

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

**HEAD STRIKE – 005-18**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes ( ) No (X)</b>
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Outside City	1/18/18		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	11 years, 1 month
Officer B	20 years
Officer C	10 years, 7 months
Officer D	6 years, 9 months
Officer E	6 months

**Reason for Police Contact**

Officers were in an outside city attempting to verify the address of a suspect wanted for felony vandalism and criminal threats. The officers observed the wanted suspect standing on the street in front of the location. The officers attempted to arrest him, but he physically resisted the officers, resulting in a reportable use of force.

<b>Subject</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject: Male, 33 years old.

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the BOPC of Police; and the report and recommendations of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on December 18, 2018.

## **Incident Summary**

A Victim filed Criminal Threats and Assault with a Deadly Weapon reports against the Subject. LAPD Detectives investigated the crime reports and presented the case to the Los Angeles County District Attorney's Office. The District Attorney's Office filed two counts of Criminal Threats and one count of Vandalism, resulting in a warrant being issued for the Subject's arrest.

Officer A was assigned as the lead investigator and tasked with locating and arresting the Subject. Officer A was assisted by Officer B. Both officers had worked on the same team for approximately eight years.

After reviewing the Subject's arrest warrant, Officer A met with Detectives and obtained background information on him. The Subject lived with a relative outside of the City of Los Angeles. Detectives further informed Officer A that the Victim had advised that the Subject had shown her a gun in the past. In addition, another witness also stated he believed he saw the Subject with a gun at the time of his offenses.

Officer A set out to conduct due diligence in locating and arresting the Subject. Officer A met with fellow team members, briefed the team on the case, and discussed tactics as they drove to the area. The Subject was not at the location. Officer A spoke with the Subject's relative who informed him that the Subject did not live with them, but would visit on occasion. The relative further informed Officer A that the Subject drove a white van and that he possibly lived with a girlfriend in another city. Officer A gave the Subject's relative a business card and asked her to have the Subject call him/her.

The following day, Officer A partnered with Officer B to continue the search for the Subject. They decided to check the Subject's family's residence again. Prior to driving there, the officers again discussed the details of the case, tactics, and the Subject's background. Officer A made sure to inform his/her partner that, based on the information received from Detectives, the Subject may be armed. They agreed that Officer A would be the designated contact and communications officer and would broadcast their location when they arrived.

Early in the morning, the officers arrived at the family's home and did not see the Subject's van. Officer A again spoke with the Subject's relative who informed Officer A that he had visited her the night before. She went on to tell Officer A that she had no idea where he currently was. The officers waited in the area for approximately 30 minutes to see if the Subject returned home, but he never did.

Officers A and B were provided with a phone number associated with the Subject, and Officer A used Department resources to check the phone number. The check revealed an address for the officers to check. According to Officer A, in his/her experience the database he/she had checked is not always accurate. With that in mind, Officers A and B formulated a plan to drive to the location and verify whether the address existed. Officer B called their supervisor and informed the supervisor of their plan to drive to the location to verify the address existed. The supervisor agreed with the plan and advised

them that the rest of the team was busy with an arrestee in custody, but would respond to their location as soon as possible to assist them.

Officers A and B were operating in an unmarked grey sports utility vehicle, with Officer B as the driver. Both officers were wearing plain clothes and black nylon tactical vests with a police badge patch on the left breast, "Los Angeles Police" embroidered on the right breast and the word "POLICE" embroidered on the back.

Both officers had discussed and agreed that if the Subject's van was at the location, they would set up surveillance on his vehicle and wait for the rest of their team to arrive to assist them. However, if the Subject was observed outside the residence, the officers would make contact and arrest him.

According to Officer B, as the officers approached the location, he/she observed a vehicle roughly matching the Subject's vehicle description parked on the street. The driver's door was open and the Subject was standing in between the open door and the driver's seat. Officer A looked at the vehicle's license plate number and verified that it was a match to the Subject's vehicle. Officer A recognized the Subject from his driver's license photograph and wanted flyer.

According to Officer A, he/she would normally prefer a complete team present to assist with the arrest of a suspect. Once the suspect is located, he/she would set up containment and notify the division or outside entity responsible for the area of the arrest. This did not occur in this particular case because the Subject was observed outside on the street, and the officers believed they needed to take him into custody without delay.

According to Officer B, the Subject looked right at the officers. Officer B knew the Subject failed to show up for their appointment and suspected that the Subject was "hinked up." Officer B stopped the police vehicle in the middle of the street, approximately 20 feet from the Subject, and the officers exited.

Officer B exited his/her vehicle and stood in front of his open door. The Subject was wearing a red hoodie sweater with his hands inside its pockets. Believing the Subject could possibly be armed, Officer B unholstered his/her handgun.

Since Officer A had been designated as the contact officer, he/she instructed the Subject to remove his hands from the hoodie and to stand at the rear of his vehicle. Officer A then instructed the Subject to turn away and put his hands on his head. The Subject initially complied by standing at the rear of the van. When Officer B observed that the Subject was complying, he/she holstered his pistol.

Officer A approached, grabbed the back of the Subject's hands, and attempted to place them in a rear finger flex grip to handcuff him. Meanwhile, Officer B stood to the side in a cover position. Officer A then advised the Subject that a warrant had been issued for his arrest. The Subject immediately began to question the officers as to the reason he was being arrested and to pull away from Officer A. The officers told the Subject to stop

resisting multiple times, but he refused to comply with their orders.

Officer B assisted his/her partner and grabbed the Subject to control him. The Subject continued resisting and placed his hand inside the front pocket of his sweater. Fearing that the Subject was possibly arming himself, Officer B released his/her hold and stepped back. Officer B armed himself with his/her ASP baton and expanded it. According to Officer B, he/she hoped that the sound of the expanding baton would cause the Subject to comply, but it did not. Officer B ordered the Subject to stop resisting, to get on the ground, and to remove his hand from the sweatshirt pocket. The Subject partially complied. He removed his hand from the pocket, but continued flailing his arms and elbows, preventing the officers from controlling him. According to Officer B, he/she used his baton and struck the Subject once in the leg. The baton strike glanced off and had no effect on the Subject. Officer B struck him a second time in the leg, but it too was ineffective.

According to Officer B, the Subject again placed his right hand into his sweater pocket. Believing that the Subject was attempting to arm himself, Officer B ordered him to remove his hand from the pocket, but the Subject did not comply. Officer B used his/her baton and struck him twice in the right hand, forcing the Subject to remove his hand from the pocket. Officer A attempted to control the Subject with wrist locks, a finger flex and a bear hug. The Subject continued resisting by flailing his arms and elbows and attempting to break free.

With the baton strikes to the Subject's leg and hand having no effect, Officer B decided to transition to the Taser. Officer B knew that Officer A carried a Taser in a holster attached to his/her left leg and Officer B told Officer A that he/she was going to use the Taser. Officer B removed the Taser from Officer A's holster. Officer B then moved to the right side of Officer A and was going to attempt to contact Tase the Subject, utilizing the Taser's drive-stun mode. However, within moments the Subject broke free and began to run alongside a vehicle parked in the driveway toward the rear yard. According to Officer B, everything occurred so fast that he/she was unable to give a Taser warning. Officer B took three or four steps, aimed the Taser at the Subject's back as he was running, and fired from an approximate distance of nine feet. According to Officer B, one of the Taser darts struck the Subject in the back, but Officer B was not sure if the second dart struck the Subject. The Subject fell to the ground, but immediately got up.

The Subject continued running as Officers A and B chased him. The officers caught up to the Subject as he reached the wooden gate that led to the back yard of the residence. Officer B was still armed with the Taser. As the Subject attempted to open the gate, Officer B tased him on his right rib cage utilizing the Taser in drive-stun mode. According to Officer B, he/she, Officer A, and the Subject all fell to the ground inside the back yard. The Subject fell onto his back, and Officer B fell face-down and was now chest-to-chest with the Subject. Officer A fell to the right of the Subject near the lower half of his body. The officers and the Subject continued to struggle with one another in the confined space between the wall of the residence and the driver's side of a pickup truck that was parked in the rear yard.

When the officers and the Subject fell to the ground, Officer B dropped the Taser. The Subject picked up the Taser with his right hand and brought it up to the level that led Officer B to believe he/she was going to be tased. According to Officer B, he/she could feel the Subject touching his pistol and holster. Officer B alerted his/her partner that the Subject had the Taser and then reacted by cupping the Taser with his/her left hand to prevent the Subject from tasing.

According to Officer B, the Subject was starting to gain the upper hand as he/she (Officer B) was losing strength and getting winded. With the outstanding danger of the subject tasing him/her and gaining access to his pistol, Officer B considered shooting the Subject. However, he/she decided instead to strike the Subject in the head. Officer B believed by doing so, he/she could take the Taser from the Subject, stop him from gaining access to his pistol, and subdue him. Officer B then struck the Subject once in the forehead with his/her ASP baton. After the strike, the baton fell on the ground underneath the truck.

According to Officer B, the baton strike stunned the Subject. That allowed Officer B to push the Subject's right hand to the ground. Unfortunately, the Subject immediately returned to hitting/brushing against his/her pistol holster. Using his/her right-hand, Officer B punched the Subject in the face three to four times to stop his actions. Officer B then placed his/her right forearm across the side of the Subject's face in an attempt to hold his head down. At that point, the Subject bit Officer B on the right forearm.

According to Officer B, the Subject, who was still in possession of the Taser, began to overpower Officer B and raised it to within six inches of his/her face. Realizing he/she was in immediate danger of being tased, Officer B freed his/her forearm from the Subject's mouth and then used both hands to cover the front end of the Taser. The Subject pulled the trigger and tased Officer B in the hands.

According to Officer A, he/she looked up and saw that the Subject's hand was no longer on Officer B's gun, but that he was still in possession of the Taser. Officer A said he/she un-holstered his pistol and pointed it at the Subject's head. He/she observed that the Subject was holding the back of the Taser, but that his finger was not on the trigger. Officer A holstered his pistol and took the Taser from the Subject. Officer A then removed the cartridge and attempted to Tase the Subject in contact mode.

Officer A broadcast an "officer needs help" call and gave the officers' location.

Following the "officer needs help" broadcast, several LAPD units and local police units responded.

The uses of force by officers employed by the other local police agency (LPA) were investigated and formally documented by that other agency.

Officers C and D were the first LAPD officers to arrive at the scene. The officers were both equipped with activated Body Worn Video (BWV) cameras. As the officers ran

toward the location, Officer D's BWV depicts LPA Officer A running ahead of them and entering the rear yard. As they did so, the Subject's girlfriend was standing a few feet from Officers A and B, who were still engaged with the Subject. Officers A and B were both on the ground next to the white pickup truck. The Subject was partially underneath the truck and was resisting the officers' efforts to handcuff him. The officers told the Subject's girlfriend to exit the yard but she refused to do so. At that point, LPA Officer A and Officer D grabbed her by the arm and moved her away from the altercation.

LPA Officers A and D held onto the Subject's right leg as Officer C held his belt and attempted to pull him out from underneath the truck. They were unsuccessful because the Subject was holding onto the vehicle's undercarriage. According to LPA Officer A, he/she observed the Subject reaching for an ASP baton that was under the truck. LPA Officer A let go of the Subject's leg and applied five downward kicks to the Subject's mid-section to prevent him from grabbing the ASP. Another officer then kicked the baton out of the Subject's reach. The officers ordered the Subject multiple times to stop resisting and to place his hands behind his back, but he failed to comply.

LPA Officer A obtained a Taser from his/her supervisor, LPA Sergeant A, and warned the Subject that he would get tased if he did not comply. LPA Officer A then tased the Subject on the left leg. The Subject reached back with a hand, grabbed the Taser, and tried to pull it away from LPA Officer A. LPA Officer A moved the Taser, provided another warning, placed the Taser on the Subject's lower back, and then tased him a second time. After the second tasing, the Subject resisted less and the officers were able to handcuff him.

Sergeant A arrived on scene. According to Sergeant A, he/she approached the gate leading to the rear yard, but did not enter due to the confined space and the number of officers already inside. Additionally, he/she observed that LPA Sergeant A was supervising the incident and that there were already enough officers to deal with the Subject. Sergeant A remained at the threshold of the wooden gate and controlled the response of arriving officers.

Sergeant A broadcast that the Subject was in custody. Sergeant B observed Officers A and B exit the rear yard with blood on their hands and clothing. Sergeant B asked them if they were injured, to which they responded affirmatively. Sergeant B requested two ambulances -- one for the officers and another for the Subject.

The officers from the LPA searched the Subject, walked him out to the street, and then sat him on the curb. LPA Officer A was monitoring the Subject and waiting for the ambulance when the Subject tried to escape by standing up and running away from the officers. LPA Officer A caught up to the Subject within a few feet and pushed him down to the ground. Officer D used a HRD to hobble the Subject's legs to prevent him from making another escape attempt.

Sergeant B approached, introduced him/herself to the Subject, and informed him that they had requested paramedics for him. The Subject told Sergeant B that he had been tased and hit in the head with a baton. Sergeant B then began to take command and

control of the incident and initiated a Use of Force investigation. He/she directed Sergeant A to photograph the Subject's injuries.

Sergeant B examined the scene of the Use of Force and removed a Taser, an ASP baton and the Subject's wallet that was laying on the hood of a vehicle parked in the driveway. Sergeant B secured the Taser and ASP in the trunk of his/her police vehicle. The items were subsequently turned over to FID for processing.

A Los Angeles Fire Department Rescue Ambulance arrived on scene. The Subject was uncooperative and declined medical treatment. LAFD personnel placed him on a gurney and transported him to the hospital.

Meanwhile, Sergeant B continued his/her initial Non-Categorical Use of Force investigation. While photographing Officer B's injuries, Sergeant B asked Officer B how the Subject sustained the injury to his head. Officer B replied that he/she had struck the Subject in the head with his/her ASP baton, at which point Sergeant B determined that the incident was indeed a Categorical Use of Force requiring FID response. He/she informed Sergeant A of his/her findings and they agreed that they would separate and monitor the officers and that Sergeant A would make notifications. The sergeants then directed officers to secure the scene until FID arrived.

After Sergeant A was informed of the Categorical Use of Force, he/she obtained a Public Safety Statement (PSS) from Officer B.

Detective Supervisors arrived and monitored the scene until FID's arrival.

The Department Operations Center (DOC) was notified of the Head Strike by FID. FID detectives reviewed all documents and circumstances surrounding the separation, monitoring and admonition for the officers not to discuss the incident prior to being interviewed by FID investigators. All protocols were followed and appropriately documented.

### **Los Angeles Board of Police Commissioners' Findings**

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). 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 a finding of Administrative Disapproval. The BOPC also found Officers C, D, and E's tactics to warrant a Tactical Debrief.

## **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 Officers A, B, C, D, and E's non-lethal use of force to be In Policy.

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

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

## **E. Lethal Use of Force**

The BOPC found Officer B's 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. It is also recognized 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 value 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 and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Use of Force Policy, Los Angeles Police Department Manual.)

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), 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:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so. (Tactical De-Escalation Techniques, October 2016.)

## **A. Tactics**

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

### **1. Tactical Planning**

Officers A and B communicated a plan to set up surveillance and request additional resources if they observed the Subject at the location. Upon arrival, the officers observed the Subject at the location, approached, and made contact with him.

Operational success is based on the ability of the officers to effectively plan and

approach each incident in a safe manner. Officers, when faced with an ongoing tactical situation, must remain alert to improve their overall safety, by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this case, Officers A and B discussed they would not take enforcement action if they believed the Subject was at the location. Instead, their plan was to set up surveillance and request additional resources. The BOPC would have preferred that the officers set up surveillance on the suspect and request additional resources, as discussed in their original plan.

Additionally, Officer A designated him/herself as the contact officer as well as the communications officer. This limited Officer A's ability to complete his/her responsibilities throughout the incident and placed the officers at a tactical disadvantage.

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

## **2. Code Six**

Officer A did not advise CD of their status and location (Code-6).

The purpose of broadcasting a Code-6 location is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

In this situation, Officer A stated that he/she attempted to provide his/her Code-6 location, however, was unsure if it was acknowledged by CD. Officer A should have verified CD received his/her Code-6 location prior to approaching a possibly armed suspect.

Based on the totality of the circumstances, the BOPC determined that Officer A, although he/she believed he/she broadcast his/her location, did not verify that it was received by CD, thus resulting in a substantial deviation, without justification, from approved Department tactical training.

## **3. Approaching a Possibly Armed Suspect**

Officers A and B approached a suspect whom they believed was possibly be armed.

In this case, Officer A, had information that the Subject was possibly armed with a handgun and approached the Subject to take him into custody. Although Officer B did not recall being briefed that the Subject might be armed, he/she formed that opinion based on his/her observations at the scene. Despite his/her

belief that the Subject might be armed, Officer B exited his/her vehicle and approached the Subject.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's decision to approach a suspect they believed was possibly armed, was a substantial deviation, without justification from approved Department tactical training.

#### **4. Apprehension vs. Containment Mode/Pursuing Possibly Armed Suspect**

After the Subject broke free from the officers and ran down the driveway, Officers A and B engaged in foot pursuit after him, despite believing he was possibly armed.

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

Generally, officers are discouraged from pursuing armed suspects on foot. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their decision to engage in a foot pursuit of an armed suspect. In this case, the BOPC would have preferred that Officers A and B maintain a position of cover or follow in containment mode while they broadcast the Subject's actions and set up a perimeter.

The BOPC determined that Officers A and B's decision to engage in a foot pursuit to apprehend a possibly armed suspect was a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:

##### **1. Tactical Communication**

The investigation revealed that during the initial brief, Officer A communicated that the Subject was possibly armed with a firearm; however, Officer B did not recall receiving that information. The BOPC would have preferred that the officers ensure important communication is effectively relayed in order to provide a greater understanding of the tactical incident.

##### **2. Maintaining Control of Equipment**

The investigation revealed that on multiple occasions, the officers lost or gave up control of their equipment while attempting to control the suspect. The officers were reminded of the importance of securing their equipment to prevent, as in this case, the suspect from gaining access to it.

### **3. Situational Awareness**

The investigation revealed that during the struggle with the suspect, Officer A had to utilize a map on his/her cellular phone to obtain the officers' location prior to broadcasting the help call. The officers were reminded of the importance of knowing their location and all pertinent information when requesting help.

### **4. Punches to Bony Areas**

The investigation revealed that Officer B punched the Subject in the face with a closed fist, three to four times. Officer B was reminded that punches to bony areas can cause injury, thus reducing the officer's effectiveness and limiting their ability to defend themselves.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and that the tactics be evaluated based on the totality of the circumstances.

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

Accordingly, the BOPC found Officers A and B's tactics to warrant a finding of Administrative Disapproval. The BOPC also found Officers C, D, and E's tactics to warrant a Tactical Debrief.

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

- According to Officer A, he/she heard Officer B say, "He's trying to grab my gun," and, "He has the TASER." Officer A looked up and observed that the Subject was in possession of the TASER. Fearing for Officer B's safety, Officer A drew his/her service pistol and pointed it at the Subject's face.
- According to Officer B, he/she stopped the vehicle, exited, and approached the Subject, who was standing between the door and the car. Officer B observed that the van door partially obstructed his/her view and believed that the Subject could arm himself. Officer B drew his/her service pistol based on his years of experience dealing with fugitives and his/her knowledge that they could have weapons and arm themselves.

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

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

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

- **Officer A** – (firm grips, physical force, and body weight)

According to Officer A, it was difficult to pull up the Subject's sleeves and manipulate the handcuffs because the Subject was wearing a bulky sweatshirt. The Subject flailed his hands and elbows and was able to move his hands from behind his back. Officer A attempted to grab both of the Subject's arms, but was unable to because the Subject was moving so quickly. As the officers moved towards the driveway, Officer A positioned him/herself behind the Subject, held him in a bear hug, and advised the Subject to stop resisting. The Subject continued to fight and flail his elbows and arms. At that point the suspect broke free from Officer A's bear hug.

- **Officer B** – (firm grips, physical force, body weight and punches)

According to Officer B, the Subject began stiffening up and pulling his arms away when Officer A attempted to take him into custody. Officer B approached, grabbed the Subject's wrist, and tried to pull him down to the ground.

After deploying the TASER, Officer B fell on top of the Subject, chest to chest, and lost control of the TASER. The Subject gained control of the TASER with his right hand and was coming up to tase Officer B. Officer B then yelled, "He's got the TASER."

Officer B stunned the Subject with a head strike from his/her collapsible baton and was able to push the Subject's right hand, which was holding the TASER, to the ground while also attempting to keep the Subject's hand away from his/her weapon. Officer B punched the Subject in the face three or four times in an attempt to stun him further. Officer B then used his/her right arm to pin the Subject's head down to the driveway.

- **Officer D** – (firm grips, physical force, and body weight)

According to Officer D, he/she entered the back yard and observed two officers on the ground wrestling with the Subject. The Subject was hanging onto the undercarriage of a truck parked near them, trying to pull himself away from the officers. Officer D held the Subject's calves with both hands and used his/her knees to apply body weight to the Subject's ankles. Officer D then pulled the Subject out from under the vehicle.

- **Officer C** – (firm grips and physical force)

According to Officer C, he/she entered the yard, observed the Subject actively

resisting the officers and attempting to roll under a nearby truck. He/she grabbed the Subject's waist, near his pockets, and pulled him back from underneath the vehicle.

- **Officer E** – (firm grips)

According to Officer E, the Subject tried to run, but an officer grabbed him and pushed him to the ground. Officer E attempted to apply the Hobble Restraint Device (HRD) on the Subject to keep him from running, but was unable to do so because the Subject was kicking and squirming. Officer E then held the Subject's legs while another officer placed the HRD on him.

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

Therefore, the BOPC found Officers A, B, C, D, and E's non-lethal use of force to be objectively reasonable and In Policy.

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

- **Officer B** – (collapsible baton)

According to Officer B, the Subject then spun to the right and began reaching into the pocket of his hoodie. Believing the Subject was reaching for some sort of weapon, Officer B deployed his/her collapsible baton. Officer B ordered the Subject to, "Stop resisting, get on the ground" and for the Subject to remove his, "[h]and out of his pocket." The Subject pulled his hand out of the pocket, but was unresponsive to Officer B's command to get on the ground. Officer B then struck the Subject two times on the leg area to get him to the ground.

According to Officer B, the Subject was very aggressive, amped up, and reached back into his hoodie pocket with his right hand. Believing the Subject was going to produce a weapon, Officer B struck his/her right hand two times with his/her collapsible baton.

- **Officer B** – (TASER, two activations)

According to Officer B, he/she believed the baton strikes were not working because the Subject continued fighting, flailing, and pulling away. Officer B decided to deploy the TASER, which was holstered on Officer A's left leg. Officer B went around to Officer A's left side, advising him/her that he/she was getting the TASER. The Subject broke free from Officer A and ran up the driveway towards the house. Officer B removed the TASER from Officer A's holster, followed behind the Subject for three or four steps and discharged the TASER in probe mode at the Subject's back.

According to Officer B, he/she observed one of the darts strike the Subject in the back, but it had no effect. The Subject continued running, throwing trash cans, and ripping open a wooden gate. At the gate, Officer B caught up to the Subject and activated the TASER, at close contact, on the Subject's right rib area.

- **Officer A** – (TASER, one activation)

According to Officer A, he/she removed the TASER from the Subject's hands and removed the expended cartridge. Officer A then attempted a close contact TASER activation on the Subject. Officer A did not hear the TASER click and believed the thumb switch was in the off position.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, while faced with similar circumstances, would believe this same application of less-lethal force would be reasonable to overcome the Subject's resistance.

Therefore, the BOPC found Officers A and B's less-lethal use of force to be objectively reasonable and In Policy.

#### **E. Lethal Use of Force**

- **Officer B** – (collapsible baton)

According to Officer B, he/she was beginning to feel winded and lose strength. He/she believed the Subject was getting the upper hand on him and that the Subject would be able to obtain Officer B's gun and shoot Officer B if the Subject was able to tase him/her in the face. Fearing for his/her life, Officer B struck the Subject in the head one time with a collapsible baton instead of drawing his/her gun and shooting. Officer B then threw the baton, freeing his/her hand to prevent the Subject from grabbing his/her gun.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B, would reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury and that the lethal use of force would be objectively reasonable.

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