

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

LAW ENFORCEMENT-RELATED INJURY (LERI) – 058-22

Division	Date	Duty-On (X) Off ()	Uniform-Yes () No (X)
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Newton	12/19/22		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	4 years, 3 months
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Reason for Police Contact

On December 19, 2022, officers approached a narcotics-sales suspect with a warrant (the Subject) to arrest him. As the officers neared the Subject, he told them he had asthma and was having difficulty breathing. When the officers attempted to handcuff him, the Subject began to resist, which resulted in an officer punching him once on the left side of his rib cage. The Subject continued complaining of difficulty breathing and a rescue ambulance (RA) was requested. The Los Angeles Fire Department (LAFD) RA transported the Subject to a local hospital, where he was admitted for a collapsed lung.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 60 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 (UOFRB) recommendations, including any Minority Opinions; the report and recommendations of the Chief of Police (Chief); 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 October 31, 2023.

Incident Summary

On August 30, 2022, Officers A, B, and C arrested a narcotics-sales suspect (the Subject).

On September 9, 2022, Officer A presented the case to the Los Angeles County District Attorney's Office. According to Officer B, he/she learned that the Deputy District Attorney filed one felony count, and a warrant was subsequently issued for the Subject's arrest.

After being notified of the Subject's arrest warrant, Officer A often drove through an area the Subject was known to frequent, searching for the Subject in an effort to serve the warrant.

On December 19, 2022, at approximately 1400 hours, Officers A and B were driving in the area. As they did so, Officer A observed a male who resembled the Subject standing outside a tent on the north sidewalk.

Officer A stopped and parked the vehicle approximately 100 feet east of the tent, and the officers used binoculars to verify that the individual was indeed the Subject.

Officer B called Detective A and asked him/her to confirm if the Subject's arrest warrant was still active. Utilizing Department resources, Detective A was able to confirm that it was and advised Officer B of that information.

According to Officer B, he/she considered requesting a patrol unit, but since the Subject was on foot, he/she did not believe that it was necessary. The officers decided that Officer B would be the contact officer and Officer A would be the cover officer.

The officers observed the Subject go in and out of the tent and saw multiple pedestrians in the area. They decided to wait and approach the Subject when less people were near him.

The officers, who were in plain clothes, donned their tactical vests, and Officer B advised Communications Division (CD) that they were Code Six (on scene). Officer A then drove west, toward the Subject, and stopped the vehicle approximately 30 feet east of the tent.

According to Officer B, as he/she opened his door to step out, the Subject "hastily" walked west away from them. In addition to identifying themselves as police, Officer B called the Subject by his first name.

After walking approximately 40 feet, the Subject stopped and faced the officers with his hands out to his sides. According to both officers, as they neared the Subject, he stated that he had asthma and could not breathe. The officers utilized firm grips, with Officer B placing his/her left hand on the Subject's left wrist and his/her right hand on the Subject's left triceps. Officer A placed his/her right hand on the Subject's right bicep,

and his/her left hand on the Subject's right wrist. According to the officers, the Subject reacted by tensing his arms and becoming rigid.

According to Officer B, in an attempt to obtain the Subject's cooperation, he/she advised the Subject that he was being detained for the arrest warrant and offered to show it to him to address any questions he might have. The Subject went limp at that point and allowed his weight to drop toward the ground. Officers A and B maintained their hold on the Subject's arms as he went to his knees, twisted, and rolled onto his right side.

Officer B remained standing and faced north while continuing to hold the Subject's left arm off the ground. Officer A went down with the Subject and placed his/her left knee between the Subject's legs while attempting to bring the Subject's right arm behind his back.

Officer B indicated that he/she still did not believe the Subject was actively resisting when they attempted to handcuff him. In assessing the surrounding area, he/she noticed bystanders watching as the incident progressed. Due to a potential need for crowd control, Officer B requested backup as they continued trying to handcuff the Subject.

According to Officer A, while on the ground, he/she moved the Subject's right arm behind his back, retrieved his/her handcuffs from the rear of his/her vest, and handcuffed the Subject's right wrist. The Subject repeatedly grabbed the handcuff, as well as Officer A's hands. Officer A ordered the Subject to stop grabbing his/her handcuff and hands. The Subject did not comply and attempted to turn to his right. Officer A believed that the Subject was trying to throw him/her off-balance to gain control of the handcuffs, which he could potentially use as a weapon. In response, Officer A used his/her left fist to punch the Subject, one time, in his left rib cage area. The Subject stopped grabbing Officer A's hand and handcuff at that point and laid flat on his stomach. Officer A was then able to place the Subject's left arm behind his back and handcuff his left wrist.

Once the Subject was handcuffed, Officer B broadcast that he was in custody. The Code Four (no further assistance required) was broadcast approximately 45 seconds after the backup request and as a result no patrol units responded to the location.

Officers A and B then placed the Subject in a seated position before asking him to stand. The Subject told the officers that he could not stand and continued to complain of having difficulty breathing. In response, Officer B requested a rescue ambulance (RA) on the Subject's behalf and advised that he was having a possible asthma attack. According to Officer B, the Subject said that he had an inhaler in his back pocket. Although Officer A located it, Officer B advised the Subject that they could not administer medication. The officers allowed an unidentified male bystander, who advised them that the Subject had asthma, to assist the Subject in using his albuterol inhaler. The bystander then provided a chair, which the officers assisted the Subject into while waiting for the RA.

Approximately two minutes later, the officers decided to move the Subject to their vehicle.

The officers assisted the Subject up and walked him toward their vehicle. While in the middle of the street, the Subject again dropped his weight. Officer A maintained his/her grip on the Subject's left arm as the Subject sat on his buttocks. Approximately 30 seconds later, the Subject stood up and slowly walked with the officers toward their vehicle. Moments later, the LAFD RA unit arrived and began treating the Subject.

According to Officer B, he/she did not believe that firm grips, guiding the Subject to the ground under his own power, and handcuffing, amounted to a reportable use of force.

Additionally, the Subject's only complaint was asthma and difficulty breathing. Approximately three minutes after the RA arrived, Detectives A and B arrived at scene in response to the backup request. Officer B then briefed Detective A as to what had occurred.

According to Detectives A and B, Officer B informed them that the Subject passively resisted by tensing his arms and dropping his weight. Officer B advised that he/she and Officer A only utilized firm grips and lowered the Subject to the ground when they detained and handcuffed him. Additionally, Detective B did not observe any visible injuries, and the Subject's only complaint was asthma. Based on this information, Detectives A and B determined that this incident was not a reportable use of force. Detective A then directed Officer B to follow the RA to the hospital.

Officer A stated that he/she did not speak with Detectives A and B, because he/she was occupied monitoring the Subject as paramedics treated and loaded him into the RA. According to Officer A, he/she believed that Officer B's briefing with Detective A included the disclosure of the punch, which he thought Officer B observed and was reporting.

At approximately 1439 hours, the RA transported the Subject to the hospital. Officer A rode in the RA with the Subject, while Officer B followed behind in their vehicle.

According to Officer B, at approximately 1800 hours, while he/she and Officer A were in the emergency room (ER), the Subject told a nurse that he was having difficulty breathing. Upon examining the Subject's left flank, the nurse told the Subject that his injury, not his asthma, was causing his difficulty breathing. He/she then asked what had happened to him, and the Subject replied that he had been punched. When the nurse left the room, Officer B asked the Subject, "Who punched you?" The Subject answered, "Your partner." At that point, Officer A affirmed that he/she had punched the Subject on his side. Upon learning of the punch, Officer B immediately walked outside and called Detective B to notify him/her that the incident was a reportable use of force.

Upon receiving the call from Officer B, Detective B notified Sergeant A of the reportable use of force and advised that he/she would respond to the hospital to begin a use of force investigation.

When Officer B returned to the ER, he/she learned from medical staff that the Subject had a collapsed lung and a possible fractured rib. Officer B called Detective B a second time and updated him/her regarding the Subject's condition.

Upon arriving at the hospital, Detective B learned that the Subject was going to be admitted for a collapsed lung. He/she then contacted Sergeant A to advise him/her of the Subject's pending admission. Sergeant A in turn directed Detective B to return to the location to "hold" the scene and to ensure that the involved officers were separated and monitored.

Approximately five hours after the Subject was transported from the scene, FID was notified by Sergeant A of the Subject's pending admission to the hospital. FID detectives immediately responded to the hospital to conduct an assessment. Hospital staff later confirmed that the Subject was being admitted for a pneumothorax and a possible broken rib.

Body-Worn Video (BWV) and Digital In-Car Video (DICV) Policy Compliance

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICV ACTIVATION	DICV RECORDING OF ENTIRE INCIDENT
Officer A	N/A	N/A	N/A	N/A	N/A
Officer B	N/A	N/A	N/A	N/A	N/A

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force (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 A and B's tactics to warrant Administrative Disapproval.

B. Drawing and Exhibiting of a Firearm

Does not apply.

C. Non-Lethal Use of Force

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

Basis for Findings

In making its decision in this matter, the Commission is mindful that every “use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. 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 scenario, 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 Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication*
(Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)

Tactical de-escalation does not require that an officer compromise his/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 – Officers A and B had worked as partners several times over the span of six months. According to Officer A, they formulated a plan where he/she would be cover and Officer B would be contact. They discussed a plan that included waiting for the Subject to separate himself from a group of people near his tent before contacting him. Officers A and B donned their tactical vests prior to exiting the police vehicle and discussed that if the Subject sought shelter in his tent, they would not follow him and instead request additional resources. Due to their familiarity with the Subject, they did not request additional resources prior to making contact as the Subject had been taken into custody without issue in the past.

Time and Redeployment/Containment – When Officers A and B contacted the Subject, he was instructed to stop walking away and called out by name. Officer B told the Subject that he had a warrant in an effort to de-escalate the situation and gain his cooperation. Officer A adjusted his/her position to take control of the Subject's right arm, and Officer B adjusted his/her position to take control of the Subject's left arm.

Other Resources - Detective A was telephonically contacted prior to Officers A and B making contact with the Subject to confirm the validity of his arrest warrant. During the use of force (UOF), Officer B requested a back-up as a crowd of people started to gather. An RA was requested to treat the Subject for his difficulty breathing.

Lines of Communication - Upon making contact with the Subject, Officer B told the Subject that he was being detained for his arrest warrant. Officer A also told and ordered the Subject to stop grabbing the handcuffs and his hands.

During its review of the incident, the BOPC noted the following debriefing topics:

Debriefing Point No. 1 Undercover Operations/Surveillance Techniques

Upon seeing the Subject standing outside his tent, Officers A and B discussed the possibility of requesting a uniformed patrol unit to take the Subject into custody. Due to their previous contacts with the Subject where he was cooperative and non-combative, Officers A and B decided to detain the Subject without utilizing additional resources and developed a plan to request resources if the Subject retreated into his tent.

The BOPC noted that the UOFRB assessed Officers A and B's adherence to the Department's Undercover and Surveillance Operations directive. The UOFRB was not unanimous in their findings. The Majority noted that although they were briefly engaged in surveillance when monitoring the Subject from afar, it did not amount to a surveillance operation. The officers were still operating in a plainclothes capacity, a non-uniform assignment where their role and identity as a sworn officer was not intended to be confidential. The Majority noted that the surveillance was brief and for the purposes of confirming the Subject's identity and waiting for the opportune time to approach. There was a discussion regarding the necessity of a written tactical operation plan. The Majority noted that the arrest of the Subject was not pre-planned, but spontaneous, therefore not needing a tactical operation plan. The UOFRB discussed the officers' decision not to request additional resources and, although the Majority would have preferred they had done so to give them a tactical advantage, it was not a requirement. The UOFRB acknowledged that the officers did discuss a plan to request additional resources should the Subject flee into a tent, and they did request a back-up when a group of bystanders began advancing towards them. Also discussed by the UOFRB was the officers' use of their tactical vests. It was noted the officers' donned their tactical vests prior to exiting their police vehicle and initiating contact with the Subject, which the UOFRB concluded was not a substantial deviation from training.

The Minority disagreed with the Majority. The Minority noted that Officers A and B were operating in an undercover capacity while engaged in a mobile surveillance operation and monitoring the Subject. The Minority opined that the officers were assigned to a non-uniformed operation to proactively seek to establish a relationship or make contact with an individual or group to gather evidence or intelligence while concealing their identity as police officers to accomplish the mission. As such, absent an articulation of exigent circumstances, the officers should have avoided contact with the Subject and requested additional uniformed resources to effect the arrest. Department directives and training require surveillance operations to be documented on a written operation plan and approved by the commanding officer of the responsible division. The written operation plan would have included the nature of the investigation and crime the suspect was wanted for; and it would have also provided for additional resources, including the assignment of a uniformed arrest team. In cases that are time sensitive or to address a crime needing immediate attention, a verbal operation plan may be

communicated to all involved persons to expedite their response. Officers A and B failed to conform to this standard by neither completing a written or verbal operation plan nor obtaining approval. In this case, where an arrest was anticipated, Department standards required that Officers A and B avoid contact with the Subject unless circumstances existed where a uniformed arrest team was not available or practical. Had this situation arose, the officers could have contacted the Subject but only with the approval of the supervisor in charge of the operation. In this case, there was no justification offered for the substantial deviation from these standard tactics and training. The Minority emphasized that the Subject was in a heavily populated area with other individuals, and Officers A and B were at a significant tactical disadvantage by initiating contact without utilizing additional resources.

Based on the totality of the circumstances, the BOPC determined that the tactics employed by Officers A and B were a substantial deviation from Department approved tactical training.

Additional Tactical Debrief Topics

- **Protocols Subsequent to a Non-Categorical Use of Force** – Officer A stated that he/she did not notify any supervisor at scene that a reportable UOF had occurred. He/she stated he/she was preoccupied with monitoring the Subject as paramedics provided medical treatment and believed his/her partner would disclose the reportable UOF that had occurred while taking the Subject into custody. Officer B did not observe Officer A's punch and, as a result, no supervisor was notified that a reportable UOF had occurred until several hours later. Alternatively, Officer A should have notified his/her supervisor directly upon their arrival.

Command and Control

- At approximately 1800 hours, Detective B was advised telephonically that a reportable UOF incident had occurred, and he/she responded to the hospital. Upon arriving and learning that the Subject would be admitted to the hospital due to a collapsed lung possibly suffered during the UOF, he notified Sergeant A. Detective B held the scene where the UOF occurred, and Sergeant B was tasked with monitoring Officers A and B. At approximately 1915 hours, the Department Operations Center (DOC) was notified.

The BOPC determined that the overall actions of Sergeants A, B, and were consistent with Department training and the Chief's expectations of supervisors during a critical incident.

Tactical Debrief

- In conducting an objective assessment of this case, the BOPC determined that the actions of Officers A and B were a substantial deviation from approved Department tactical training.

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

B. Drawing/Exhibiting of a Firearm

Does not apply.

C. Non-Lethal Use of Force

- **Officer A** - Strike and Firm Grips
- **Officer B** - Firm Grips

As Officer A made his/her approach to the Subject, Officer A used a firm grip to grab the Subject's right arm and immediately felt the Subject tense up. Officer B used a firm grip to grab the Subject's left arm. The Subject repeatedly stated that he had asthma and breathing problems, and he began to drop his bodyweight to the ground. Officers A and B maintained their hold on the Subject's arms as he went to his knees, twisted, and rolled onto his right side. Officer A placed his/her left knee between the Subject's left and right leg, and he/she placed his/her right leg outside of the Subject's right leg. Officer A then attempted to move the Subject's right wrist behind his back, but encountered resistance. Officer A then handcuffed the Subject's right wrist, and the Subject began grabbing Officer A's wrist and the handcuffs. Officer A warned the Subject to stop grabbing the handcuffs. The Subject then began rolling to his side, and Officer A believed that the Subject was trying to throw him/her off balance in order to gain control of the handcuffs and use them as a weapon. At that time, Officer A struck the Subject with a single punch to the left rib cage area. After being struck, the Subject stopped resisting and laid face down on his stomach. Officer A was then able to handcuff the Subject's left wrist behind his back. Officers A and B then placed the Subject in a seated position.

The BOPC noted that the UOFRB conducted a review and analysis of the investigation and circumstances of the incident in determining the reasonableness of the non-lethal use of force by Officers A and B.

As it pertains to Officer A, the UOFRB noted that he/she used firm grips and a single strike (punch) to control the Subject. Based on the Subject's level of resistance, the UOFRB opined that the force applied by Officer A was objectively reasonable and proportional.

As it pertains to Officer B, the UOFRB noted that he/she used firm grips to control the Subject. Based on the Subject's level of resistance, the UOFRB opined that the force applied by Officer B was objectively reasonable and proportional.

Based on the totality of circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B would believe the non-lethal use

of force was objectively reasonable, proportional, and necessary. Therefore, the BOPC found Officers A and B's uses of non-lethal force to be in policy.