

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

**IN-CUSTODY DEATH – 013-17**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Hollenbeck	2/12/17		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Sergeant A	21 years, 11 months
Officer C	10 years, 5 months
Officer D	8 years, 7 months
Officer E <sup>1</sup>	9 years
Officer F	2 years, 10 months
Officer G	2 years, 11 months
Officer H	7 years, 11 months
Officer J	1 year, 3 months

**Reason for Police Contact**

Officers responded to a radio call of a Burglary from Motor Vehicle (BFMV) suspect. Officers observed the Subject, who attempted to flee the area. During the incident, the officers engaged in a physical altercation and utilized a TASER to subdue him. The Subject was subsequently taken into custody, transported to the hospital, and admitted for his injuries. The Subject died several days later.

<b>Subject(s)</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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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 investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and

<sup>1</sup> Officer E was a Level 1 reserve officer.

recommendations of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on February 6, 2018.

### **Incident Summary**

Witness A was working at a convenience store when he observed the Subject enter the store. According to Witness A, the Subject entered the store and began screaming and yelling incoherently. Witness A observed the Subject pick up a two-liter bottle of soda and walk out without paying for the item.

Witness B was also working at the location, but was in a different part of the store when he heard incoherent screaming inside the store. When Witness B attempted to identify who was screaming, he observed the Subject in the parking lot.

After exiting the store, the Subject approached a vehicle, which was parked at the gas pumps located outside the store. According to Witnesses A and B, during the next several minutes, the Subject walked around the gas pumps while screaming at other customers.

**Note:** The vehicle was later determined to be owned by the Subject.

While the Subject was outside, an unidentified customer entered the store and advised Witnesses A and B that the Subject had a gun. Upon hearing this information, Witness A told Witness B to call the police.

**Note:** Witness A observed the Subject with a black object in his hand, but could not describe the object any further.

Witness B called 911 and advised Communications Division (CD) of the theft, and CD then broadcasted the information.

After calling CD, Witnesses A and B observed the Subject leave the area and run out of sight. Witness B called 911 a second time and advised CD that the Subject had left the area, providing his direction of travel. CD broadcasted the additional information and upgraded the radio call to a priority call (Code 2).

**Note:** As part of the investigation, detectives reviewed recordings of both 911 calls and the incident recall printout, but could not find any mention of a handgun.

Uniformed Police Officers A and B acknowledged the radio call and responded to the location. When they arrived, the officers notified CD accordingly (Code Six). As Officers A and B were gathering pertinent information from witnesses, they were advised that the Subject was armed with a firearm, possibly a black revolver. Officer A broadcast the updated information over the police radio.

While Officers A and B were conducting their investigation, Witness C, who was working nearby, observed the Subject walking in a parking lot. According to Witness C, the Subject looked disoriented and confused.

Witness D, who was also working nearby, observed the Subject approach a co-worker and ask for a screwdriver. When the co-worker refused, the Subject reached into a tool box, removed a screwdriver, ran to some parked vehicles located on one side of the parking lot, and attempted to open the vehicle doors.

According to Witness C, as the Subject was attempting to enter the vehicles, Witness C approached him and asked him to return the tool. The Subject gave the tool to Witness C, but immediately walked back to the business and picked up a flashlight that was laying on the ground. The Subject then fled a short distance away from the business, to a residence, where he sat on the ground in front of the location.

Simultaneously to Witnesses C and D's observations, Witness E was assisting a customer when he was advised by his employees that the Subject was at the business, attempting to steal tools, and break into their vehicles. As Witness E was speaking with his employees about the Subject's actions and advising them to put the tools inside, the Subject returned. Witness E confronted the Subject and asked him what he was doing.

According to Witness E, the Subject asked him for a vehicle. When Witness E refused, the Subject began to run around the parking lot. According to Witness E, the Subject was still in possession of the flashlight when he began to swing it at him, causing Witness E to keep his distance. Based upon the Subject's actions, Witness E advised Witness C to call the police.

Witness C dialed 911 and advised CD there was a man trying to break into his vehicle and he gave a description of the Subject. Later in the call, Witness C advised that the Subject was trying to obtain a weapon and had a flashlight.

CD broadcast an emergency radio call of an Assault with a Deadly Weapon (ADW) over the police radio, and advised that the Subject was armed with a flashlight.

Uniformed Police Officers C and D were assigned the call. Officer D acknowledged the radio call and advised CD the officers were responding immediately (Code Three).

As Witness C was on the phone with CD, he observed the Subject throw a tool and the flashlight down on the ground and attempt to physically assault pedestrians. Witness C advised CD accordingly and CD broadcast this updated information.

While en route to the scene of this incident, Officer D read the descriptors of the Subject from the Mobile Digital Computer (MDC) to Officer C. According to the officers, the description of the Subject was similar to the description provided by Officer A from the convenience store radio call. Based on this information, Officers C and D believed both radio calls involved the same person and that he was possibly armed with a black revolver. Officers C and D had been working together off and on for the past six years.

Officers C and D arrived in the area and were directed by citizens to a nearby parking lot. As the officers entered the parking lot, they observed the Subject at the passenger side door of a vehicle, which had been backed into a parking space in the lot.

According to Officers C and D, the Subject looked in their direction, then turned and attempted to climb an approximately 10-foot-high wrought iron fence, which was covered with foliage. The Subject slipped off the fence and began to hastily walk parallel to the fence.

Officer C drove the police vehicle toward the Subject and then stopped. Officer D exited the front passenger side door of the vehicle and moved around the rear of a parked vehicle.

Based on the updated information provided by Officer A stating that the Subject was armed with a revolver, and Officer D's training and experience regarding burglary suspects, Officer D unholstered his service pistol and held it with both hands in a low-ready position. Officer D ordered the Subject several times to raise his hands and to face the wall. The Subject eventually raised his hands, but immediately turned around and walked between the fence and the parked vehicles.

Simultaneously, Officer C had exited the driver side of the police vehicle and briefly lost sight of the Subject as he continued walking. Officer C stated he heard Officer D issuing commands to the Subject. In an attempt to locate the Subject, Officer C moved around the rear of the police vehicle and turned along the passenger side of a parked vehicle.

The Subject began walking, between the fence and the parked vehicles, toward Officer C. Officer C observed the Subject walking toward him with nothing in his hands. Officer C observed his partner with his pistol out and assumed the role of less-lethal officer. To give the officers a less-lethal force option, Officer C unholstered his TASER with his right hand and pointed it at the Subject. Officer C ordered the Subject to get on the ground or he was going to use his TASER.

Initially, the Subject hesitated but eventually complied with Officer C's commands by raising his arms, turning around, and walking backwards toward him. As the Subject moved toward Officer C, Officer D pointed his pistol at the ground and moved toward the passenger side of the parked vehicle. The Subject then laid down on the ground on his stomach and placed his outstretched hands in front of him on the ground.

As Officer D arrived at the passenger side of the parked vehicle, he observed the Subject with nothing in his hands and did not see any weapon in his waistband area. As the Subject lay on the ground, Officer D believed the Subject was being compliant. According to Officer D, because the Subject had initially attempted to run from the officers and was hesitant to comply with their commands, Officer D believed that he needed to handcuff him quickly.

Officer D believed he was in a more advantageous position than his partner and determined this was an opportunity to approach the Subject and handcuff him. Officer D looked quickly toward his partner. Officer D then nodded to Officer C to signal he was going to approach the Subject. Officer D holstered his pistol and approached the Subject.

As Officer D approached, Officer C moved in closer to provide cover for Officer D. Officer C continued pointing his TASER at the Subject and warned him several more times that if he moved, he would deploy the TASER.

Officer D stated that, as he placed his hand on the Subject's right arm, the Subject became rigid and then immediately used both of his arms to push himself off the ground. Officer D believed the Subject was either trying to arm himself or to flee. Officer D attempted to gain control of the Subject's right arm to handcuff him, but the Subject resisted and continued to pull his right arm underneath his body. Officer D then repositioned himself on top of the Subject, released the Subject's right arm, and attempted to control his left arm.

**Note:** During the initial contact, Officer D's Body-Worn Video (BWV) recorded him placing his left hand on the Subject's left wrist, which was outstretched in front of his body. Prior to Officer D approaching the Subject, the Subject had folded his right arm and placed it underneath his head.

During the physical altercation, Officer D's BWV fell off. As a result, his BWV did not capture the use of force. The BWV's microphone still functioned, however, and recorded the audio of the use of force.

Officer D believed the Subject was attempting to roll onto his left side, which would expose Officer C's pistol to the Subject. To prevent the Subject from doing this, Officer D repositioned himself and attempted to control the Subject's right arm. Simultaneously, Officer C moved around to the Subject's left shoulder and with his TASER in his right hand, placed it upon the Subject's back and warned the Subject he would utilize the TASER if he continued to resist arrest.

**Note:** During the use of force, Officer C's BWV recorded him covering Officer D's back with the TASER. The laser dot of the TASER is seen illuminating Officer D's back for less than one second. The laser

activation on the TASER signified the safety switch was off and the TASER was ready to be deployed.

As the officers continued to struggle with the Subject, Officer C reached for his handheld radio to request a backup. Officer C stated that as he reached for his radio, the Subject knocked his TASER out of his hand and it fell to the ground. Officer C then broadcast a backup request for a "415 man" over the police radio. Officer D also utilized his handheld radio to broadcast a backup request.

**Note:** Officer C's BWV recorded him retrieving his radio from its holster attached to the left side of his duty belt. Officer C placed the TASER on the ground with his right hand and transferred his radio from his left hand to his right hand. The TASER was placed on the ground approximately one foot from the Subject's head.

During the struggle with the Subject, Officer C's BWV camera also fell to the ground. The BWV did not capture the rest of the use of force, but the audio continued recording.

Uniformed Sergeant A and Officer E had communicated to CD that they were responding to the convenience store call and heard the updated information that the Subject was armed with a handgun. As they were en route to the convenience store radio call, Sergeant A and Officer E heard the radio call of the Subject assaulting pedestrians. As he monitored the comments of the call and the Subject's description, Sergeant A believed that the calls could possibly be related. Fearing that the officers might be confronted by an armed Subject, Sergeant A decided to respond so that he could control the incident.

As Sergeant A and Officer E were approaching the location, Sergeant A heard the backup request. Sergeant A and Officer E arrived at the location and advised CD accordingly.

Sergeant A parked his police vehicle behind Officers C and D's vehicle. As Sergeant A exited his vehicle, he could not see where Officers C and D were located. Witnesses in the parking lot directed him adjacent to Officers C and D's vehicle.

Sergeant A approached and observed Officers C and D struggling to control the Subject. The officers were attempting to handcuff the Subject as he continued to resist arrest by placing his hands under his body. As Sergeant A and Officer E approached the officers, Sergeant A observed a TASER on the ground, approximately 18 inches away from the Subject. Sergeant A asked Officers C and D if they had used the TASER on the Subject. The officers responded that they had not done so, and Sergeant A picked up the TASER to prevent the Subject from grabbing it.

**Note:** Sergeant A believed the TASER was located near the Subject's knees and legs. Officers C and D's Digital In-Car Video System (DICVS)

recording showed the TASER was near the Subject's head and shoulder area.

As Officer E approached, he observed one officer on the Subject's left side. Officer E also observed an additional officer and believed that officer was positioned at the Subject's feet, but was unsure of that officer's exact location.

Officer E observed that the Subject was yelling incoherently and had his arms tucked underneath his torso. Officer E positioned himself on the Subject's right side, grabbed his right arm with both hands, and attempted to pull it out to assist the other officers with handcuffing.

According to Officer C, he was near the Subject's upper body and placed one of his knees on the Subject's upper back and attempted to gain control of one of the Subject's arms to secure it for handcuffing.

Officer D was attempting to control the Subject's lower extremities by kneeling on his legs and pinning them to the ground. Sergeant A crouched down toward the Subject as Officer C was attempting to gain control of the Subject's right arm by pulling on it, causing the Subject to turn onto his left side.

Sergeant A, based upon the comments from both radio calls, believed the Subject was attempting to arm himself. For this reason, he pointed the TASER at the Subject's navel area and discharged the TASER for a full five-second cycle, from a distance of approximately 18 inches.

According to the officers, the Subject again tensed up and continued to resist and struggle. Officer E continued to attempt to control the Subject's right arm, which the Subject continued to hold underneath his body. Both Officers C and E felt the effects of the TASER activation.

According to Sergeant A, he did not issue a warning to the Subject regarding the use of the TASER prior to the activation because he did not want the Subject to have an advantage over the officers and himself.

**Note:** During a review of the DICVS and the audio of both Officers C and D's BWV, Sergeant A could be heard issuing a verbal warning to the Subject to stop moving or the TASER would be used.

Simultaneously, Officer C continued to attempt to gain control of the Subject's arm, and was trying to pull the arm from underneath his body, as Officer D was attempting to control the Subject's legs. The Subject continued to resist the officers and rolled back onto his stomach. Because the Subject continued to resist, the fact that his arms were still underneath his body, and Sergeant A's belief that the Subject was still in a position to retrieve a possible handgun, he activated the TASER for a second five-second cycle.

According to Sergeant A, he believed the second activation did not have any effect on the Subject because he continued to resist the officers and did not comply with commands to remove his hands from underneath his body. In a third effort to keep the Subject from obtaining a possible handgun from underneath his body, Sergeant A placed the TASER on the Subject's right ankle and activated the TASER for a third five-second cycle. According to Sergeant A, the TASER again had no effect.

Sergeant A handed the TASER to an unknown officer who was trying to control the Subject and he then assumed command and control of the incident.

**Note:** Officer C did not recall who gave the TASER back to him. When he was given the TASER, Officer C recalled being directed to tase the Subject again if he continued to resist and kick.

Uniformed Officers F and G advised CD and responded to the backup request. Officers F and G observed the Subject resisting Officers C and D by pulling his knees to his chest, pulling his arms away from the officers, and attempting to push himself off the ground. Officer F observed that the Subject's legs were not controlled and extended his arms downward to pin the Subject's left leg to the ground.

According to Officer G, he observed the Subject turn his body and attempt to headbutt the officers. In an effort to prevent this action, Officer G placed his right knee in the center of the Subject's back.

According to Officer D, he had repositioned himself to the Subject's upper body, retrieved his handcuffs with his right hand, and handcuffed the Subject's right wrist. Officer D assisted by placing the Subject's left arm behind his back while Officer D completed the handcuffing procedure.

The Subject continued to kick and flail, and Officer C activated the TASER on the Subject's right calf. Officer D conducted a pat down search for weapons and felt a cylindrical object in the left front pocket of the Subject's shorts. Officer D was not able to retrieve that object because it had been twisted in the inner pocket of the Subject's shorts. Officer F assisted Officer D and removed a barrel to a semiautomatic pistol.

Sergeant A directed Officers D and F to place the Subject on his left side. Officers D and F maintained control of the Subject and monitored his wellbeing, while Officer C kept the TASER applied, but not activated, to the Subject's right calf. Sergeant A broadcast a request for a Rescue Ambulance (RA) for the Subject, and CD broadcast that an RA was en route.

Officer C warned the Subject to stop moving or he would use the TASER. The Subject continued to kick his feet outward, and Officer C activated the TASER on the Subject's right calf for one, full five-second cycle.



Uniformed Officers H and I advised CD and responded to the backup request and activated their BWV. Officers H and I arrived and observed the handcuffed Subject kicking and jerking his legs. Officer H placed his left hand on the Subject's right ankle and placed his right hand on the Subject's left shoe.

Officer H requested a Hobble Restraint Device (HRD) to control the Subject's legs. Uniformed Officer J was near the Subject and gave Officer H his HRD.

Prior to Officer J removing his HRD, he observed the Subject kick both feet in an outward motion and believed the Subject was giving an indication he still wanted to fight the officers. The Subject was laying on his left side, while Officers C and F placed both of their knees on the right side of the Subject's body to prevent the Subject from kicking out his legs.

Officer H placed the HRD around the Subject's ankles and cinched it tight around the ankles, binding them together. Officer H gave the extended line to Officer J, who wrapped the Subject's ankles two more times with the extended line to shorten the length of the line.

Immediately after being hobbled, the officers placed the Subject on his left side. The Subject continued to struggle with the officers and had rolled himself onto his stomach. Officer J placed his knees on the back of the Subject's lower legs to control the Subject. According to the officers, each time the Subject rolled onto his stomach, they rolled the Subject back onto his left side.

**Note:** A review of the BWV showed that following the application of the HRD, officers did place the Subject on his right side. However, the Subject continued to struggle and moved back onto his stomach, at which time Officer G placed his right knee on the Subject's back and applied body weight. The Subject appeared to remain positioned on his stomach for over two minutes while Officer G continued to apply body weight to the Subject's back using his right knee. The Subject was repositioned to an upright position when the RA arrived.

Prior to the arrival of the RA, the officers attempted to stand the Subject up. As they picked him up, the Subject kicked his legs outward and refused to stand. Officers F and G placed the Subject on the ground on his left hip. The Subject contorted his body, moved himself to his stomach, and continued to attempt to headbutt the officers and push away with his body.

**Note:** According to Officer G, he believed the Subject was possibly attempting to headbutt other officers. During a review of BWV and DICV, detectives did not observe the Subject attempt to headbutt the officers.

Officer G maintained control of the Subject by placing his right knee between his shoulder blades, using body weight to pin him to the ground, and Officer J held the HRD.

An RA arrived and transported the Subject to the hospital. According to Officer F, during the transport, the Subject was unconscious and the paramedics were performing Cardio Pulmonary Resuscitation (CPR). Upon arrival, the Subject was admitted to the hospital for further treatment. The Subject was non-responsive and unable to breathe on his own; he was subsequently pronounced deceased a few days later by hospital personnel.

### **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). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the its review of the instant case, the BOPC made the following findings:

#### **A. Tactics**

The BOPC found Officers E, F, H, and J's tactics to warrant a Tactical Debrief. The BOPC found Sergeant A and Officers C, D, and G's tactics to warrant a finding of Administrative Disapproval.

#### **B. Drawing /Exhibiting**

The BOPC found Officer D's drawing and exhibiting of a firearm to be in policy.

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

The BOPC found Officers C, D, E, F, H, J, and G's first application of non-lethal force to be in policy. The BOPC found Officer G's second application of non-lethal force to be out of policy.

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

The BOPC found Sergeant A's less-lethal use of force to be in policy. The BOPC found Officer C's less-lethal use of force to be out of policy.

## **Basis for Findings**

### **Detention**

- The involved officers responded to an ADW radio call. Upon their arrival, they observed the Subject, who matched the suspect description, and attempted to detain him. The officers' actions were appropriate and within Department policies and procedures.

### **A. Tactics**

#### **Tactical De-Escalation**

- 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.

In this case, the Subject immediately began to resist when the officers attempted to take him into custody. The officers attempted to de-escalate the situation by giving him commands to stop resisting and warning him a TASER would be utilized if he did not comply. The Subject continued to resist the officers and the officers used non-lethal and less-lethal force to control the Subject and effect an arrest.

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

#### **1. Additional Unit and Back-Up Unit Request**

Officers C and D did not request an additional unit or back-up unit after being assigned a radio call of an ADW suspect they believed was possibly armed with a firearm.

In this case, Officers C and D believed that the Subject was possibly related to a previous crime broadcast regarding a suspect armed with a handgun at a nearby convenience store.

Although officers are given discretion regarding the appropriate time to broadcast, a request for an additional unit or back up in this case would have been tactically advantageous based on the officers' belief that Subject was possibly armed with a firearm.

Based on the totality of the circumstances, the BOPC determined that in this circumstance, the officers' actions were not a substantial deviation from approved Department tactical training.

#### **2. Code Six (Substantial Deviation – Officers C and D)**

Officers C and D did not advise Communications Division (CD) of their location (Code Six) when they arrived at their radio call.

The purpose of going Code Six is to advise CD and officers in the area of the officers' location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

In this case, the officers responded to an ADW call where the Subject armed with a flashlight. Additionally, both officers believed the Subject could possibly be related to an earlier crime broadcast of a person armed with a handgun at a nearby convenience store.

The officers had sufficient time to broadcast their Code Six location prior to initiating their investigation. Due to their not broadcasting their Code-Six location, several units were delayed in their response to the officers' back-up request.

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

### 3. Utilization of Cover

Officer C moved away from cover to approach the Subject and take him into custody.

The utilization of cover enables an officer to confront an armed suspect while simultaneously minimizing their exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options.

In this case, Officer C indicated that he could see the Subject's hands and observed that he was not holding a weapon. Additionally, the Subject complied with their commands to raise his hands and get down on the ground.

Based on the totality of the circumstances, the BOPC determined that Officer C's actions were not a substantial deviation from approved Department tactical training.

### 4. Hobble Restraint Device (HRD) (Substantial Deviation – Sergeant A and Officer G)

After the HRD was applied to the Subject's ankles, officers attempted to stand the Subject up but then ultimately placed him on the ground in a prone position.

In this case, the BOPC was critical of Sergeant A's lack of command and control after the HRD was placed on the Subject's legs, and concluded it was ultimately

the supervisor's responsibility to ensure that the proper HRD protocols were followed.

Based on the totality of the circumstances, the BOPC determined that Sergeant A's lack of oversight was a substantial deviation, without justification, from approved Department tactical training.

The BOPC further concluded that Officer G's failure to place the Subject in an upright, seated position or on his left side (lateral recumbent position), amounted to a substantial deviation, without justification, from approved Department tactical training. The BOPC further noted that there were additional officers who assisted in securing the HRD and/or were in a position to observe that the Subject was not in the proper position following the use of the HRD.

- The BOPC additionally considered the following:
  1. Use of Force Warning – The investigation revealed that Sergeant A and Officer C warned the Subject multiple times that a TASER would be used if he did not comply. However, neither Sergeant A nor Officer C advised the Subject that the TASER may cause injury, as required in the Use of Force Warning.
  2. Maintaining Control of Equipment – The investigation revealed that Officer C placed the TASER on the ground while attempting to control the Subject. Officer C was reminded of the importance of securing his equipment to prevent the Subject from gaining access to it.
  3. Situational Awareness – The investigation determined that Officer C broadcast the wrong unit designation when requesting back-up and did not broadcast his location. Officer D then broadcast the correct unit designation but the wrong location. The officers were reminded of the importance of accurately broadcasting all pertinent information when requesting back-up.
  4. Non-Conflicting Simultaneous Commands – The investigation revealed that several officers gave simultaneous commands to the Subject during the incident. Although the commands were non-conflicting, the officers were reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

These topics were to be discussed at the Tactical Debrief.

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

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 review and discuss the incident and individual actions that took place during this incident.

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

## **B. Drawing/Exhibiting**

- According to Officer D, he believed the Subject was possibly armed with a revolver. Officer D then exited the vehicle and drew his service pistol.

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

Therefore, the BOPC found Officer D's drawing and exhibiting of a firearm to be in policy.

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

- **Officer D** – Bodyweight and Firm Grips

According to Officer D, he moved up and placed his hands on the Subject's right arm to take him into custody. The Subject pushed up off the ground and Officer D used bodyweight to keep the Subject down on the ground. The Subject then attempted to pull his right arm underneath his torso, and he used a firm grip to maintain control of the Subject's right arm.

- **Officer C** – Physical Force and Bodyweight

According to Officer C, as Officer D attempted to handcuff the Subject, he began to struggle. Officer C went to assist his partner and used physical force in an attempt to control one of Subject's arms. The Subject continued kicking and being aggressive. Officer C then used bodyweight to control Subject's upper torso.

- **Officer E** – Firm Grip and Physical Force

According to Officer E, he observed Officers C and D trying to handcuff the Subject, who was being combative. Officer E approached the officers to assist them with taking the Subject into custody. The Subject had his hands tucked underneath his torso. Officer E then placed a firm grip on one of Subject's arms and attempted to pull the arm out from underneath his torso to handcuff him.

- **Officer F** – Bodyweight and Firm Grips

According to Officer F, he observed officers struggling to take the Subject into custody and observed that the Subject's left leg was not controlled. Officer F then used his hands and bodyweight to hold the Subject's left leg on the ground until he was handcuffed.

After the Subject was handcuffed, he was placed on his left side but continued struggling. Officer F then used his knee to apply bodyweight to the Subject's hips to stop him from resisting. After Officer C utilized the TASER, the Subject continued to resist, so Officer F applied a firm grip to control the Subject's right arm.

- **Officer G** – Bodyweight

First Application

According to Officer G, he observed the Subject on the ground fighting with the officers. The Subject was handcuffed and trying to turn around toward the officers, possibly to headbutt an officer. Officer G then used his right knee to apply bodyweight to the Subject's upper back to prevent him from turning toward the officers.

Second Application

According to Officer G, after the Subject was placed back on the ground, he continued to resist. Officer G then used his right knee to apply bodyweight to the Subject's upper back while he was lying in a prone position.

**Note:** Officers G and F's BWV reflects that the Subject was not actively resisting after being placed back on the ground.

- **Officer H** – Firm Grip and Bodyweight

According to Officer H, he observed an officer attempting to gain control of the Subject's feet and used his hands to place a firm grip on the Subject's ankles. He then used his knees to apply bodyweight to the Subject's feet to further maintain control.

- **Officer J** – Firm Grips and Bodyweight

According to Officer J, he observed that the Subject was in custody but constantly jerking his right arm, so Officer J used his hands and applied a firm grip to control the Subject's right arm. The Subject started kicking, and one of the officers requested an HRD. Officer J assisted Officer H with applying the HRD and applied bodyweight to control the Subject's legs.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers C, D, E, F, G (first application), H, and J when faced with similar circumstances, would believe that this same application of non-lethal force would be reasonable to overcome the Subject's resistance.

Therefore, the BOPC found Officers C, D, E, F, G (first application), H, and J's use of non-lethal force to be objectively reasonable and in policy.

However, given the lack of any apparent resistance by the Subject while handcuffed and hobbled, the BOPC determined that Officer G's second application of bodyweight when the Subject was in a prone position was not reasonable, and that an officer with similar training and experience as Officer G in similar circumstances would not believe that his second application of non-lethal force would be reasonable.

Therefore, the BOPC found Officer G's second application of non-lethal force to be out of policy.

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

- **Sergeant A** – Five TASER activations in probe and three-point drive stun modes

According to Sergeant A, he observed the officers struggling with the Subject and attempting to handcuff him. Sergeant A believed that the Subject was possibly the same suspect from the convenience store radio call and was attempting to arm himself with a handgun. Sergeant A deployed the TASER in probe mode, aiming at the Subject's naval area. Sergeant A's first activation had no effect, so he activated the TASER a second time.

According to Sergeant A, the second activation had no effect, so he transitioned to three-point drive stun mode by placing the TASER against the Subject's right calf. Sergeant A then activated the TASER a third time.

**Note:** The investigation revealed Sergeant A activated the TASER a total of five times during the incident, with each duration lasting five seconds.

- **Officer C** – One TASER activation in three-point drive stun mode

According to Officer C, after Sergeant A utilized the TASER, he and Officer D were able to handcuff the Subject. The Subject continued to resist and kick, and he warned the Subject to stop moving or he would be TASED. The Subject did not comply, so he placed the TASER on the Subject's right calf and activated it one time in three-point drive stun mode.



**Note:** Based on Officer C's BWV, the Subject did not appear to be actively resisting at the time Officer C activated the TASER.

Based on the totality of the circumstances, the BOPC determined that a sergeant with similar training and experience as Sergeant A, when faced with similar circumstances, would believe this same application of less-lethal force would be reasonable to effect the Subject's arrest.

Therefore, the BOPC found Sergeant A's less-lethal use of force to be objectively reasonable and in policy.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer C, when faced with similar circumstances, would not believe that this same application of less-lethal force would be reasonable.

Therefore, the BOPC found Officer C's less-lethal use of force to be objectively reasonable and out of policy.