despite believing he may have been armed. These areas of concern will be discussed further in Debriefing Points Nos. 1, 2, and 3.

**Other Resources** – During the vehicle pursuit, and again during the UOF, Officer B requested backup units. Due to the short duration of both, backup units arrived after the UOF.

**Lines of Communication** – While engaged in the vehicle pursuit, Officer B broadcast their location and that they were in pursuit, which generated a backup

request. When the pursuit terminated, he/she provided their location and advised Communications Division (CD) that they were "Code Six" (had arrived on scene). When the Subject began to exit the vehicle through the driver's window, Officer A repeatedly ordered him to stay in the car, but the Subject refused. Officer B exited the police vehicle and ordered the Subject to put his hands up. The Subject refused this command as well, and he continued to climb out of the open driver's window.

The BOPC considered that the UOFRB noted that when the Subject fled on foot, neither officer broadcast a foot pursuit. The UOFRB also noted that the foot pursuit was short in both duration and distance, and that it would have concluded before a broadcast could have been completed. The UOFRB also noted that according to Officer B, he/she did not broadcast it because his/her partner "needed help" with the UOF. However, as indicated above, Officer B did request backup during the UOF.

The BOPC noted that the UOFRB had noted Officer A's use of profanity during this incident. The UOFRB was critical of this and felt that it did not aid in effective communication or de-escalation.

During the review of the incident, the following Debriefing Topics were noted:

#### **Debriefing Point No. 1: Cover/Concealment**

- *There is an equation that saves lives: Distance + Cover = Time. Time gives officers options. Time is an essential element of de-escalation as it allows officers the opportunity to communicate with the suspect, refine tactical plans, and, if necessary, call for additional resources. Entering the suspect's space prematurely may force the suspect to take action, ultimately escalating the situation. Whenever possible, officers should place an object between themselves and the suspect as cover or a barrier. A barrier could be a chain link fence, wrought iron gate, or any similar object that prevents the assailant from reaching the officer.*

After the pursuit terminated, the Subject began climbing out of the vehicle's driver-side window. In response, Officer A exited his/her police vehicle, stepped around his/her ballistic door panel, and walked toward the Subject and the vehicle. As the Subject climbed out of the vehicle, Officer A was standing in front of his/her police vehicle without cover or concealment. Officer B exited the police vehicle and stood behind his/her ballistic door panel. When Officer A foot pursued the Subject, Officer B left cover and followed his/her partner.

The BOPC noted that the UOFRB evaluated Officers A and B's decision to leave the cover of their police vehicle. As it concerns Officer A, the UOFRB's determination was not unanimous. The UOFRB Majority noted Officer A was aware that the Subject was wanted for attempted murder and assault with a deadly weapon (ADW) and that it was alleged he had used a machete and a firearm in the commission of those crimes. Despite these facts, Officer A still chose to leave cover. The Majority opined that when Officer A left cover and moved toward the Subject and the vehicle,

he/she placed him/herself at a significant tactical disadvantage, reduced his/her options for de-escalating the situation, and unnecessarily risked his/her safety by exposing him/herself to a potentially armed suspect. As such, the Majority determined that Officer A's decision to leave cover substantially deviated from Department-approved tactical training without justification.

The Minority disagreed with the Majority and opined that Officer A's decision to leave cover was justified because it allowed him/her a better line of sight of the Subject and vehicle. The Minority also opined that Officer A's decision allowed him/her to see that the Subject did not have any weapons in his hands.

As it pertains to Officer B's decision to leave cover, the UOFRB noted that he/she remained behind his/her ballistic door panel until Officer A ran after the Subject, at which point he/she was forced to leave cover and help his/her partner subdue the Subject.

Based on the totality of the circumstances, the UOFRB determined, and the BOPC concurred, that the tactics employed by Officer B did not substantially deviate from Department-approved tactical training. Also, the UOFRB Majority determined, and the BOPC concurred, that the tactics employed by Officer A were a substantial deviation, without justification, from Department-approved tactical training.

## **Debriefing Point No. 2: Running Past Uncleared Vehicle**

- *Suspects Fleeing from a Vehicle: If a foot pursuit begins with a suspect fleeing from a vehicle, officers need to consider the possibility of additional suspects remaining in the vehicle. Therefore, officers should clear or cover the suspect vehicle before running past it unless other circumstances necessitate running past an uncleared vehicle.*

As the Subject fled from the vehicle, Officer A foot pursued him, running between the front of his/her police vehicle and the rear of the Subject's stolen vehicle. According to Officer A, he/she quickly looked in the vehicle and was comfortable that there was no one else inside; however, he/she did not clear the vehicle before pursuing the Subject. Officer B followed his/her partner without clearing the vehicle as well.

The BOPC noted that the UOFRB assessed Officers A and B's decision to foot pursue the Subject without first clearing the vehicle. As it pertains to Officer A, the UOFRB's decision was not unanimous. The UOFRB Majority noted that according to Officer A, before foot pursuing the Subject, he/she was able to see that the airbags were deployed in the vehicle and that there was no "extra" movement in the vehicle. The Majority also noted that according to Officer A, he/she performed a "quick peek" into the passenger compartment and felt comfortable that the Subject had been the only occupant. According to Officer A, the way the lighting was coming into the vehicle illuminated the passenger compartment and he/she was able to see there was no movement in the backseat despite the window tint. The Majority

opined that this justified Officer A running past the vehicle to pursue the Subject without stopping to clear the vehicle first.

The Minority disagreed with the Majority's opinion. The Minority noted that in addition to the airbags being deployed, there was a dark window film on the vehicle's windows. The Minority opined that the window film and airbags would have obstructed Officer A's view of the passenger compartment and that his/her "quick peek" would have been insufficient to ensure there were no additional suspects inside. Instead, the Minority would have preferred that Officer A had worked with his/her partner to monitor the Subject as they cleared the vehicle. The Minority opined that by failing to ensure that there were no additional threats inside the vehicle, Officer A placed him/herself and his/her partner at a significant tactical disadvantage and unnecessarily risked their safety.

Regarding Officer B, the UOFRB noted that he/she too did not clear the vehicle. However, the UOFRB opined that when Officer A foot pursued the Subject and became involved in a physical altercation with him, Officer B did not have time to clear the vehicle as he/she was forced to come to his/her partner's aid.

Based upon the totality of circumstances, the BOPC determined that the tactics employed by Officer B were a substantial deviation, with justification, from Department-approved tactical training. Also, the BOPC determined that the tactics employed by Officer A were a substantial deviation, without justification, from Department-approved tactical training.

### **Debriefing Point No. 3: Foot Pursuit Concepts - Pursuing an Armed Suspect**

- ***Pursuing Armed Suspects:*** *When pursuing a suspect believed to be armed, officers should generally do so in containment mode while considering the available tactical advantages, including cover and concealment where available. The goal is to maintain observation of the suspect and the tactical advantage while coordinating the response of additional units and other resources for a perimeter with the objective of containing the suspect and taking him into custody safely. The decision to pursue an armed suspect in apprehension mode may be appropriate when the suspect is at a tactical disadvantage and an arrest can be accomplished with limited risk to officers or innocent parties.*

After the termination of the vehicle pursuit, the Subject climbed over the hood of the vehicle, jumped off, and fled on foot. In response, Officer A foot pursued him, running between the police vehicle and the vehicle; Officer B followed his/her partner as he/she foot pursued the Subject. As he ran, the Subject lost his balance and fell. Officer A then contacted the Subject and a UOF occurred.

The BOPC noted that the UOFRB assessed Officers A and B's decision to foot pursue the Subject in apprehension mode. As it concerns Officer A, the UOFRB's decision was not unanimous. The UOFRB Majority noted that as he ran, the Subject

lost his balance and fell. The UOFRB opined that this gave Officer A a tactical advantage and it allowed him/her to quickly apprehend the Subject, preventing an extended foot pursuit. The Majority also noted that as the Subject climbed out of the vehicle and ran, his hands were visible to Officer A. The Majority opined that this allowed Officer A to see that the Subject was not holding a weapon when Officer A foot pursued and contacted him.

The Minority disagreed with the Majority's opinion. The Minority noted that according to Officer A, he/she foot pursued the Subject in apprehension mode despite knowing that the Subject had recently committed multiple crimes involving the use of a firearm and an edged weapon. As such, the Minority opined that Officer A should have expected the Subject to be armed. This assertion was supported by Officer A's articulation that he/she believed the Subject was possibly armed and attempting to reach for his waistband during the UOF. The Minority also noted that Officer A's decision to foot pursue the Subject in apprehension mode contributed to Officer A holding his/her service pistol when he/she contacted the Subject. The minority opined that had Officer A foot pursued the Subject in containment mode, he/she could have safely holstered his/her service pistol. As such, the Minority opined that Officer A should have worked with his/her partner to foot pursue the Subject in containment mode. The Minority also opined that by foot pursuing the Subject in apprehension mode, he/she unnecessarily risked his/her and Officer B's safety and placed them at a significant tactical disadvantage.

As it pertains to Officer B, the UOFRB noted that he/she had remained behind his/her ballistic door panel until Officer A foot pursued and contacted the Subject. As such, the UOFRB opined that he/she was forced to leave cover and render aid to his/her partner, who was physically attempting to apprehend the Subject.

Based upon the totality of the circumstances, the BOPC determined that the tactics employed by Officer B were not a substantial deviation from Department approved tactical training. Also, the BOPC determined that the tactics employed by Officer A were a substantial deviation, without justification, from Department-approved tactical training.

#### **Debriefing Point No. 4: Handcuffing Protocols**

- *If bodyweight is used to gain control of an individual, officers should only apply direct weight to the suspect's back for as long as reasonable to control and secure the individual.*

After the Subject was handcuffed, he was left in a prone position for approximately 50 seconds. While the Subject was prone, Officer A maintained his/her bodyweight on the Subject's back as he/she sent Officer B to the street corner to verify their location.

The BOPC noted that the UOFRB assessed Officers A and B's decision to leave the Subject prone for approximately 50 seconds. The UOFRB noted that when Officer A sent Officer B to the street corner, he/she did not know he/she had already provided their location to CD. Based on B's broadcast, the UOFRB opined that responding officers would have located them without delay. The UOFRB also noted that according to Officer A, he/she sent Officer B to the corner to verify their location as a teaching moment. While the UOFRB understood the importance of teaching probationary officers, they opined that if he/she did not need Officer B's assistance in controlling the Subject at that point, so there was no reason for him/her to keep the Subject prone. The UOFRB also opined that had he/she not sent Officer B to the corner, they could have placed the Subject on his side or stood him up without delay.

As it concerns Officer B, the UOFRB noted that when he/she walked to the corner, he/she was following his/her training officer's directions. The UOFRB also noted that when he/she returned, Officer A was still applying bodyweight to the Subject's back. He/she then applied bodyweight to the Subject's legs. While the UOFRB would have preferred that when he/she returned, Officer B had suggested to his/her partner that the Subject be moved to his side, they noted that an additional unit soon arrived, and the Subject was placed on his side. The UOFRB also noted that according to Officer B, the Subject had been combative during the UOF, and he/she was concerned that he may still try to kick his/her partner. As such, the UOFRB opined that his/her deviation from Department-approved tactical training was not substantial and best addressed through the Tactical Debrief.

Based on the totality of the circumstances the BOPC determined that the tactics employed by Officer B were not a substantial deviation from Department-approved tactical training. The BOPC also determined that the tactics employed by Officer A were a substantial deviation, without justification, from Department-approved tactical training.

## **Additional Tactical Debrief Topics**

### **Initiating Physical Contact with a Suspect While Holding a Service Pistol**

- Officer A held his/her service pistol in his/her right hand when he/she contacted the Subject. As he/she contacted the Subject, Officer A's right forearm contacted the Subject's right shoulder. As the Subject turned to his right side, Officer A placed his/her right hand on the ground behind the Subject. Officer A then held the Subject down and holstered his/her service pistol. According to Officer A, he/she had lost his/her footing before contacting the Subject and was unable to holster his/her service pistol. As noted above, the UOFRB Minority opined that Officer A's decision to foot pursue the Subject in apprehension mode contributed to this issue. To enhance future performance, the BOPC directed that this be a topic of discussion during the Tactical Debrief.

## **Protocols Subsequent to a Use of Force Investigation**

- Officer A did not report his/her contact with the Subject's neck to Sergeant A. According to Officer A, he/she applied pressure to the Subject's "upper clavicle area." He/she did not believe he/she had applied pressure to the Subject's trachea. Per Officer A, there was no indication the Subject could not breathe. In an abundance of caution, Officer A could have ensured that Sergeant A knew he/she (Officer A) believed he/she had applied pressure to the Subject's clavicle area. This may have allowed Sergeant A to discover the CUOF sooner.
- 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 are intended to be flexible and incident specific, which requires that each incident be looked at objectively and that the tactics be evaluated based on the totality of the circumstances.

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

In conducting an objective assessment of this case, the BOPC determined that Officer B's actions did not substantially deviate from Department-approved tactical training. The BOPC also determined that Officer A's actions were a substantial deviation, without justification, from Department-approved tactical training.

### **B. Drawing and Exhibiting**

- Officer A unholstered his/her service pistol when he/she exited his/her police vehicle. According to Officer A, the Subject was an attempted murder suspect who was armed and dangerous and he/she believed the tactical situation may escalate to the point where lethal force may be justifiable.
- Officer B unholstered his/her service pistol after exiting his/her police vehicle and finishing his/her broadcast. According to Officer B, he/she saw the Subject exiting his vehicle. Based on the information he/she had received about the Subject during roll call, he/she believed that the circumstances may escalate to the point that use of a firearm may be necessary.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officers A and B would reasonably believe that there was a substantial risk that the situation may escalate to the point where lethal force may be justified. Therefore, the BOPC found Officers A and B's drawing/exhibiting to be In Policy.

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

- **Officer A** - Firm Grips, Physical Force, Bodyweight, and Strikes
- **Officer B** - Firm Grips, Physical Force, and Bodyweight

While fleeing on foot, the Subject lost his balance and fell. The Subject rolled on the ground and ended in a seated position facing away from Officer A. Officer A approached the Subject and grabbed the back of his hooded sweatshirt with his/her left hand. Officer A's momentum continued forward as he/she came down to one knee and brought his/her right arm down toward the Subject. Officer A's right arm continued forward as his/her forearm contacted the Subject's right shoulder. According to Officer A, the Subject actively resisted by pushing himself off the ground.

Officer A held the Subject's sweatshirt with his/her left hand as the Subject turned to his right side. Officer B approached Officer A and the Subject. He/she momentarily grabbed the Subject's left foot before releasing his/her grip and grabbing the Subject's left forearm. Officer A let go of the Subject's sweatshirt and grabbed his left bicep. The Subject raised his head from the ground as Officer A grabbed the front/right side of the Subject's neck with his/her left hand. Officer A released his/her grip from the Subject's neck and directed him multiple times to "turn around!"

After Officer A released his/her hold of the Subject's neck, the Subject immediately raised his torso and sat up. Officer A grabbed the Subject's right bicep with his/her left hand and used his/her right hand to push the Subject's upper torso toward the ground. The Subject continued to resist as Officer A used his/her right knee to apply bodyweight on the Subject's abdomen while holding his right wrist with a firm grip. According to Officer A, the Subject's hands were by his (the Subject's) waistband and he (the Subject) was trying to lift his body. According to Officer A, the Subject was "constantly" reaching for his waistband, an indication that he was possibly armed.

While still applying bodyweight on the Subject's abdomen with his/her right knee, Officer A held the Subject's right wrist to the ground. Seconds later, Officer A grabbed the right and left side of the Subject's neck with his/her right hand. Again, Officer A directed the Subject multiple times to "turn around." As Officer A pushed the Subject's upper body toward the ground, he/she used pressure on the Subject's upper chest/clavicle area.

While still holding the Subject's neck, Officer A continued to apply bodyweight as he/she moved his/her knee from the Subject's abdomen to his upper torso. Officer A again directed the Subject multiple times to "turn around." Officer A then raised his/her right knee and applied his/her bodyweight on the Subject's right elbow with his/her left knee, holding it to the ground. Once again, Officer A ordered the Subject multiple times to "turn around." the Subject replied, "Stop!"

As Officer A held the Subject's neck, the Subject pulled his left arm from Officer B's grip and grabbed Officer A's right wrist. Officer B grabbed the Subject's left wrist. Officer B

used both of his/her hands and pried the Subject's left hand from Officer A's wrist and held it to the ground. While continuing to hold the Subject's neck with his/her right hand, Officer A attempted twice to punch the Subject in the face with his/her left hand. According to the FID investigation, the first punch appeared to miss the Subject while the second punch appeared to strike the right side of the Subject's face.

As Officer B continued to apply bodyweight to the Subject's left arm, holding it to the ground, Officer A released his/her grip on the Subject's neck. The Subject then raised his head from the ground. In response, Officer A punched him on the right side of his face with his/her right hand. According to Officer A, the Subject was reaching for his waistband.

After punching the Subject, Officer A began to roll him on his stomach. While doing so, Officer A appeared to apply pressure with his/her left forearm along the right side of the Subject's head. The Subject shouted, "Okay!" According to Officer A, there may have been incidental contact with his/her elbow, with minimal pressure, while transitioning the Subject on to his stomach for handcuffing.

Officer A maintained control over the Subject's right arm as the Subject rolled over to his stomach. Officer A used his/her left knee and shin to apply bodyweight on the Subject's upper back and neck area. Officer A moved the Subject's right arm behind his back. Officer B continued to maintain control of the Subject's left arm, holding it to the ground. According to Officer A, at this moment, his/her knee may have slid to the Subject's neck; however, Officer A believed that no pressure was applied to the neck.

As officers continued to struggle with the Subject, he began to kick his legs. In response, Officer B straddled the Subject's right leg and held it to the ground and Officer A raised his/her left knee and applied bodyweight to the Subject's upper back with his/her right knee. Officers A and B reached under the Subject and pulled his left arm out from underneath him. Officer A ordered the Subject to give him/her his other hand and put it behind his back.

According to Officer A, he/she felt like he/she was losing his grip and the Subject was attempting to buck Officer B off of his lower half. In response, Officer A punched the Subject on the left side of his face with his/her right hand as he ordered him to put his hands behind his back. Moments later, both officers managed to bring the Subject's hands behind his back. Officer A held both of the Subject's hands as Officer B handcuffed the Subject's left wrist. The Subject shouted as he used his legs to push off the ground, causing Officer B to fall forward toward Officer A. Using his/her right knee, Officer A then struck the Subject's right shoulder area. According to Officer A, he/she did not recall using the knee strike.

As Officer B attempted to apply the handcuff to the Subject's right wrist, Officer A punched the Subject on the upper back with his/her right hand and ordered him to "Stop, now!" According to Officer A, the Subject was still resisting and pushing off the ground; the punch was intended to de-escalate the situation and gain compliance.

The Subject kicked his legs as Officer B attempted to handcuff his right wrist. Officer A used his/her left knee to apply bodyweight on the right side of the Subject's back. Officer A then applied additional bodyweight on the Subject as he/she pressed his/her right fist against the Subject's head. Officer A lifted his/her fist off the Subject and punched him on the right side of his head. According to Officer A, his/her punches and bodyweight were delivered with the minimum amount of force needed to gain compliance and avoid the situation from escalating to an officer-involved shooting.

As Officer B struggled to finish handcuffing the Subject, Officer A struck the back of his neck with an open hand. According to Officer A, he/she was not striking him. Rather he/she was grabbing the back of the Subject's sweatshirt. To keep the Subject from turning over, Officer A applied bodyweight on the Subject's upper back with his/her right knee and the Subject's mid back with his/her left knee. Officer A simultaneously held the Subject's head to the ground with his/her right hand. According to Officer A, he/she applied the minimal amount of pressure to keep the Subject from turning over.

The BOPC noted that the UOFRB evaluated Officers A and B's non-lethal use of force. As it pertains to Officer A, the UOFRB noted that he/she used firm grips, physical force, bodyweight and strikes to overcome the Subject's resistance and effect his arrest. According to FID's investigation, the Subject was bucking his hips, raising his torso, pulling his arms away from the officers, attempting to push off the ground with his legs, and had grabbed Officer A's wrist. Based on the Subject's level of resistance, the UOFRB opined that Officer A's use of firm grips, physical force, and bodyweight (except for his/her knee to the back of the Subject's neck) was proportional and objectively reasonable. As it concerns Officer A's use of strikes, except for the open-handed strike to the back of the Subject's neck, the UOFRB was not unanimous. In terms of Officer A's use of strikes, the UOFRB Majority determined that all of his/her punches and the knee strike were out of policy. The Majority noted that Officer A's first punch was delivered as the Subject grabbed his wrist. According to Officer A, this aggravated a pre-existing injury and he/she started to lose his grip. The Majority also noted that Officer A was applying direct pressure to the front of the Subject's neck at the time. The Majority opined that instead of punching the Subject, Officer A could have released the pressure on his neck. The Majority further noted that despite Officer A telling the Subject to let go of his/her wrist before delivering the second punch, it was delivered with his/her right hand after the Subject's hand had been removed from Officer A's right wrist.

The Majority noted that part of Officer A's articulation for the strikes was his/her belief that the Subject was reaching for his waistband. However, despite Officer A's beliefs that the Subject may have been reaching for a weapon, once the Subject was in custody, Officer A did not search his waistband and sent his/her partner to the corner as a training technique.

The Majority noted that Officer A continued to strike the Subject after he had rolled prone. Per the Department's tactical directive on strikes and kicks, when a suspect is prone with their hands under their body and fails to submit to handcuffing, palm heel

and closed fist strikes are discouraged absent compelling circumstances, and officers should consider options such as lateral head displacement, baton-assisted joint locks, or pressure-point techniques. Based on the available evidence, the Majority determined that Officer A failed to articulate compelling circumstances that justified the strikes.

Conversely, the Minority determined that Officer A's articulation for the strikes was sufficient and that all punches and the knee strike were in policy. The Minority noted that Officer A was struggling with a known attempted murder suspect that he/she knew used weapons during his past crimes. The Subject was not complying with the officers' orders, failed to submit to arrest, attempted to buck Officer B off, and made multiple attempts to reach for his waistband. The Minority opined that the strikes were delivered in a controlled manner to gain the Subject's compliance and keep him from reaching toward his waistband. The Minority opined that Officer A assessed each strike and they were effective in gaining the Subject's compliance.

The UOFRB did unanimously determine that the open hand strike and the knee to the back of the Subject's neck were out of policy. The UOFRB noted that although seemingly inadvertent, placing a knee on a suspect's neck is not an approved technique. Additionally, although Officer A described the open-hand strike as a grab, the UOFRB opined that it was a strike and that it was not proportional or objectively reasonable.

Regarding Officer B, the UOFRB noted that he/she used firm grips, physical force, and bodyweight to help overcome the Subject's resistance and effect his arrest. As stated above, the Subject was bucking his hips, raising his torso, pulling his arms away from the officers, and attempting to push off the ground with his legs. Based on the Subject's level of resistance, the UOFRB opined that the force used by Officer B was proportional and objectively reasonable.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, in the same situation, would reasonably believe that the use of physical force, firm grips, and bodyweight (except for Officer A's knee to the back of the Subject's neck), were proportional and objectively reasonable. Additionally, the BOPC determined that an officer with similar training and experience as Officer A, in the same situation, would not reasonably believe that the use of strikes and bodyweight to the neck, was objectively reasonable and proportional. Therefore, the BOPC generally found Officers A and B's non-lethal use of force to be In Policy, except for Officer A's non-lethal use of force (strikes and bodyweight to the back of the Subject's neck), which were found to be Out of Policy.

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

- **Officer A - Choke Hold**

During the UOF, Officer A grabbed the front of the Subject's neck twice. According to the FID investigation, the first time was for approximately 1.132 seconds while the

second time was for approximately 20.89 seconds. According to Officer A, at no time was pressure applied to the Subject's carotid arteries or trachea. Officer A stated that this incident did not rise to the level where lethal force would have been authorized and that he/she did not believe he/she used a carotid restraint or choke hold.

The BOPC noted that the UOFRB assessed Officer A's lethal use of force. The UOFRB noted that Officer A believed that he/she did not apply pressure to the Subject's trachea and that all of the pressure was being applied in the upper clavicle area. However, based on the available evidence, the UOFRB determined that direct pressure was applied to the trachea. As such, the UOFRB determined that a choke hold had occurred. Additionally, the UOFRB noted that there is no exception in Department policy for accidental contact and that there was no evidence the Subject posed an imminent lethal threat.

Based on the totality of the circumstances the BOPC determined that an officer with similar training and experience as Officer A, in the same situation, would not reasonably believe that lethal use of force was necessary, proportional, or objectively reasonable. Therefore, the BOPC found Officer A's lethal use of force to be Out of Policy.