

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

**IN-CUSTODY DEATH – 038-12**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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77 <sup>th</sup> Street	06/04/12		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Detective A	23 years, 8 months
Officer A	9 years, 7 months
Officer B	8 years, 11 months
Officer G	1 year, 11 months
Detention Officer A	9 years
Detention Officer B	3 years, 9 months

**Reason for Police Contact**

Officers engaged in a short pursuit with the Subject, who was driving his vehicle erratically. Upon being taken into custody for driving under the influence, the Subject was transported to a police facility, where a use of force occurred. The Subject subsequently died.

<b>Subject</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Subject: Male, 56 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 and addenda items); the 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 Los Angeles Police Department Command Staff presented the matter to the Chief and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on April 16, 2013.

## **Incident Summary**

Uniformed Police Officers A and B were driving in a black and white police vehicle. The officers observed a male (the Subject) driving westbound in a vehicle and swerving across the center divider into eastbound lanes, narrowly missing a vehicle. The officers decided to initiate a traffic stop for reckless driving and activated their emergency lights. The officers followed the Subject's vehicle and initiated the stop. The Subject initially stopped and remained inside of his vehicle. As Officer A exited the passenger side of the police vehicle, the Subject drove away.

**Note:** According to Officer A, the vehicle stopped abruptly and he did not have time to broadcast the officers' location to Communications Division (CD).

Officer A reentered the police vehicle, and the officers followed the Subject as he drove west. Officer A broadcast that he and his partner were following a reckless driver. The officers observed the Subject commit numerous traffic violations that included lane straddling and failure to stop for posted stop signs. According to Officers A and B, the Subject appeared to be looking for something and reached under his seat as they followed him. The Subject also kept looking back at the officers, and Officer B observed the Subject raise his hands in the air and extend his middle finger at them during this time.

The Subject eventually stopped his vehicle on the street in front of his residence. Officer A broadcast the officers' location.

Uniformed Officers C and D assisted with the short pursuit and were present during the vehicle stop. Moments later, uniformed Officers E and F arrived at the location to provide assistance as well.

Officer B ordered the Subject several times to exit the vehicle, but he failed to comply. According to Officer A, the Subject reached under his seat with his hands and believed the Subject was possibly arming himself with a gun. Officers A and B unholstered their pistols as they believed the situation could escalate to the use of deadly force.

The Subject exited his vehicle and appeared to be intoxicated and staggered as he walked, almost falling over. The officers ordered the Subject to place his hands on top of his head several times, but the Subject appeared confused and did not comply.

The Subject then complied and placed his hands on top of his head. The Subject walked backward toward the police vehicle. Officers A, B, E and F proceeded to handcuff the Subject.

The Subject was placed into the rear seat of Officers A and B's police vehicle. The Subject asked Officer B why he had been stopped, and Officer B explained the reasons for his arrest.

Officer A, a Department-qualified drug recognition expert (DRE), observed that the Subject displayed rigid muscle tone, repetitive speech, bloodshot eyes, profuse

sweating, paranoia, and had a blank stare. Officer A did not smell the odor of alcohol emanating from the Subject, and noted the physical symptoms he observed were consistent with the use of phencyclidine (PCP) or cocaine.

The Subject was arrested for driving under the influence (DUI). The Subject's vehicle was impounded. Officers A and B transported the Subject to a police station for further investigation.

As the officers arrived at the station, Officer B assisted the Subject out of the rear seat, and the Subject began making paranoid statements regarding why he was there, and that people were looking for him and following him. The officers escorted the Subject to the Watch Commander's Office and presented him to Sergeant A for the intake review.

Officer A then administered the Field Sobriety Test (FST) and the gas chromatograph intoximeter (GCI) test, which recorded no presence of alcohol on the Subject's breath.<sup>1</sup> The Subject complained the handcuffs were too tight on his wrists. Officer B adjusted and double locked the handcuffs. Officer A then took the Subject to the restroom and obtained a urine sample from the Subject.

**Note:** Officer B obtained a TASER from the kit room and placed it in his right rear pants pocket.

Officer A began the drug influence evaluation of the Subject. During the evaluation, the Subject displayed an apologetic demeanor, and exhibited rigid muscle tone and a blank stare. The Subject also became fixated on a mirror and addressed an imaginary female in the hallway. Based on his training, expertise, and the results of the examination, Officer A opined that the Subject was under the influence of cannabis and rock cocaine, as well as possibly PCP. Officer A completed the drug influence evaluation report and the DUI arrest face sheet and received booking approval from Sergeant A to book the Subject.

Officers A and B placed the Subject into the rear seat of their police vehicle and transported him to the regional jail facility for booking.

**Note:** Prior to exiting the parking area, Officer B attempted to secure the Subject with a seat belt, but was unable to fit the belt over the Subject's abdomen.

While en route to the jail facility, the Subject repeatedly made paranoid statements. As the officers drove down the parking structure to the jail, the Subject became increasingly agitated. Based on the Subject's behavior, Officer A and B agreed that Officer B would take the TASER with him into the jail in the event it became necessary to subdue the Subject. The officers parked their vehicle in a booking stall and escorted the Subject into the jail lobby.

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<sup>1</sup> While performing the tests, the Subject remained handcuffed due to his intoxication and unpredictable behavior.

When the officers entered the jail lobby, Detention Officer A was standing inside the booking area. Detention Officer A observed that the Subject was raising his voice at the officers and appeared to be hallucinating, while making bizarre statements. Officers A and B brought the Subject into the strip search room to conduct a strip search.

**Note:** The strip search was authorized by Sergeant A based upon the possibility that the Subject could be concealing contraband and his lengthy narcotics arrest record.

Officer A uncuffed the Subject and began the strip search with the curtain drawn as Officer B stood outside the room with the TASER in his hand to monitor the situation and provide assistance if needed. After completing unrelated booking paperwork, Detention Officer A exited the booking area and walked toward the strip search room to offer his assistance with the search. Detention Officer A entered the room as Officer A conducted the search. The Subject acted paranoid and fearful during the search, but was cooperative, and no contraband was recovered. The Subject told Officer A he had a history of paranoid schizophrenia and was supposed to take two medications for his condition, but had not done so recently.

The Subject dressed himself and exited the strip search room. The officers seated and handcuffed the Subject to a holding bench in the jail lobby as they waited for a medical examination by the dispensary staff. During this time, Officer A informed Officer B that the Subject had identified himself as a paranoid schizophrenic. The Subject began yelling while seated on the holding bench. Officer B entered the dispensary and informed Nurse Practitioner A that the Subject had identified himself as a paranoid schizophrenic.

A few minutes later, Nurse Practitioner A informed the officers she was ready to evaluate the Subject. Officer A uncuffed the Subject from the bench and removed the Subject's handcuffs. Officer A, Officer B, and Detention Officer A escorted the Subject to the dispensary.

**Note:** Jail Operations Manual Section 2/100 requires an arrestee to be handcuffed until the need arises to remove the handcuffs, such as a dispensary screening.

The Subject became increasingly agitated and was verbally abusive to the officers. Detention Officer A told the Subject they needed to take him to see the nurse so he could be evaluated. The Subject began swinging his arms around and became increasingly uncooperative. The officers guided the Subject to the dispensary entrance. The Subject refused to enter the dispensary and sit in the examination chair. According to Nurse Practitioner A, the Subject mumbled incoherently about angels, and due to his distant look, Nurse Practitioner A believed he was hallucinating. Nurse Practitioner A attempted to interview the Subject, but he refused to answer questions and appeared to be, in her opinion, under the influence of possibly cocaine, methamphetamines, or PCP. Nurse Practitioner A told the officers they would examine the Subject at a later time.

As the officers attempted to take the Subject out of the dispensary area, the Subject resisted by stiffening his body. Officer B believed the Subject was about to fight with the officers and drew his TASER. He told the Subject that if he did not relax and comply with their directions, he would deploy the TASER.

Officer B stood approximately two feet behind the Subject with the TASER in his right hand. Officer A and Officer G attempted to force the Subject's hands behind his back and handcuff him, but were unable to do so as he elbowed the officers and continued to struggle. The Subject moved toward the booking control area as he continued his attempts to pull away from the officers. Officer A and Detention Officer A repeatedly told the Subject to stop resisting, but the Subject did not comply and was able to briefly break free of the grasp of both officers.

At this time, Detention Officer A used his radio to request backup, but the broadcast failed due to overlapping radio traffic. The Subject then advanced toward Nurse B, who was standing at the door leading to the female corridor, pulling Officer A and Detention Officer A along with him. Officers A and B observed Nurse B become alarmed and scream. The Subject continued struggling and broke free from Detention Officer A's grasp. Officer B believed Officer A and Detention Officer A had lost control of the Subject, who was approaching within three feet of Nurse B. Fearing for the safety of Nurse B, Officer B aimed the TASER at the Subject's lower back area and activated the TASER from a distance of approximately 2 ½ feet.

**Note:** The TASER Activation Report documented the TASER was activated for a duration of five seconds.

Officer B did not observe the probes deploy from the cartridge, and was uncertain if the probes made contact with the Subject's body. Officer B initially believed the Subject was affected by the discharge because he briefly stopped struggling, so he released the trigger to assess the situation. However, the Subject resumed struggling with Officer A and Detention Officer A by swinging his arms.

**Note:** As Officer A held onto the Subject's arm during the TASER activation, he felt the electrical charge and released his grasp on the Subject. Officer A backed away from the Subject and told Officer B he had been shocked. Detention Officer A did not feel the electrical charge.

Officer A reacquired his grasp on the Subject's left arm. The Subject continued to resist the officers by swinging his arms and twisting his torso. Officer A and Detention Officer A forced the Subject toward the holding bench in the jail lobby. To overcome the Subject's resistance, Officer B activated the TASER a second time.

**Note:** The TASER Activation Report documented the TASER was activated a second time for a duration of two seconds.

The Subject broke free from the officers' grasp and pulled the TASER probes from his torso. According to Officer B, at this time, Officer A told him he was being shocked. Officer B released the trigger, but Officer A grabbed his right hand. The TASER accidentally discharged, causing a third activation that shocked him and Officer A as he

attempted to remove the cartridge with his left hand. Officer B told Officer A to release his hand, and he ejected the cartridge from the TASER.

**Note:** The TASER Activation Report documented the TASER was activated a third time for a duration of three seconds.

The Subject continued to resist Officer A and Detention Officer A as they moved toward the holding benches. Both officers attempted to control both of the Subject's arms and bring his hands behind his back for handcuffing, but were unsuccessful. Uniformed Officer G observed the struggle from the booking area and ran to assist. Officer G approached and grabbed the Subject's right arm and attempted to twist his arm behind his back for handcuffing. The Subject pushed Officer G against the wall near the dispensary, and he fell and landed in a chair. Officer G then stood up and again grabbed the Subject's right arm.

The Subject continued to struggle, and the officers were unable to force his arms behind his back for handcuffing. Officer A then bent down to grab the Subject's legs with both of his hands, as Officer B stood in close proximity with the TASER.

Detention Officer B, who was inside the booking area watch commander's office with Principal Detention Officer A, observed the Subject struggling with the officers through the windows of the booking area. Detention Officer B exited the office to assist the officers. Detectives A and B and Principal Detention Officer A, who were also inside the watch commander's office, also observed the struggle and exited the office to assist.

In an attempt to control the Subject's aggressive behavior, Detention Officer A decided to force the Subject down to the floor to overcome his resistance. According to Detention Officer A, he placed his left palm behind the Subject's right shoulder and his right hand on the Subject's right wrist area. Detention Officer A placed his left leg across the Subject's lead foot area to trip the Subject, and took him to the floor with Officer A's assistance.

As the Subject fell toward the floor, Detention Officer A struck the right side of his head and shoulder against the wooden holding bench as he fell with the Subject. Most of the Subject's weight landed on top of Detention Officer A. Detention Officer A pushed the Subject off of him with both arms and pressed his knee into the Subject's right torso area to create space between them. The Subject was then placed onto his stomach, but his left arm was positioned under his body. Detention Officer A positioned his upper body weight on the Subject's back and pressed his chin against the back of the Subject's head to control his movement. The Subject placed his palms on the floor and attempted to push the officers off of him. Detention Officer A used both of his arms to press down on the Subject's shoulder area to keep him down.

**Note:** According to Detention Officer A, the Subject repeatedly called the officers "motherfuckers", and told them that if they let him go, they would see what would happen to them.

The Subject kicked his legs as he continued to resist. Officer G grabbed the Subject's legs to control his kicking. Officer A assisted by grabbing the Subject's legs above the

knees and applied his body weight. To overcome the Subject's resistance, Officer B effected a drive stun to the back of the Subject's left leg above the knee.

**Note:** The TASER Activation Report documented the TASER was activated a fourth time for a duration of five seconds.

As the Subject still continued to struggle, Officer B effected an additional drive stun to the back of the Subject's right leg above the knee.

**Note:** The TASER Activation Report documented the TASER was activated a fifth time for a duration of ten seconds.

According to Officer B, he believed he activated the TASER a total of five times during the entire incident. However, the TASER Activation Report documented the TASER was activated a sixth time for a duration of four seconds. The investigation was unable to determine the circumstances under which the sixth TASER activation occurred.

Detention Officer A believed the TASER drive stuns were ineffective, as the Subject continued to struggle and resist handcuffing. According to Detention Officer A, his right hand slipped off the Subject's back and shoulder area as the Subject continued to push his torso up from the floor. Detention Officer A's right hand landed in front of the Subject's face, at which time the Subject attempted to bite his hand. According to Detention Officer A, the Subject's mouth came within approximately one-half inch of his hand before Detention Officer A was able to move his hand away.

Detention Officer A believed the officers' lives were in danger due to the Subject's aggressive behavior and that he needed to apply a modified upper-body control hold to subdue the Subject.

Detention Officer A placed his right arm around the Subject's neck, with his right bicep pressed into the right side of the Subject's neck, and his right forearm pressed into the left side of the Subject's neck. Detention Officer A cupped his left hand over his right wrist, and applied downward pressure with his bodyweight as the Subject tried to push off the floor with his right hand.

**Note:** Officers A, B and G, Detectives A and B, as well as Detention Officer B did not observe Detention Officer A apply the hold.

Detention Officer A applied the modified carotid hold for approximately five seconds. During that time, the Subject was not rendered unconscious from the hold. Detention Officer A immediately released the hold when Detective A placed his right knee down on the Subject's left shoulder blade area and applied bodyweight to keep the Subject down on the floor. Detective A, with assistance from Detention Officer B, grabbed the Subject's left arm from under his body and forced it behind the Subject's back.

Detective A and Detention Officer B controlled the Subject's left arm, as Officer A released his hold on the Subject's legs and retrieved his handcuffs. Detention Officer A

controlled the Subject's right arm and moved it behind the Subject's back as Officer A completed the handcuffing.

Although the Subject was handcuffed, he kicked at the officers with his legs. Officers A, B, and G applied bodyweight to the Subject's legs to control his kicking. Officer A advised that a Hobble Restraint Device (HRD) was necessary to control the Subject's legs. Officer G retrieved his Hobble and applied it to the Subject's ankles. The Subject suddenly became still, and Detention Officer A told Detective A to release the Subject. The officers turned the Subject over from his stomach onto his left side. Detective A heard the Subject cough and gasp for air.

Officer B utilized his radio and requested a supervisor to respond.

Officer A motioned toward Nurse Practitioner A, who was in the dispensary area, to examine the Subject. Nurse Practitioner A utilized her stethoscope to check the Subject's heart, and no heartbeat or pulse was detected. The Subject's eyes were fixed and dilated, and he was not breathing. Officer A removed the Subject's handcuffs and turned the Subject over onto his back at Nurse Practitioner A's request. Officer G removed the Hobble from the Subject's feet. Nurse Practitioner A asked for someone to call the 911 emergency line for medical assistance. Nurse Practitioner A began cardiopulmonary resuscitation (CPR) and shouted to another nearby nurse to assist with a resuscitator and an automatic external defibrillator (AED).

Officer A requested a rescue ambulance (RA) unit to respond to the jail, as CPR on the Subject was continued by jail personnel.

**Note:** According to Nurse Practitioner A, the AED did not deliver a charge due to no heart rhythm being detected.

Principal Detention Officer A notified the Jail Section Assistant Officer-in-Charge Sergeant B of the use of force. Sergeant B responded to the jail lobby and assumed the role of Incident Commander. Sergeant B ensured a crime scene was established, canvassed for witnesses, and ensured the separation and monitoring of Officers A, B and G, Detectives A and B, and Detention Officers A and B.

The RA, staffed with Los Angeles Fire Department personnel arrived at the jail and provided the Subject emergency medical treatment. The Subject was transported to a local hospital for further treatment.

The Subject was pronounced dead by emergency room medical personnel upon arrival.

A Deputy Medical Examiner from the Los Angeles County Department of Coroner performed a post mortem examination of the Subject's remains. A Los Angeles County Department of Coroner Laboratory Analysis Summary Report indicated the Subject's blood contained cocaine. The Deputy Medical Examiner concluded the Subject's death was caused by the effects of neck compression, coronary atherosclerosis with thrombosis, and cocaine intoxication.

## **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/Holstering of a revolver 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 unanimously made the following findings.

### **A. Tactics**

The BOPC found Detective A, Officers A, B and G, and Detention Officers A and B's actions to warrant a tactical debrief.

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

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

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

The BOPC found Detective A, Officers A, B and G, and Detention Officers A and B's use of non-lethal force to be in policy.

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

The BOPC found Officer B's use of less-lethal use of force to be in policy.

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

The BOPC found Detention Officer A'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

In this instance, the officers observed the Subject driving in a reckless manner on a major thoroughfare and immediately initiated a traffic stop. The Subject stopped abruptly and Officer A exited the police vehicle to make contact with the Subject. Officers A and B did not notify Communications Division (CD) of their status and location.

Officers must always strive to consistently maintain a tactical advantage during field contacts. With that in mind, although the officers did not broadcast their location, in this situation, the Subject's actions required immediate action and diverting their attention in order to broadcast their location could have hindered the officers' ability to effectively focus on and deal with the unfolding tactical situation. Additionally, subsequent broadcasts made by the officers fulfilled the requirement of notifying CD and surrounding units of their current location and activities.

In conclusion, although the decision to not broadcast a code six location deviated from approved Department tactical training, it was justified and consistent with the BOPC's that officers maintain a tactical advantage.

## 2. Maintaining Handcuffs on a Subject

In this instance, Officer A was a DRE, who observed the Subject displaying symptomology which included, but was not limited to, muscle rigidity, repetitive speech, bloodshot eyes, profuse sweating, paranoia and a blank stare. Based on Officer A's training and experience, he deduced the Subject was possibly under the influence of cannabis, PCP, cocaine or a combination of the three. Prior to entering the jail facility, Officers A and B agreed that Officer B would take the TASER into the jail as a precautionary measure. The strip search was completed without incident and without placing the handcuffs back on the Subject, Officer A had the Subject walk approximately eight feet to a holding bench in the jail lobby. The Subject was directed to sit down and Officer A handcuffed the Subject's left hand to the holding bench as they waited for a medical examination by the dispensary. Meanwhile, the Subject's right hand remained unsecured.

Officer A built a rapport with the Subject over the course of their contact and had successfully administered a modified Field Sobriety Test, the GCI test, obtained a urine sample and completed a strip search. Nevertheless, based on the Subject's self-reported mental illness and his possible consumption of a controlled substance, the possibility of the incident escalating or the Subject becoming a potential threat remained present.

Additionally, once Nurse Practitioner A informed the officers she was prepared to examine the Subject, Officer A unhandcuffed the Subject from the bench and walked him approximately 20 feet toward the dispensary while he remained unhandcuffed.

Given the Subject's erratic and volatile behavior, placing the handcuffs back on the Subject after he was removed from the holding bench would have been tactically prudent. That being said, the BOPC noted the distance was not significant, the jail was a secure facility and there were three officers escorting the Subject, two of whom were equipped with TASERs.

The BOPC discussed the current handcuffing policy with regard to dispensary screening protocol. Although policy does not mandate that handcuffs be removed prior to treatment in Department jail dispensaries, removal is implied in the Jail Operations Manual. As can be gleaned from his statement, Officer A not putting the handcuffs back on the Subject was not an oversight, but a decision made based on past experience.

In conclusion, the BOPC determined the decisions made and actions taken pertaining to handcuffing the Subject in the Jail Facility did not substantially deviate from approved Department tactical training.

**Note:** The Department was directed to review the current handcuffing policy as it relates to Jail Operations, specifically during the dispensary screening process.

- The BOPC also considered the following:

1. Vehicle Following vs. Pursuit

In this instance, Officers A and B observed the Subject driving on the wrong side of the roadway and initiated a traffic stop. The Subject pulled to the curb; however, as Officer A exited the passenger side of the police vehicle, the Subject accelerated and drove westbound away from the officers. The officers followed the Subject with their overhead emergency lights activated while intermittently activating the siren. As the officers proceeded westbound, Officer A advised CD they were following a reckless driver. As it was evident that the Subject intended to flee, it would have been prudent for Officers A and B to broadcast they were in pursuit and request a back-up and an air unit. The BOPC realized the Subject was not traveling at a high rate of speed during the course of the vehicle following; however, he committed several traffic violations, which required the officers to do the same. The officers are to be reminded that the California Vehicle Code provides certain exemptions from the rules of the road to officers who are in pursuit or responding to an emergency. These exemptions are not applicable while officers are "following" a subject and their emergency equipment is not in use.

2. Securing a Subject with a Seatbelt in a Police Vehicle

In this instance, Officers A and B's police vehicle was equipped with a Digital In-Car Video System (DICVS). The DICVS footage showed that prior to transporting the Subject to the police station, Officer B attempted to secure the Subject with a seatbelt in the back seat of their police vehicle as the Subject moved about. After manipulating the seatbelt several times in what appeared to be an attempt to extend its span of coverage, Officer B declared the Subject was too big.<sup>2</sup> When the Subject was transported from the police station to the jail, he was not wearing a seatbelt.

### 3. Adjusting Handcuffs

Prior to being transported to the station, the DICVS footage captured the Subject complaining to the officers that his handcuffs were too tight. Officer A was heard on the footage advising the Subject that the handcuffs would be loosened; however, he did not specify when this would occur. The Subject's handcuffs were not examined or adjusted by Officers A or B prior to departing from the scene of the arrest.

### 4. Equipment

Officer B did not secure a TASER holster to his person, but maintained the TASER in his right rear pants pocket. Officer B was reminded that in order to prevent unintentional discharges of the TASER, the TASER should be carried in an authorized holster when feasible. Additionally, a holster allows an officer the ability to secure a TASER, and therefore the ability to fully engage a suspect with both hands.

### 5. Requesting Additional Resources

Officer A initiated the strip search with Officer B standing outside the strip search room. Although Officer B was able to hear everything transpiring in the strip search room and was in a position to render assistance if deemed necessary, given the Subject's demeanor, it would have been tactically prudent to request the assistance of a second officer prior to removing the Subject's handcuffs and initiating the strip search.

### 6. Simultaneous Commands (Non-Conflicting)

The investigation revealed that there were multiple officers that issued commands throughout this incident. The officers are reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

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<sup>2</sup> The Subject was five feet ten inches tall and weighed approximately 247 pounds.

- 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.

After a thorough review of the incident, the BOPC determined that the identified areas for improvement neither individually nor collectively substantially deviated from approved Department tactical training.

## **B. Drawing/Exhibiting**

- In this instance, Officer A was following the Subject, who abruptly stopped his vehicle and reached under the front seat. Believing the Subject was possibly arming himself with a weapon, Officer A drew his service pistol.

The BOPC determined that an officer with similar training and experience as Officer A while 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.

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

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

- While Officers A and G attempted to handcuff the Subject, he resisted. A struggle ensued to restrain the Subject, involving a total of three officers, two detention officers and one detective. During the process of controlling the Subject's aggressive behavior and ultimately restraining him with handcuffs and a HRD, the following personnel used the indicated non-lethal force to accomplish this task:
  - **Detective A** – Bodyweight
  - **Officer A** – Firm Grip, Physical force, Takedown and Bodyweight
  - **Officer B** – Bodyweight
  - **Officer G** – Firm Grip, Bodyweight and Hobble Restraint Device
  - **Detention Officer A** – Firm Grip, Physical force, Takedown, Bodyweight
  - **Detention Officer B** – Firm Grip, Physical force

As Officers A and B, along with Detention Officer A escorted the Subject away from the dispensary and toward the jail lobby, the Subject resisted by stiffening his body. Officer A grabbed the Subject's left arm by the wrist and upper arm, while Detention Officer A grabbed the Subject's right arm by the wrist and elbow. As they attempted to force the Subject's hands behind his back to handcuff him, the Subject walked in a westerly direction toward the female housing area, pulling the officers with him. Trailing behind was Officer B with a TASER. As the officers were unable to control

the Subject and he was closing the distance to a nurse, whom he appeared to be fixated upon, Officer B discharged the TASER at the Subject's back.

With the TASER proving ineffective, Officer B removed the cartridge from the TASER. Officer A and Detention Officer A resumed their attempts to handcuff the Subject; however, the Subject's continued resistance made it difficult to maintain their holds on him. As the struggle to control the Subject moved toward the holding benches, Officer G responded and grabbed the Subject's right arm. The Subject pushed Officer G against the wall near the dispensary and he fell and landed in a chair. Officer G regained his footing and grabbed the Subject's right arm again.

Unable to overcome the Subject's resistance, Detention Officer A decided to force the Subject to the floor. Detention Officer A placed his left arm around the left side of the Subject's torso and under the Subject's left armpit area, pulling the Subject down by grabbing the right chest/shoulder area of the Subject's shirt with his left hand. As the above was occurring, Officer A grabbed the Subject's legs, effectively forcing the Subject to the floor. The momentum of the fall caused the Subject to land on top of Detention Officer A. Detention Officer A pushed the Subject off of him with both arms and pressed his knee into the Subject's right torso area to create distance between them.

The Subject, now in a prone position, continued to resist by pushing himself off the floor with both hands. In response, Detention Officer A applied bodyweight to the Subject's back, while Detention Officer B knelt on the left side of the Subject and grabbed the Subject's left arm. Simultaneously, Officers A, B and H applied bodyweight to the Subject's legs. During the struggle to control the Subject, Officer B delivered two direct stun TASER activations to the Subject's thighs.

Ultimately, Detention Officer A applied a MCRCH upon the Subject, ceasing its application when Detective A placed his right knee on the Subject's left shoulder area (see Lethal Use of Force). Detective A and Detention Officer B then forced the Subject's left arm behind his back, while Detention Officer A forced the Subject's right arm behind his back, thereby allowing Officer A to complete the handcuffing process. As the Subject continued to kick, Officer G applied a HRD around the Subject's ankles.

After a thorough review of the involved officers' statements, the BOPC determined that officers with similar training and experience as Detective A, Officers A, B and G, and Detention Officers A and B would reasonably believe that the application of non-lethal force would be reasonable to overcome the Subject's resistance.

In conclusion, the BOPC found Detective A, Officers A, B and G, and Detention Officers A and B's use of non-lethal force to be objectively reasonable and in policy.

## D. Less-Lethal Use Of Force

- **Officer B – Five TASER Activations**

### First TASER Activation – From an approximate distance of two to three feet

Officer A and Detention Officer A began to escort the Subject, who was not handcuffed, to the lobby area. Following behind was Officer B, who was equipped with a TASER. The Subject's posture became rigid, and Officer B believed the Subject was preparing to fight. At that time Officer B issued a verbal Use of Force Warning to the Subject. The Subject's attention was then drawn to Nurse B who was positioned at the door leading to the female temporary housing cells. As Officer A and Detention Officer A each grabbed an arm and attempted to handcuff the Subject, the Subject advanced toward Nurse B. Fearing for the safety of Nurse B, who was visibly alarmed, Officer B discharged the TASER at the Subject's back from an approximate distance of two to three feet, striking him on the left side of his torso. Upon pressing the trigger, Officer B did not see the probes deploy and was unaware where they made contact with the Subject.

### Second TASER Activation

The Subject continued to resist the officers' efforts to handcuff him, resulting in Officer B pressing the trigger again for a second activation. According to Officer B, he made contact with the subject because the officers were still struggling with him.

### Third TASER Activation (Accidental)

Feeling the effects of the electrical current while holding onto the Subject, Officer A released his hold on the Subject. The Subject then broke free from the officers' grasps and pulled the TASER probes from his torso, which fell to the floor.

Believing the TASER was proving ineffective, Officer B began to remove the TASER cartridge with his left hand, while maintaining control of the TASER in his right hand. Simultaneously, Officer A grabbed Officer B's right hand, resulting in Officer B accidentally pressing the trigger and Officer B experiencing the effects of the electrical current conducting through the wires.

**Note:** Although the above TASER activation was documented on the TASER Activation Report, the investigation revealed that it was accidental and the probes and/or wires were not in contact with the Subject at the time of the activation. Therefore, the third TASER activation was not evaluated as an application of Less-Lethal Use of Force.

### Fourth TASER Activation – Direct Stun

After Officer B removed the cartridge from the TASER, the Subject continued to resist Officer A and Detention Officer A's efforts to handcuff him. Officer G observed the unfolding situation and responded to render aid, but was pushed away by the Subject. Ultimately, Officer A and Detention Officer A conducted a team takedown, forcing the Subject to the floor and into a prone position. As the officers continued their efforts to handcuff the Subject, Officer B applied a direct stun TASER activation to the Subject's left thigh area.

#### Fifth TASER Activation – Direct Stun

Once the five second TASER activation concluded, Officer B assessed the situation, noted the Subject continued to resist and proceeded to deliver a second direct stun, this time to his right thigh area.

**Note:** The TASER Activation Report documented the TASER was activated a sixth time for a duration of four seconds. The investigation was unable to determine the circumstances under which the sixth TASER activation occurred.

The standard set forth in Department policy dictates that the decision to use force must be judged through the perspective of a reasonable officer with similar training and experience and in a similar circumstance. The BOPC determined that an officer with similar training and experience would reasonably believe that the less-lethal force utilized to attempt to restrain the Subject was reasonable.

In conclusion, the BOPC found Officer B's use of less-lethal force to be objectively reasonable and in policy.

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

- **Detention Officer A – Modified Carotid Restraint Control Hold**

In this instance, when Officers A and B entered the jail lobby with the Subject, Detention Officer A was standing inside the booking area. Detention Officer A noted the Subject, did not seem to be complying with the officers' demands. Detention Officer A then observed Officer A escorting the Subject into the strip search room and Officer B, equipped with a TASER, standing just outside the room.

Detention Officer A took the initiative to ask Officer B if his assistance was needed. Officer B answered in the affirmative and he joined Officer A in the strip search room. As Officer A conducted the strip search, Detention Officer A noted the Subject was displaying odd behavior and not complying with the arresting officers. He was also foaming at the mouth and sweating profusely.

After the dispensary personnel deferred the Subject's medical examination to a later time, based on his behavior, Officer A and Detention Officer A began to escort the

Subject away from the dispensary. The Subject began to swing his arms around as he attempted to break free from the officers' grasps, resulting in the application of firm grips and the utilization of a team takedown to force the Subject into a prone position. With Officers A, B and G, as well as Detention Officer B working in concert to control the Subject and handcuff him, Detention Officer A was positioned on the right upper torso area of the Subject's back. The Subject, with both palms on the floor, pushed upward, and attempted to push the officers off of him. Detention Officer A was countering the Subject's actions with bodyweight when Detention Officer A's right hand slid down to the floor, and the Subject's mouth came to within less than half an inch of biting it. At that juncture, Detention Officer A believed his life and the lives of his fellow officers were in danger and he applied a MCRCH on the Subject.

Detention Officer A's decision to apply the MCRCH on the Subject was based on the fact that the use of the TASER had failed, and given that officers continued to have to push the Subject off of them, Detention Officer A felt his own safety as well as the safety of his partners was in danger. Based on his approximate nine years of jail experience, Detention Officer A also believed that the Subject was under the influence of narcotics and could have attacked the officers.

Though Detention Officer A recounted that he applied the MCRCH in defense of the officers' lives, a review of the video surveillance footage of the jail revealed at the time Detention Officer A reported applying the MCRCH, the Subject was in a prone position with three officers and two detention officers attempting to control the Subject, with Detective A and his partner standing nearby monitoring the ongoing struggle.

In objectively reviewing the incident, the BOPC understood that officers perceive and recall events differently, and that perceptual distortion can occur. However, in Detention Officer A's explanation of the unfolding events, the Subject's resistance and his attempt to bite Detention Officer A did not constitute a threat that the officer's life or the lives of others were in immediate peril.

The BOPC also took into account that Detention Officer A had nine years on the Department at the time of the incident. As a detention officer recruit, Detention Officer A received training regarding the application of the various Carotid Restraint Control Holds, along with the Department's use of force policy. Detention Officer A also reported receiving training every other year, which included reviews of the aforementioned subject matter.

Regarding his understanding of the Department's policy as it relates to the application of the MCRCH, Detention Officer A articulated its application is justified, when officers feel that the arrestee is not complying and their lives are in danger.

Given the totality of the circumstances, the BOPC found that a detention officer with similar training and experience as Detention Officer A, while faced with similar

circumstances, would not reasonably believe that the Subject's actions presented an imminent threat of serious bodily injury or death.

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