

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

OFFICER-INVOLVED SHOOTING 020-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Outside City	3/5/15		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	6 years, 2 months
Officer B	8 years, 10 months
Officer C	6 years, 9 months
Officer D	6 years, 9 months

Reason for Police Contact

Officers observed the Subject driving at a high rate of speed through a residential neighborhood. A pursuit of the Subject led officers to follow the Subject through a jurisdiction outside the City of Los Angeles, into a cul-de-sac. The Subject stopped his vehicle and an officer-involved shooting subsequently occurred.

Subject	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 35 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 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 2, 2016.

Incident Summary

Uniformed Police Officers A and B were driving their police vehicle as part of their regular patrol when Officer A observed a sedan vehicle traveling at a high rate of speed.¹

Officer A voiced his observations to Officer B as the sedan continued to travel through a residential neighborhood, at a high rate of speed. Officers A and B estimated the speed to be 80 miles per hour (MPH) in a 35 mph zone, in violation of California Vehicle Code (CVC) Section 22350, Basic Speed Law.

Officers A and B elected to initiate enforcement action and accelerated the police vehicle in order to conduct a traffic stop. Once behind the sedan, the officers observed that the vehicle was occupied by a lone male (the Subject). The Subject then turned, where Officer A activated his forward facing red light to initiate the traffic stop. The Subject turned again and stopped along the east curb of the street. Officer A positioned the police vehicle consistent with a traffic enforcement stop and both officers exited the police vehicle to contact the Subject.

As Officer A stood behind his driver's door, Officer B began to approach the passenger side of the gray sedan. When Officer B reached the front of the police vehicle, the Subject accelerated and drove north.

According to both Officers A and B, when they saw the paper-plates, they believed the vehicle may have been stolen (a "Code 37" vehicle).

Note: Neither officer notified Communications Division (CD) of their status and location (Code Six).

Officers A and B returned to their police vehicle, buckled their seatbelts and accelerated to come within close proximity of the sedan before activating their emergency lights and siren.² The Subject continued driving approximately 60 mph in a 25 mph residential posted speed zone. The Subject conducted an unsafe left turn, driving in the wrong direction, in violation of 23103 CVC, Reckless Driving.³

Officer B broadcast, "[W]e'll be following a reckless driver[.]" Simultaneously, Officer A activated the emergency lights and siren and advised Officer B to more accurately

¹ The vehicle license plate was covered by a Dealer paper plate. The officers initially identified the vehicle as a four-door gray sedan.

² The investigation did not identify exactly when Officer A fastened his seatbelt. However, Officer A did describe struggling to unbuckle the seatbelt at the termination of the pursuit.

³ Reckless driving is referred to as any person who drives any vehicle upon a highway in a willful or wanton disregard for the safety of persons or property.

broadcast that it was a possible stolen vehicle. Officer B broadcast, "It's going to be a possible Code-37, let me get a backup, airship and a supervisor."

An Air Unit advised CD they were responding.

Uniformed Police Officers C and D also responded to the back-up request. Officers C and D were aware of the progress of the pursuit and pulled to the side of the road as the pursuit approached, allowing the pursuit to pass. Officer C then accelerated the police vehicle in an attempt to catch up to the pursuing officers as Officer D advised CD they were secondary unit in the pursuit.

The pursuit entered a residential neighborhood in a nearby city. Officer B provided an updated pursuit broadcast advising as to the officers' location. According to Officer A, the Subject maintained a high rate of speed and the sedan bottomed out, sending sparks into the air.

The Subject continued driving when, without warning, he applied the brakes and positioned his vehicle in the street wherein the driver's side of the gray sedan was exposed to the oncoming police vehicle. As his vehicle came to a stop, the Subject began to open his door and place his foot in a position as to prepare to brace the door open while still seated in the driver's seat.

Officers A and B believed the Subject's actions of abruptly braking and veering his vehicle to the left was a deliberate act, with the specific intent to ambush them. They observed that the Subject had time to exit his vehicle and flee on foot. When he did not, they perceived that he was preparing to ambush them. The Subject looked at the approaching officers with his foot on the door and his hands down toward his lap.

According to Officer A, "He did it so abruptly that one; I didn't even know it was a cul-de-sac. I had no idea. To me, in my mind, he was setting up to engage us, to shoot us, so I was already -- I already had too much speed, it was either hit him with the vehicle, the actual vehicle, or just come off the side..."

According to Officer B, "Because everything in my mind was telling me this guy's going to ambush. The way he had his foot on the door, the way he set up his vehicle and the fact that he was running the whole time and then decided all of a sudden to stop and wait. So I was thinking, okay, there's no other thing he's going to do other than try to set up a position of advantage and ambush us."

Officer A's intention was to stop the police vehicle behind the sedan; however, because of the Subject's position and Officer A's speed, had he attempted to stop behind the Subject, the police vehicle would have struck the rear of the Subject's vehicle. Officer A consciously attempted to avoid hitting the Subject's vehicle. The other options Officer A considered would have placed the officers' backs to the Subject. Officer A vigorously applied the brakes with the police vehicle stopping adjacent to the driver's side of the sedan.

As the police vehicle came to a stop, its passenger side mirror and door made contact with the sedan's driver's door.⁴ Officer B unholstered his pistol as they attempted to stop and held his pistol in a right hand close contact position and attempted to open his door with his left hand to exit the police vehicle. Officer B thought the Subject's intent was to ambush him and believed the situation could escalate to the use of deadly force.

The Subject then abruptly stood up and faced Officer B, who was still seated in the front passenger seat. Officer A believed the Subject was intent on killing them. According to Officer B, the Subject intentionally forced his vehicle door into Officer B's door, thereby trapping Officer B in his passenger seat. The Subject stood between the two vehicles and used his body weight against the doors in what Officer B believed to be an attempt to prevent Officer B from exiting the police vehicle. According to Officer B, the Subject looked at Officer B through the closed passenger door window and did not show any indication he was going to run from, or surrender to, the officers.

According to Officer B, the Subject kept his hands down toward his front waistband.⁵

According to Officer B, "As soon as we pull up next to him, and I'm getting ready to get out, he rushes at me and rams my door. And I'm thinking, Okay, he's going to do it now. He's initiating his attack. So by his actions I reacted and I thought I had a split second to defend myself. If I did not, I would be dead in the car... I didn't want to wait for him to produce his hands in my face because at that point I would be dead."

Note: The investigation revealed that there was no damage to the passenger side police door (dents; scratches; paint transfer etc.) to corroborate Officer B's stated belief that the suspect rammed his door. The damage noted to the police vehicle's passenger door was only that consistent with the traffic accident that caused the door to buckle inward.

Although Officer B did not see a weapon in the Subject's hands, he believed the totality of the Subject's actions showed a specific intent to produce a gun and shoot him while he was trapped in the police vehicle. Officer B, in fear for his life, rotated to his right and fired six rounds from a seated, right hand, close-contact position through his closed passenger side door and window. After the sixth round, Officer B's pistol malfunctioned.

According to Officer B, "It [struck] me that it was not normal behavior the whole time we had contact with the guy. And it - - I did perceive that like a threat. Like I said, there was no other reason for him to rush me unless he had some kind of advantage, i.e., a

⁴ The damage to the police vehicle's passenger door rendered it unable to be shut because the force of the impact buckled the door inward.

⁵ Officer B could not see the Subject's waistband area. However, he could see that the Subject's arms were angled down toward the front of his waistband area. Officer B described the Subject as standing directly in front of the front passenger door of the police vehicle with his torso facing directly toward Officer B.

weapon or a handgun. So all his actions to that point led me to believe that he was armed. Nothing that he - - nothing that he did indicated to me that he was going to give up or he wasn't going to be aggressive or a threat. Everything I did was reactionary off of his actions."

Officer A stated that he heard the sound of a collision and was unsure of whether he hit the driver's side door or the front of the Subject's vehicle. He could see the Subject standing facing directly toward Officer B while Officer B remained seated in the passenger seat of the police vehicle. As Officer A attempted to exit the police vehicle, he heard gunshots and believed the Subject had shot Officer B.

The Subject turned and ran toward the rear of the gray sedan and continued around to the passenger side. Simultaneously, Officer A released his seatbelt and exited the driver's side door of the police vehicle. After Officer A exited, he unholstered his pistol with his left hand, because he believed the Subject was armed and had shot his partner. Officer A ran toward the rear of his police vehicle and saw the Subject running down the street. Observing that the Subject did not have a weapon in either hand, Officer A holstered his pistol and pursued the Subject on foot. Meanwhile, Officer B was able to forcibly open his passenger-side door to exit the police vehicle after the Subject had turned and ran away because the Subject no longer had his body weight against Officer B's door. After Officer B exited the police vehicle, he conducted a speed reload.⁶

As Officers C and D drove, they observed Officer A pursuing the Subject on foot. Officer C stopped the police vehicle approximately five car lengths behind the gray sedan, and they exited their police vehicle.

Officer C immediately unholstered his pistol, as he believed they were pursuing a stolen vehicle suspect who could be armed.

Officer D observed Officer B conduct the speed reload by the rear of the police vehicle, approached him and asked if a shooting had occurred. Officer B responded in the affirmative, holstered his pistol and pursued the Subject on foot.⁷

Officer D broadcast, "Shots fired, Officer needs help." Officer D unholstered his pistol as he and Officer C passed by the gray sedan. The sedan was cleared of any additional suspects. Officer C and D holstered their pistols and continued in pursuit of the Subject.

⁶ A speed reload occurs with a round in the chamber and the slide forward. The magazine is released from the gun and allowed to fall free as a new magazine is placed into the magazine well. The ejected magazine was recovered in an area consistent with the depiction of the speed reload.

⁷ Officer B holstered his pistol because he no longer felt the Subject was a threat as the Subject had his back to the officers and was running away.

Note: The events previously outlined, beginning with the broadcast of the Subject moving down the street and concluding with Officer D's help call broadcast occurred within 20 seconds.

Officer A pursued the Subject on foot with Officer B close behind. After approximately 45 feet, Officer A caught up to the Subject. He believed the Subject was falling forward to the ground as he simultaneously placed a hand on the Subject's back and pushed him.⁸ The Subject fell to the ground, landing in a prone position with his head to the south and his hands underneath his chest.

Officer A approached the Subject's left side and saw that his hands were underneath his chest. He unholstered his pistol and held it in a left-hand, close contact position because he believed the Subject was still in possession of a weapon. Officers C and D joined Officer A. Officer D knelt down and grabbed the Subject's right arm while Officer C applied body weight to the Subject's legs. Officer D verbally directed the Subject to submit to handcuffing. The Subject did not comply with the officers' verbal commands and maintained his hands underneath his chest. Neither officer was successful in obtaining control of the Subject's arms.

According to Officer D, the Subject was attempting to break free of their grasps. Officer D believed the Subject had fired at the officers and was still in possession of a handgun, which he held concealed underneath his chest.

Officer D was in a kneeling position and had obtained a hold on the Subject's right arm that remained partially concealed underneath his body. Officer D punched the Subject two to three times to the right cheek, with his right fist in order to gain better control of the Subject's arms to facilitate cuffing. He evaluated the potential target areas for the punches and determined the only viable location was the right side of the Subject's face, as he did not want to relinquish the partial control he had obtained of the Subject's right arm.

The punches were ineffective, which prompted Officer D to transition to the use of both hands to force the Subject's right arm from underneath his body. After this proved unsuccessful, Officer D again punched the Subject two to three times on the right cheek, causing the Subject to release his arms. Officers A and D removed the Subject's arms from underneath his chest and moved them to the small of his back where they were secured in handcuffs.

Note: Investigators from Force Investigation Division (FID) were unable to determine the exact sequence of how the Subject was handcuffed or who handcuffed him, although it was determined that Officer B's handcuffs were applied.

⁸ Officer A could not recall if the Subject fell on his own or if he was physically forced to the ground. He did not give any verbal commands during the foot pursuit.

Officer A holstered his pistol and searched the Subject's rear waistband, finding it clear of weapons. Officer A broadcast that the suspect was in custody. (Code 4) Prior to completing the remainder of the search, the Subject was heard gasping for air and when he was turned over, a gunshot wound to the chest was observed.

Uniformed Police Officers E and F responded to the scene as the Subject was being turned over. Officers heard Officer A state, "Just hang in there. The Fire Department is coming," as he put a glove on his hand and applied pressure directly to the Subject's wound.

Officer E broadcast a request for a Rescue Ambulance (RA) to respond to the scene. Officer A directed Officer E to continue applying pressure on the chest wound as he went to locate his partner (Officer B) who he had not seen since the shots were fired.

Note: Twenty-five seconds elapsed between the Code 4 broadcast and the request for the RA.

Although an initial cursory search of the vehicle had been conducted by Officer D, Officer C unholstered his pistol and walked toward the sedan to complete a more thorough search. He walked from the passenger side and around the rear of the vehicle to the driver's side. He reached into the vehicle, turned off the motor, and removed the keys from the ignition. According to Officer C, he holstered his pistol and used the keys to open the trunk of the sedan, which he and Officer A verified was clear of any additional suspects.

An Air Unit subsequently arrived overhead, and directed responding units into positions to secure the crime scene.

The local fire department received the alarm to respond to the location.

Uniformed Sergeant A arrived at scene. Sergeant A assumed the role of the Incident Commander. He identified the involved officers, monitored them and obtained a modified Public Safety Statement.⁹ Sergeant A requested additional supervisors and ensured that the RA had been requested.

Sergeant B arrived at scene and relieved Sergeant A of his monitoring responsibilities. Sergeant B separated Officers A and B and obtained Public Safety Statements from each of them. According to Sergeant B, Officer B stated he fired five to six rounds in a southeast direction. Officer A's statement did not conflict with Officer B's statement. Sergeant B admonished both officers to not discuss the incident.

⁹ Sergeant A stated he obtained the necessary preliminary information to properly command the scene until additional supervisors arrived. His primary concern and focus after he received the preliminary information was to ensure a RA had been requested in a timely manner.

The Fire Department personnel arrived on scene. The Subject did not respond to treatment and, after a telephonic conference with a doctor at a local medical center, the Subject was declared dead.

The investigation determined that the Subject was unarmed.

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 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 further found Officers C and D's tactics to warrant a finding of Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officers A, B, C and D's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC found Officers A, C and D's use of non-lethal force to be in policy.

D. Lethal Use of Force

The BOPC found Officer B's lethal use of force to be out of policy.

Basis for Findings

A. Tactics

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

1. Code Six

Officers A and B did not advise CD of their Code Six location when they conducted the investigative traffic stop.

The purpose of going Code Six 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. Traffic stops can be dangerous, the identity and actions of a person stopped is often unknown, and as in this case, their actions can be unpredictable.

In this case, the officers elected to conduct an investigative traffic stop on a vehicle which both officers believed to be a possible stolen vehicle. The suspect vehicle yielded to the officers' emergency lights and siren and pulled over to the curb. The officers were not faced with a rapidly unfolding tactical situation and had sufficient time to broadcast their Code Six location as well as any other relevant information prior to initiating their investigation.

The BOPC determined that Officers A and B's decision to not advise CD of their Code Six location was a substantial deviation, without justification, from approved Department tactical training.

2. Tactical Communication

Officers A and B did not discuss tactics, vehicle stops, or foot pursuits at the start of watch or during their shift, and did not effectively communicate their observations or actions with one another on multiple occasions throughout the incident.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, 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.

- The officers did not communicate or discuss the advantages of initiating a high risk vehicle stop and conducted an investigative stop without requesting the assistance of additional resources.

- The officers engaged in a vehicle pursuit without any discussion as to their post pursuit tactics.
- Officer A did not communicate to Officer B his intention to stop the police vehicle next to the Subject's vehicle.
- The officers did not update CD that the pursuit had terminated and their Code Six location.
- The officers did not broadcast their foot pursuit.
- Officer B did not communicate to Officer A his observations when the Subject exited his vehicle and utilized his body weight and driver's side door to trap Officer B inside his vehicle.
- The officers did not update CD with pertinent suspect information following the OIS.
- Officer B did not communicate relevant tactical and suspect information to Officers C and D upon their arrival.

The BOPC determined that Officers A and B's lack of Tactical Communication was a substantial deviation, without justification, from approved Department tactical training.

3. Tactical Vehicle Deployment

At the termination of the pursuit, Officer A stopped the police vehicle alongside the driver's side of the Subject's vehicle.

Positioning the police vehicle at the termination of a pursuit is critical in order to provide the officers a tactical advantage should the incident escalate. In this case, Officer A was driving too fast and was unable to safely stop the police vehicle in a tactically advantageous position and as a result was forced to stop alongside the Subject's vehicle.

Officer A placed his partner and himself at a significant tactical disadvantage by positioning the police vehicle directly alongside a potentially armed suspect. The Subject was afforded the opportunity to confront the officers while in this undesirable tactical position.

The BOPC determined that Officer A's action of stopping the police vehicle alongside the Subject's vehicle was a substantial deviation, without justification, from approved Department tactical training.

4. Help Call Request

After hearing gun fire and believing Officer B had been shot, Officer A did not broadcast a Help Call.

Although officers are given discretion regarding the appropriate time to broadcast for resources based on the ongoing tactical situation, it would have been

tactically prudent for Officer A to broadcast a Help Call in order to alert responding officers and CD of the OIS and the seriousness of the incident. In this case, Officers C and D arrived just after the OIS, and Officer D broadcast a “shots fired, officer needs help” call.

Furthermore, the BOPC was concerned that Officer A, believing that his partner had been shot, chose to go in foot pursuit of the Subject instead of immediately checking on the welfare of his partner and then broadcasting a Help Call with updated information as necessary.

The BOPC determined that Officer A’s decision to not broadcast a Help Call was a substantial deviation, without justification, from approved Department tactical training.

5. Pursuing Possibly Armed Suspects

After the termination of the pursuit and the OIS, Officers A and B pursued a possibly armed suspect.

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, Officer A pursued the Subject, despite the fact that he believed the Subject was armed and had just shot his partner. Officer B followed Officer A in an effort to assist him with apprehending the Subject. The officers’ actions placed both officers at a distinct tactical disadvantage unnecessarily risked their safety.

In conclusion, the BOPC determined that Officers A and B’s decision to pursue a possibly armed suspect was a substantial deviation, without justification, from approved Department tactical training.

- The BOPC additionally considered the following:

1. High Risk Vehicle Stops

Officers A and B elected to conduct an investigative vehicle stop on a vehicle that they believed to be stolen. The officers were reminded to utilize high risk vehicle stop tactics when there is reasonable suspicion or probable cause to believe that the occupant(s) in a vehicle may be armed, represent a serious threat to the officer, or have committed a felony crime.

2. Maintaining Equipment

Officer B had his side-handle baton in the passenger compartment of the police vehicle and his Hobble Restraining Device (HRD) in his tactical bag located in the trunk of his police vehicle at the time of the OIS. Officers C and D had their side-handle batons inside their police vehicle when they made contact with the Subject. Officer C also left his HRD inside the police vehicle. The officers are reminded to have all required equipment on their person while performing field patrol duties.

3. Holding Hand-Held Radio in Right Hand and Service Pistol in Left Hand

Officer D drew his service pistol in his left hand while holding his hand-held radio in his right hand. Officers are reminded the tactical disadvantage of having a service pistol in one hand and an additional piece of equipment in the other hand.

4. Initiating Physical Contact While Holding a Service Pistol

Officer A had his service pistol drawn and in a left handed close contact position while he grabbed hold of the Subject's left arm. Officer A is reminded to holster his service pistol prior to making physical contact with a suspect to avoid an unintentional discharge.

5. Punches to Boney Areas

During the struggle on the ground, Officer D punched the Subject approximately four to six times in his right cheek area. Officer D 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.

In conducting an objective assessment of this case, the BOPC found that the tactics utilized by Officers A and B substantially and unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval. Additionally, the BOPC found Officers C and D's tactics did not substantially deviate from approved Department tactical training and therefore warranted a Tactical Debrief.

B. Drawing/Exhibiting

- Officer B drew his service pistol because he believed the Subject was trying to trap him inside the police vehicle and was about to shoot him.

Officer B recalled, "So before I knew it our vehicle is basically side by side next to his. And he forced the door, but I felt like he was trying to trap me in the car and getting ready to come out and ambush me [...] [W]hen I saw him [...] opening the door and turn the vehicle and try to face us and not get out of the car, at that point I drew my weapon. I was starting to draw my weapon out thinking it could escalate to the use of deadly force. And then what -- set my, I guess, my senses off is when he actually forcibly slammed the door and faced me. He never turned away. He didn't run. He faced me and I thought at that point he was getting ready to shoot me."

Officer A heard several gun shots as he was exiting the police vehicle. Believing the Subject had shot Officer B, Officer A drew his service pistol.

Officer A recalled, "As soon as I get out of the vehicle, I draw my weapon. Because I think my -- he shot my partner. And I didn't hear my partner speak anything after that. So I knew -- I I knew something was wrong."

Officer A holstered his service pistol prior to engaging in a foot pursuit after the Subject because he observed that there was nothing in the Subject's hands. Officer A drew his service pistol again when he observed the Subject fall face down onto the ground and tuck his arms underneath his body.

Officer A recalled, "I thought he had a gun. Like I said, I thought he had shot my partner. So I thought he had a gun and he was just clenching it up. And if he came around with a gun to hurt -- anybody else -- I couldn't see his hand at all."

Officer D drew his service pistol when he was advised by Officer B that an OIS had occurred.

Officer D recalled, "As I was running up to where B was, that's when I asked him as there a shooting or is this a shooting and he said yes. I put out the help call as I was pulling my pistol. I had reason to believe that the situation could escalate to the point where deadly force would be justified. Due to the fact that the suspect was in a pursuit. The officers had broadcast it was a possible Code 37 vehicle. I now had the knowledge that there was an officer involved shooting, and I had reason to believe the suspect would be armed."

Officer C exited his police vehicle and drew his service pistol when he observed the Subject.

Officer C recalled, "I see the suspect coming around the back side of his car, I was unholstered. It was my understanding it was a stolen vehicle, and people who steal vehicles are sometimes armed so I had the fear that, you know, I could have to use deadly force."

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

Therefore, the BOPC found Officers A, B, C, and D's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

- **Officer A:** Physical Force, Firm Grip
- **Officer C:** Body Weight
- **Officer D:** Firm Grip, Punches

Officer A caught up to the Subject, extended his right hand toward the Subject's back, and pushed him forward. The Subject fell forward to the ground with both of his arms underneath his chest. Officer A assumed a position on the left side of the Subject's body, grabbed hold of the Subject's left arm and attempted to pull it out from underneath his body.

Officer D approached the Subject on his right side, grabbed the Subject's right arm and tried to "yank out or pull his arms out" from underneath his body. While doing so, Officer D continuously verbalized to the Subject, "Give me your arm. Give me your arm." When the Subject did not comply with his commands, Officer D punched the Subject two to three times on the right side of his face with a closed fist.

Simultaneously, Officer C observed the Subject's legs moving so he placed his right hand on the Subject's right leg and his left hand on the Subject's left leg and applied body weight to prevent the Subject from kicking an officer or using his legs as leverage to get up.

Officer D again verbalized to the Subject, "Give me your arm. Give me your arm." The Subject refused to comply, and Officer D punched the Subject an additional two to three times on the right side of his face with a closed fist. The Subject complied after the second set of punches and released both of his arms from underneath his chest area. The Subject was then handcuffed.

After a review of the incident and the non-lethal force used by these officers, the BOPC determined that an officer with similar training and experience as Officers A, C, and D would believe this same application of force would be reasonable to overcome the Subject's resistance, prevent his escape and effect an arrest.

Therefore, the BOPC found Officers A, C, and D's non-lethal use of force to be objectively reasonable and in policy.

D. Lethal Use of Force

- **Officer B** – (pistol, six rounds)

While still seated in the police vehicle, Officer B drew his service pistol and held it in a close contact position with his right hand. According to Officer B, the Subject was standing face to face with him and he (Officer B) could not see the Subject's hands because they were below the frame of the door. Believing the Subject's intention was to ambush and shoot him and his partner, Officer B fired six rounds at the Subject to stop his actions.

Officer B recalled, "I was getting ready to get out of the car, that's when he slams the door on my door and then stands up towards me like facing towards me. He wasn't trying to run. He was facing right at me. That's when I thought, I was like, this guy is going to try to shoot me...and by that time he rams his door, stands up real quick, and that's when I withdrew my weapon and fired five shots...thinking that he was going to try to shoot me. I didn't want wait around and find out...my intention was never to kill the defendant. It was to stop him. That was -- and as soon as I found out he was -- he turned away and went, that's when I stopped basically. I was in fear for my life. I thought he was going to shoot me. And I did what I could to protect myself and my partner."

The BOPC determined that an officer with similar training and experience as Officer B would not reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury to Officer B at the time he fired his service weapon.

Therefore, the BOPC found Officer B's use of lethal force when he fired six rounds at the Subject to be out of policy.