

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

LAW ENFORCEMENT RELATED INJURY 039-18

Division	Date	Duty-On(x) Off()	Uniform-Yes(X) No()
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Wilshire	6/12/18		
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Involved Officer(s)	Length of Service
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Officer A	3 years, 1 month
Officer C	14 years, 11 months
Officer E	22 years, 2 months
Officer F	7 months
Officer I	11 years, 1 month
Officer J	15 years, 4 months

Reason for Police Contact

Officers responded to a radio call of an in-progress Assault with a Deadly Weapon incident. Upon arrival, the involved Subject was observed inside the residence holding a fire extinguisher and speaking incoherently. The officers and supervisor entered the residence to detain the Subject and used less- and non-lethal force options to do so.

Subject(s)	Deceased ()	Wounded (x)	Non-Hit ()
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Subject: Male, 27 years of age.

Board of Police Commissioners' Review

This is a 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 the transcribed statements of witnesses, pertinent suspect 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 Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on May 7, 2019.

Incident Summary

Witness A was at his temporary residence when he received a telephone call from one of his contractors, who informed him that workers at his permanent residence were confronted by an individual, the Subject, insisting that they check underneath the house for a dead body. Witness A's permanent residence was in the process of being remodeled and was temporarily unoccupied.

When Witness A arrived at his permanent residence location, he observed the Subject inside the fenced front yard and in possession of what he described as a "spike stake." Witness A then called 911 and remained on the line with the Emergency Board Operator until police arrived.

Communications Division (CD) broadcast an Assault with a Deadly Weapon call at Witness A's location. Officers A and B were assigned the call and responded with emergency lights and siren. Communications Division made an additional radio broadcast, describing that the Subject was mid-twenties, 5-9, 140 pounds, wearing a black sweatshirt and black pants with blue sneakers, and was armed with a long gray metal pipe or plastic spike.

Officers C and D also responded with emergency lights and siren. Upon arrival, Officer C located Witness A standing in the street. Officer C inquired as to the Subject's whereabouts. Witness A directed officers to the front yard. As the officers proceeded up the driveway, Witness A informed officers that the front door was locked and gave them permission to enter the residence. Officers visually inspected the front yard, but were unable to immediately locate the Subject. According to Witness A, the Subject had reacted to the siren of the initial responding unit and fled from the front yard before the officers exited their police vehicle.

Officer C went to the side of the residence to a set of French doors, adjacent to the kitchen, where he/she observed the Subject inside, standing next to a kitchen table and holding a fire extinguisher. Officer C advised Officer D that he/she observed the Subject inside the residence and then proceeded to give the Subject multiple verbal instructions to exit the location, but the Subject did not comply.

Sergeant A arrived on scene and approached the residence on foot. As Sergeant A walked up the driveway, Officer D was standing at the corner of the residence, watching the front door of the residence. Officer C was on one side of the residence at the French doors, several feet away from Officer D. Sergeant A then proceeded to the one of the residence where he/she was advised by Officer C that the Subject was inside the kitchen. As Sergeant A maintained a visual on the French doors, Officer C walked to the rear of the residence to check for potential points where the Subject could exit and identified a rear door. As Officer C proceeded back toward the front of the residence, he/she obtained information that the only point of ingress and egress was the front door. Sergeant A asked Officer C if the officers had keys to the residence. Officer C acknowledged in the affirmative and inquired as to the whereabouts of the keys, which

prompted the co-owner of the residence, Witness B, to return to the residence to obtain the keys.

Meanwhile, Sergeant A observed the Subject in the kitchen holding a fire extinguisher and speaking unintelligibly. Sergeant A stated that he/she was unable to discern all the objects the Subject held in his hands and feared the Subject could be armed with a firearm. Sergeant A based this belief in part on the comments of the radio call that indicated the Subject was arming himself with a weapon. Sergeant A broadcast a backup unit request, then directed the Subject to drop the fire extinguisher and exit the residence; the Subject did not comply.

Officers E and F responded. Officer B, who had arrived with Officer A, walked to the apron of the driveway and received the front door key from Witness B. Officer B then responded to the front door and unlocked it.

While on the side of the residence, Sergeant A provided verbal updates as to the location and actions of the Subject. Officers C and D maintained a position that afforded them the ability to watch the French doors and maintain a visual of the front door, where Officers A and B were positioned.

As Officer B unlocked the front door, the officers and Sergeant A entered the residence. Per Officer E, the officers did not announce their entry into the residence because in Officer E's opinion it was not advisable to alert the Subject, given that the Subject was in the kitchen area with access to potential weapons. The officers positioned themselves in the front room as the Subject uttered indiscernible comments. Officer C proceeded to enter the kitchen. At that time, the Subject was holding a fire extinguisher in his right hand, a roll of paper towels tucked under his left arm, and other unidentified items in both hands. Officer C gave the Subject commands to drop the fire extinguisher. Approximately five seconds later the Subject placed the fire extinguisher on the counter.

Officers A, C, and E, in addition to Sergeant A, continued to give verbal commands to the Subject, directing him to turn around; however, he did not comply. Officer E noted that multiple officers were giving commands. Officer E advised the officers that he/she would be the contact officer, taking over all communications to deescalate the situation. Officer E asked the Subject to calm down, relax and turn around; the Subject did not comply.

Officers I and J arrived at the location, with Officer I again taking over contact officer communication responsibilities. Officer I attempted to build rapport in furtherance of deescalating the situation.

Officer I began communicating with the Subject and pled with him to calm down. Officer I told the Subject he/she was there to help him and informed the Subject that he (the Subject) was going to be handcuffed. The Subject challenged the assertion that he was going to be handcuffed. Officer I assured the Subject the officers were not there to

cause him any injury. The Subject responded that there were too many police on one man, trying to save two dying souls in the basement.

According to Sergeant A, the Subject continued to speak about a body underneath the residence and appeared to be under the influence of narcotics. The communication continued, but the Subject refused to adhere to the command to turn around and appeared to be becoming more agitated. Per Sergeant A, the attempts to de-escalate the situation had been unsuccessful, and he/she believed further attempts would also be unsuccessful. Sergeant A directed Officers E and I to approach the Subject and obtain control of his hands, and for Officer A to utilize the TASER as a non-lethal option if needed.

Officers attempted to talk with the Subject for approximately 9½ minutes prior to approaching and taking him into custody. As the officers approached, the Subject grabbed a silver candle holder with his left hand that was located on top of the table. Officer I directed the Subject to calm down and to put the candle holder down. Officer I, with his right hand, pulled the candle holder from the Subject's grasp.

Officer I, with both hands, then grabbed the Subject's left hand in a firm grip; Officer E grabbed the Subject's right arm with both hands. Officer I then released his/her right hand and placed it against the right side of the Subject's head and used both hands to push the Subject's head downward toward the floor. Officer E used both of his/her hands to maintain control of the Subject's right arm as the Subject placed both of his/her hands against his/her chest as he/she guided the Subject to the ground. Officer J then grabbed the Subject's left wrist with his/her left hand, held the Subject's left wrist, and placed his/her left knee on the Subject's left thigh.

Simultaneously, Officer A approached with Officers E and I. Officer A saw the Subject grab a candle holder which he/she believed to be a foot long. Officer A believed it was steel. Officer A believed that the Subject was going to arm him/herself again and use the tool against his/her partner.

Officer A held the TASER in his/her right hand and stated several times, "I got a TASER." The Subject was seated on the floor with Officer E on his/her right side. After the Subject was on the ground, Officer A advised the other officers he/she was going to use the TASER by stating, "TASER, TASER, TASER!" Officer A then held the TASER approximately two inches away from the Subject's top left shoulder and activated it. Upon being struck with the TASER darts, the Subject yelled, "Ow[,] I been tased."

The Subject was seated on the floor when Officer A activated the TASER for a second time in drive stun mode on the Subject's left lower back area.

Officer A described his/her perception before the second TASER activation, indicating that he/she couldn't see the Subject's hand and saw him/her tightening up. Officer A thought that the Subject was going to use the candle holder against him/her.

The Subject was on Officer A's back and Officer A activated the TASER for a third time in a three-point drive stun to the Subject's left hip. Officer A said, "I'm telling him, Hey, you're going to get tased again. You're going to get Tased again." And again, Officer A couldn't see the Subject's hands, so that's when he/she utilized the TASER a third time.

The Subject was again on Officer A's back when Officer A activated the TASER for the fourth time in drive stun mode to the left front abdomen, believing the Subject was trying to arm him/herself again. The Subject's body relaxed, and Officer A saw that another officer was able to get the Subject's hand behind his back.

After the fourth activation of the TASER, Officer I grabbed the Subject's right wrist with his/her left hand and then placed his/her right hand on the Subject's right elbow. Officers were then able to roll the Subject onto his stomach. Officer I handcuffed the Subject's left wrist while Officer J grabbed the Subject's right wrist and placed his/her left knee on the Subject's right thigh, using his/her body weight to prevent the Subject from kicking. Officer J placed the Subject's right wrist behind his back. Officer J removed a second pair of handcuffs and handed them to Officer I, who secured both handcuffs behind the Subject's back. Officer K, who had arrived on-scene with Officer L, placed the hobble around the Subject's crossed ankles.

The Subject was searched, placed in a seated position, and carried out of the residence. Officer C held the Subject's right arm, Officer A held the Subject's left arm, and Officer I held the hobble strap.

Sergeant A requested a Rescue Ambulance (RA) for a male, 20 years old, conscious and breathing with a TASER deployment. The Los Angeles Fire Department (LAFD) received the alarm to respond. LAFD personnel evaluated the Subject and determined he was incoherent, displaying signs of mental and behavioral disorder, and was unable to complete a focused physical assessment. It was also noted that the Subject had a dart on the back of his left shoulder. The Subject was transported to a local hospital for treatment.

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 the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

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

B. Drawing and Exhibiting

The BOPC found Officer C's drawing and exhibiting of a firearm to be In Policy

C. Non-Lethal Use of Force

The BOPC found Officers A, C, E, F, I, and J's non-lethal use of force to be In Policy.

D. Less-Lethal Use of Force

The BOPC found Officer A's less-lethal use of force to be Out of Policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Use of Force Policy, Los Angeles Police Department Manual.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in Graham v. Connor, 490 U.S. 386 (1989), that:

"The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation."

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Law enforcement officers are authorized to use deadly force to:

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

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

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

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

A. Tactics

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

1. Tactical Communication/Planning

Operational success is based on the ability of the officers to effectively communicate during critical incidents. The 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.

In this case, the supervisor and the officers did not effectively communicate with each other to formulate a tactical plan to enter the residence, designate specific roles and responsibilities and control the number of officers entering the

residence. Although there were tenured officers who at times assumed leadership roles as they entered the residence and began to locate the Subject, the BOPC would have preferred that the supervisor and officers had taken the time to plan a coordinated effort to enter the residence and take the Subject into custody.

Based on the totality of the circumstances, the BOPC determined, that while identified as an area for improvement, the supervisor and officers' actions were not a substantial deviation from approved Department tactical training.

2. Command and Control

It is incumbent upon supervisors at the scene of a critical incident such as this one, to demonstrate and exercise supervision that is consistent with Department supervisory and tactical training.

In this incident, Sergeant A responded, assumed the role of Incident Commander (IC) and contacted the primary unit. After making an initial assessment of the situation, Sergeant A requested a back-up when he/she observed the Subject inside the residence, holding a fire extinguisher and acting erratically. The Subject refused to comply with commands to exit the residence. Shortly after additional officers arrived, Sergeant A, along with the additional officers, entered the residence to detain the Subject.

The BOPC was critical of Sergeant A's decision to enter the residence without formulating a tactical plan. This was not a rapidly unfolding tactical situation, and Sergeant A had sufficient time to contain the residence, formulate a tactical plan, and assign each officer a specific role and responsibility. Additionally, based upon the totality of the circumstances, the BOPC noted that it would have been preferable for Sergeant A to contact Metropolitan Division, SWAT, for advice and guidance prior to making entry into the residence.

As a result, the BOPC determined Sergeant A's lack of command and control at the beginning of this incident substantially and unjustifiably deviated from approved Department supervisory training, thus warranting a finding of Administrative Disapproval.

The BOPC did note, however, that once Sergeant A and the officers entered the residence and contacted the Subject in the kitchen area, Sergeant A assumed command and control of the tactical operation, attempted to de-escalate the situation, and formulated a tactical plan to approach and detain the Subject. Thus, the BOPC concluded that Sergeant A's actions after entering the residence were consistent with Department supervisory training and met the expectations of a field supervisor during a critical incident

- The BOPC also considered the following:

1. 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 are reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

2. Use of Force Warning

The investigation revealed that Officer A did not provide a Use of Force Warning prior to deploying his TASER. Per Officer A, he/she believed it was not feasible at the time to give a warning. The BOPC determined that there was adequate time to provide a Use of Force Warning. In this case, it would have been preferred that Officer A give a verbal warning prior to utilizing less-lethal force.

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

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

B. Drawing and Exhibiting

- According to Officer C, as he/she and his/her partner began to approach the residence, Officer C drew his/her service pistol because the incident was reported as an in-progress Assault with a Deadly Weapon radio call.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer C, 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.

Therefore, the BOPC found Officer C's drawing and exhibiting of a firearm to be In Policy.

C. Non-Lethal Use of Force

- **Officer A** – (firm grip)

The investigation revealed that Officer A placed his/her left hand on the Subject's left wrist to control the Subject's left arm during the first, second, and third TASER activations.

- **Officer C** – (firm grip)

According to Officer C, he/she utilized a firm grip to hold the Subject's ankles together and assisted Officer F with placing the Hobble Restraint Device on the Subject's feet.

- **Officer E** – (firm grip, bodyweight, and leg sweep)

According to Officer E, he approached the Subject, grabbed his/her right arm, and held his/her wrist and triceps area. As Officer E tried to move the Subject's right arm behind his/her back, the Subject tensed up, leaned back against the door, and braced his/her leg at an angle to support him/herself. Officer E continued to verbalize with the Subject to calm down. The Subject did not comply and continued to struggle with them. At that point, while maintaining control of the Subject's right arm, Officer E used his/her right leg and conducted a leg sweep to bring the Subject to the ground. After the TASER was activated, Officer E used body weight and a firm grip to get the Subject's arm behind his back for handcuffing.

- **Officer F** – (firm grip and bodyweight)

According to Officer F, he/she got down on his knees, applied a firm grip to the Subject's ankles, and used his/her bodyweight to prevent the Subject from kicking or shifting his legs around. Officer F then helped to put the Hobble Restraint Device around the Subject's ankles.

- **Officer I** – (firm grip, physical force, and bodyweight)

According to Officer I, as the arrest team approached, the Subject immediately grabbed a candle holder with his left hand and began to swing it in Officer I's direction. Officer I immediately grabbed the Subject's left wrist with his/her right hand and the Subject's left bicep with his/her left hand, and pressed the Subject's arm against the wall.

After the Subject dropped the candle holder, he continued to resist and continued moving his head back and forth. Officer I believed the Subject was trying to head butt or bite him/her, so Officer I moved his/her left hand from the Subject's biceps to the right side of his face and held the Subject's head against the wall to prevent him from trying to head butt or bite Officer I's face. As the Subject was going down to the ground, Officer I held onto the Subject's left wrist, placed his/her left hand on top

of the Subject's head, and assisted in guiding the Subject down to the ground. Officer I then transferred his/her grip back to the Subject's left bicep and left wrist. Officer I maintained control of the Subject's left arm and placed his/her right knee on the right side of the Subject's stomach. He/she then rolled the Subject forward to a prone position. Officer I switched his/her grip from the Subject's left arm to his right arm and handcuffed the Subject's right wrist.

- **Officer J** – (firm grip, bodyweight, and physical force)

According to Officer J, the Subject began to move and shake as if he were attempting to escape. Officer J reached between Officers E and I, placed his/her left hand on the Subject's chest and pushed the Subject back to prevent him from escaping. The Subject then slid down to the ground in a seated position. Officer J gained control of the Subject's left wrist with his/her left hand. The Subject continued to squirm and tried to pull his hands back towards his chest. After the TASER was discharged, the Subject laid down on his back. Officer J continued to maintain control of the Subject's left wrist. He/she observed that the Subject was shaking his legs and kicking the officers violently. Officer J then placed his/her left knee on the Subject's left thigh to prevent him from kicking the officers.

Per Officer J, the officers turned the Subject onto his stomach. Officer J then transitioned from holding the Subject's left wrist to holding his right wrist. As Officer J held the Subject's right wrist down, Officer J placed his/her left knee on the Subject's right thigh and used his/her bodyweight to hold the Subject's legs down because the Subject continued to kick. Officer J then placed the Subject's right hand behind his back and the Subject was handcuffed.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, C, E, F, I, and J, while faced with similar circumstances, would believe that the same applications of non-lethal force would be reasonable to overcome the Subject's resistance.

Therefore, the BOPC found Officers A, C, E, F, I, and J's non-lethal use of force to be In Policy.

D. Less-Lethal Use of Force

- **Officer A** – (TASER, four, five-second TASER activations)

First TASER Activation - One five-second activation in probe mode, from an approximate distance of two inches.

According to Officer A, the Subject was seated on the floor. Officer A was looking for the Subject's hands; however, he/she could not see them because Officers E and I were in front of Officer A. At that moment, Officer A believed the Subject was still armed with the candle holder, and feared that the Subject was going to use the item against his/her partners and cause serious bodily injury. Officer A announced,

"TASER, TASER, TASER," and discharged his/her TASER, for a five-second activation, in probe mode, at the Subject's left shoulder to stop his actions.

At the time of this activation, the Subject's arms were bent at the elbow and were positioned against the front of his chest. His hands were closed and he was not holding anything in his hands.

Second TASER Activation - One five-second activation in drive stun mode.

According to Officer A, after the first TASER activation, the Subject tightened up, and Officer A could not see the Subject's hands. The officers could not get the Subject's hands behind his back. Believing that the Subject was in still possession of the candle holder and was going to use it against the officers, Officer A placed his/her TASER on the Subject's left side and discharged his/her TASER a second time, for a five second activation in drive stun mode, to stop the threat. Through investigation, it was determined that the second TASER activation was to the Subject's left lower back area. Additionally, during the second TASER activation, the Subject remained seated on the floor with Officer E controlling the Subject's right arm while Officers A and J were controlling the Subject's left arm. The second TASER activation occurred five seconds after the conclusion of the first activation cycle.

Third TASER Activation - One five-second activation in drive stun mode.

According to Officer A, after the second TASER activation, he/she still could not see the Subject's hands. The Subject was rigid, resisting, and the officers were telling the Subject to relax and calm down. Believing that the Subject was in still possession of the candle holder and was going to use it against his/her partners, Officer A placed his/her TASER on the Subject's left hip area and discharged his/her TASER a third time, for a five second activation in the drive stun mode, to stop the threat. The Subject leaned back and assumed a supine position on the floor. Officer E was still controlling the Subject's right arm while Officers A and J were controlling the Subject's left arm. The third TASER activation occurred three seconds after the conclusion of the second activation cycle.

Fourth TASER Activation - One five-second activation in drive stun mode.

According to Officer A, after the third TASER activation, the Subject started to loosen up. Officer A could see that the Subject's right arm was next to his right hip, but Officer A did not see the candle holder. Officer A then advised the Subject that he was going to get Tased again. Believing that the Subject was possibly trying to arm himself with an object that was thrown on the ground or was trying to arm himself with the candle holder, Officer A placed his/her TASER on the Subject's left side area and discharged his/her TASER a fourth time, for a five second activation, in the drive stun mode, to stop the threat. The investigation revealed that the fourth TASER activation occurred 19 seconds after the conclusion of the third activation cycle, and was to the Subject's left front abdomen.

The BOPC reviewed Officer A's use of his TASER and considered several factors in evaluating the reasonableness of his/her actions. At the time of the first TASER activation, the Subject was seated on the floor and there were four officers controlling his limbs. Throughout the three subsequent TASER activations, the Subject remained on the floor with his arms and hands clearly visible in front of his body, and each arm was being controlled by an officer. Although the Subject was resisting the officers' efforts to place his hands behind his back, his actions were not violent, and he did not pose an immediate threat at the time Officer A activated his TASER.

The BOPC also noted that Officer A's lack of assessment between each TASER activation was not reasonable and did not allow him/her to adequately determine if each individual application of less-lethal force was effective. The BOPC also noted that Officer A acted independently and without specific direction from the supervisor at the scene. In this case, the BOPC would have preferred that Officer A had assisted the other officers in their on-going de-escalation efforts to take the Subject into custody without using less-lethal force options.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would not believe that this same application of less-lethal force would be reasonable. Therefore, the BOPC found Officer A's less-lethal use of force to be objectively unreasonable and Out of Policy.