

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

**LAW ENFORCEMENT RELATED INJURY – 045-12**

| <b>Division</b>         | <b>Date</b> | <b>Duty-On (X) Off ( )</b> | <b>Uniform-Yes (X) No ( )</b> |
|-------------------------|-------------|----------------------------|-------------------------------|
| 77 <sup>th</sup> Street | 7/12/12     |                            |                               |

| <b>Officer(s) Involved in Use of Force</b> | <b>Length of Service</b> |
|--|--------------------------|
| Officer A                                  | 10 years                 |
| Officer B                                  | 6 years, 2 months        |
| Officer C                                  | 10 years, 11 months      |
| Officer D                                  | 3 years, 4 months        |
| Officer E                                  | 10 years, 9 months       |
| Officer F                                  | 14 years, 1 month        |
| Officer G                                  | 6 years, 9 months        |
| Officer H                                  | 6 years, 9 months        |

**Reason for Police Contact**

Witness A called 9-1-1 and reported that the Subject was refusing to leave her residence. She also believed he had ingested narcotics. A radio call was issued, and officers responded to the location. In attempting to detain the Subject, a categorical use of force occurred.

| <b>Subject</b>               | <b>Deceased ( )</b> | <b>Wounded (X)</b> | <b>Non-Hit ( )</b> |
|------------------------------|---------------------|--------------------|--------------------|
| Subject: Male, 35 years old. |                     |                    |                    |

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the 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 May 14, 2013.

### **Incident Summary**

Witness A telephoned Communications Division (CD) to report that the Subject, was possibly under the influence of Phencyclidine (PCP) and was refusing to leave her residence. Witness A allowed the Subject to spend the night at her home the day prior despite her suspicion of his drug use. She became concerned for her safety and that of her newborn child, when the Subject refused to leave in the morning. Based on the Subject's prior history of bizarre and unpredictable behavior after using PCP, she called 911 and requested assistance in removing him from her residence.

In response to Witness A's request, CD created a radio call, which was assigned to uniformed Officers A and B. The officers arrived and broadcast that they were at the location, and as they parked their vehicle near the location. As they approached the residence on foot, they observed Witness A waiting outside near the front porch steps of her home. Witness A explained to the officers that the Subject was under the influence of narcotics and was refusing to leave her residence. Witness A pointed to the Subject, who was sitting on the backrest of her living room couch, just inside, and to the right of her open front door.

As the officers moved up the porch steps and peered inside the residence, they observed the Subject sitting, with a blank stare on his face. Due to the confined space of Witness A's living room, Officer A attempted to communicate with the Subject from the doorway and asked several times that he stand up and walk outside to talk with him. The Subject did not acknowledge the officer's presence and began to mumble unintelligibly. Officer B broadcast a request for an additional unit, because he believed it would be prudent to have other officers at the scene in the event force was needed to restrain the Subject. That request was immediately acknowledged by uniformed Officers C and D, who broadcast they had arrived at the location.

Before entering the residence, the four officers gathered outside the Subject's front door, briefly discussed the Subject's strange behavior, and established Officer A as the contact officer and Officer B as the cover officer. The officers decided to enter the residence to make verbal contact with the Subject. Upon hearing Officer B's additional unit request, uniformed Officers E and F, along with Officers G and H, began responding to Witness A's residence. Neither unit advised CD of their response.

Officer A was the first to step inside. He was immediately followed by Officers B and D, who faced the Subject. Officer C remained in the doorway to prevent the Subject from escaping and to prevent anyone else from entering the residence.

The Subject remained silent and refused to make eye contact with the officers. Believing the Subject was under the influence of PCP and anticipating the situation might escalate, Officer B removed his TASER from his right rear pocket and pointed it at the Subject. Upon seeing the TASER, the Subject grabbed a blanket and a pillow from

the couch and covered his upper torso with the items. Perceiving the TASER would now be ineffective, Officer B directed Officer D to retrieve a beanbag shotgun from his (Officer D's) vehicle. As Officer D left the residence and ran back to his patrol car, Officer C broadcast a request for a beanbag shotgun as well as a backup unit.

During the time Officer D went to retrieve his beanbag shotgun, Officers A and B moved a table and various toys that were between them and the sofa, in the event a struggle occurred. When Officer D returned and entered the residence, he stood to the right of Officer B and chambered a beanbag sock round with the hope it would startle the Subject and cause him to comply with their orders. The Subject responded by reaching down and grabbing an infant car seat from the floor and holding it in front of his chest as a shield. Officer A told the Subject, that if he reached for a weapon, the officers would beanbag him.

Based on the Subject's obstinate behavior and suspected use of PCP, Officer B believed he was unsafe to approach. Officer B warned the Subject that if he did not step off the couch and comply with their orders, he would be shot with a sock round and could be injured. Despite this warning, the Subject continued to exhibit a blank stare and mumbled to himself.

Officer D announced to the other officers that he was about to deploy the beanbag shotgun by stating, "Beanbag Stand By," and then discharged one round at the Subject's upper torso from a distance of approximately eight feet.<sup>1</sup> The round impacted the right side of the Subject's rib cage, which caused him to move across to the far side of the couch. The Subject removed a glass picture frame from the wall and held it up with his right hand near the level of his head, as if he were going to throw or swing it at the officers. Officer D fired a second sock round at the Subject, which again struck him on the right side of his rib cage.<sup>2</sup>

**Note:** Officer C prevented Witness A from entering the residence and explained to her that Officer D was carrying a beanbag shotgun that fires sock rounds.

The Subject dropped the picture frame, lowered his head, and began to run across the sofa cushions toward Officer C, who was standing in the doorway. Officer D fired a third and fourth sock round at the Subject, because he believed the Subject was going to tackle and or assault Officer C.

Seemingly unaffected by the beanbag rounds, the Subject continued across the sofa toward Officer C. As the Subject was about to step over the armrest, Officer C moved forward to intercept him and prevent him from exiting the residence. Officer C was

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<sup>1</sup> There is no minimum deployment range for the beanbag shotgun; however, for tactical and weapon retention purposes, the recommended deployment range is five to 45 feet.

<sup>2</sup> The primary target area for the Beanbag Shotgun is the navel or belt line. Officers may also target a subject's arms, hands or legs when practicable.

concerned that if the Subject made it outside, he might harm Witness A or her newborn child, who were at the bottom of the porch steps. Officer C grabbed the Subject's left arm with one hand and the back of his sweatshirt with his other, and attempted to force him to the floor.

Simultaneously, Officer D used the butt end of his beanbag shotgun to strike the Subject on his lower back as he fell to the ground. Officer D utilized his shotgun in this manner because it was empty and he believed the Subject was about to tackle Officer C. After making contact with the Subject's back, Officer D continued his downward movement with the weapon to force the Subject to the floor. The Subject landed on his stomach near the doorway, with his feet pointing toward the entrance.

**Note:** Officer A issued a help call broadcast.

Officer C tried to control the Subject by placing his shins across the back of the Subject's knees, while using his hands to hold his ankles steady. As that occurred, Officer B used his body weight and laid perpendicular across the Subject's back while attempting to gain control of his left arm. Despite those efforts, the Subject was able to violently flail his arms and kick his legs. Officer B repeatedly ordered the Subject to stop resisting, but to no avail. The Subject continued to struggle with the officers and was able to easily get Officer C off him.

There were eight officers who eventually became involved in using force on the Subject. The following is an account of each officer's actions. They may not reflect the precise order in which each force option was utilized. However, based on their statements, it appears that most of the force was applied simultaneously.

In an effort to control the Subject, Officer D took a position on his knees behind the Subject's head and used his TASER to administer two consecutive five-second direct-stun contacts to the back of his neck. Seeing no visible effect from the TASER, Officer D secured it on his equipment belt and attempted to gain control of the Subject's hands.<sup>3</sup> During the struggle, the Subject eventually turned onto his back and began to swing his hands in an attempt to strike the officers that were on top of him. Officer D responded by punching the Subject three to five times on the right side of his face with his right fist.

Meanwhile, Officer A observed the Subject attempt to reach for Officer B's holster. Officer A swatted the Subject's hand away and then capped the top of Officer B's holster with his own hand. Officer A told Officer B what was occurring and that he (Officer A) had his hand on the top of his (Officer B's) holster, protecting his pistol.

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<sup>3</sup> The downloaded information extracted from Officer D's TASER registered five activations for this incident. When asked about his three additional activations, Officer D indicated that as he deployed his TASER, he could not hear it activating due to the noise in the room or see a noticeable response from the Subject. Officer D recalled pressing the trigger more than once during his two applications of the TASER.

As that occurred, Officers E and F arrived and ran up to the doorway of Witness A's residence. While Officer F attempted to convince Witness A to move off the porch steps, Officer E observed the Subject reach back toward the belt area of one of the officers and simultaneously heard Officer A announce that the Subject was trying to grab Officer B's weapon. To prevent that from occurring, Officer E kicked the Subject on the left side of his face. The Subject turned over into a prone position at that point, which enabled Officer E to grab the Subject's left arm and attempt to pull it behind his back.

**Note:** Officer E delivered the kick to the Subject's left cheekbone area with his left foot.

Despite Officer E's repeated commands for the Subject to stop resisting, the Subject stiffened his arms and aggressively tried to pull away from his grasp. Officer E then punched the Subject twice on the left side of his face with his left fist. The Subject responded by rolling onto his back and raised his head off the floor, with his mouth open, as if he were preparing to bite one of the officers. In response to that action, Officer E delivered three to five additional punches to the left and right sides of the Subject's face.

In an attempt to gain control of the Subject, Officer B used his TASER and delivered a direct-stun to the Subject's right hip area, which had no effect. Officer B immediately delivered a second direct-stun to the Subject's lower back, which also had no effect. The Subject responded by grabbing the TASER with his right hand and attempted to pull it from Officer B's grasp. Officer B reinforced his grip with both hands and announced multiple times that the Subject had grabbed his TASER.

Upon hearing Officer B say that the Subject had his TASER, Officer F moved into the doorway and observed several officers on top of the Subject attempting to control him. According to Officer F, the Subject was lying on his back, violently kicking his legs. It appeared to her that the Subject was able to move officers off him as if they were "rag dolls." Officer F removed her TASER from her rear pocket, knelt over the top of the Subject's legs, and administered a direct-stun to the Subject's right thigh. Although the Subject's body momentarily stiffened, he continued resisting. Officer F was not able to see the Subject's hands, but he believed the Subject still had a grip on Officer B's TASER. Officer F proceeded to deliver three more direct-stun activations to his right thigh, assessing briefly between each one. Following Officer F's fourth application of the TASER, the Subject was able to get Officer F off him and turn onto his stomach. Officer F then utilized a fifth direct-stun to the Subject's buttock.<sup>4</sup>

Officers G and H arrived at scene, and heard Officer B say that the Subject had his TASER and entered the residence to provide their assistance. While Officer G knelt

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<sup>4</sup> The information extracted from Officer F's TASER registered only two activations for this incident, each of which lasted a duration of five seconds. Subsequent testing of the TASER revealed it functioned properly and recorded activations accurately.

across the Subject's legs and applied his bodyweight, Officer H announced he was going to use his TASER and then delivered a direct-stun to the middle of the Subject's upper back. The Subject flinched momentarily, then continued to struggle. After stepping back briefly to assess the situation, Officer H moved in and delivered two more direct-stun contacts, approximately ten seconds apart, to the Subject's upper middle back. The Subject flinched but was able to resist the officer's attempts to pull his arms from underneath his body.

During the struggle, Officer G noticed an area of exposed skin between the Subject's sweater and his rear waistband. In an effort to make the TASER applications more effective, Officer G further lifted the back of the Subject's sweater and encouraged Officer H to apply the TASER directly to the Subject's skin. Officer H then delivered a fourth direct-stun to the center of the Subject's lower back area. Meanwhile, Officer A attempted to distract the Subject by using the bottom portion of his right fist to deliver a punch to the left side of the Subject's face. When that proved ineffective, he was given a TASER by another officer and used it to apply a five-second direct-stun to the Subject's left shoulder blade.

Uniformed Sergeant A arrived and witnessed the remainder of the use of force while standing in the doorway of the residence.

Officer D retrieved a pair of handcuffs from his equipment belt with his right hand and attempted to secure one of the Subject's wrists. Before he was able to accomplish that however, Officer D observed the Subject grab hold of Officer B's TASER, and simultaneously heard an unknown officer say that the Subject had his gun.

Officer D held the handcuffs by the center chain, with the manacles protruding from either side of his fist. Officer D then punched the Subject twice on the right side of his face, which caused immediate pain and swelling to his knuckles. Knowing he could no longer effectively strike with his right hand, Officer D adjusted his grip slightly to allow the top manacle to swing freely from the chain, and then used it to deliberately hit the Subject two more times on the right side of his face. This action caused the Subject to release his hold on the TASER and allowed Officer B to regain control over it.

With his TASER back under his control, Officer B immediately administered another five-second direct-stun to the Subject's lower back/hip area, which caused the Subject to flinch and move his body away from the TASER.

**Note:** Officer B indicated he may have used his TASER to deliver one or two more direct-stun contacts to the Subject's lower back and/or stomach area. However, because of the noise from the other TASERS being deployed, and a lack of response from the Subject, Officer B was not certain if his TASER activated during those additional attempts. The downloaded information extracted from his TASER registered five activations for this incident.

Officers handcuffed the Subject and at Sergeant A's direction, a hobble restraint device was placed around the Subject's lower legs by Officers C, F and G. Due to the confined area where the incident took place, Sergeant A also directed the Subject to be removed from the residence. Officers B, D, G and H carried the Subject face down by his arms and legs to the grass area in front of Witness A's residence. The Subject was monitored by Officer H until medical personnel arrived.

Immediately following this incident, Officer E approached Sergeant A and advised him that he had injured his left hand during the struggle. Sergeant A broadcast a request for a rescue ambulance (RA) for Officer E, whose hand was later determined to be fractured. Approximately one minute later, Sergeant A broadcast an additional request for a separate RA to tend to the Subject, who was bleeding from his face.

The Los Angeles City Fire Department (LAFD) received the call to respond to the location and arrived a few minutes later. The Subject was evaluated at the scene and was determined to have sustained several minor abrasions and contusions. He was transported by RA to a local hospital, where he remained for several hours due to PCP intoxication. When the Subject arrived in the ER, he was examined and found to have sustained superficial lacerations and abrasions to his left cheek. Upon undergoing a computed tomography (CT) scan, it was determined he had also sustained a fracture to his right orbital socket. According to the medical documentation, there was no corresponding soft tissue swelling, which may have indicated that this injury was caused by a prior unrelated event.

**Note:** This information was consistent with statements made by Witness A, who indicated that the Subject was involved in a physical altercation with unknown individuals approximately five days earlier. During that incident, the Subject was reportedly struck several times in the face.

Although not mentioned in his medical records, the Subject also sustained mild redness to his chest, abdomen, and hip areas, which appeared to be consistent with Super-Sock impacts and/or TASER applications. He was ultimately admitted for observation due to his PCP intoxication and was released later that evening.

After receiving medical treatment, the Subject was transported to the medical center's Jail Ward, where he was absentee booked for Resisting an Executive Officer, Section 69 of the California Penal Code (PC).

Uniformed Sergeant B arrived at scene and began conducting a non-categorical use of force investigation. Shortly thereafter, the Commanding Officer of the Area, Captain A, arrived at scene, and upon hearing what occurred, initiated the separation and monitoring of the involved officers pending an evaluation of the circumstances by Force Investigation Division (FID). FID personnel reviewed the documents and circumstances surrounding the separation and monitoring of the officers and determined that a categorical use of force had occurred and that all protocols were followed.

## **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 weapon 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, B, C, D, E, F, G and H's tactics to warrant a Tactical Debrief.

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

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

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

The BOPC found Officers A, B, D, F and H's use of less-lethal force to be in policy.

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

The BOPC found Officer E's use of lethal force to be in policy.

## **Basis for Findings**

### **A. Tactics**

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

#### **1. Strikes**

In this instance, after Officer D fired four beanbag sock rounds at the Subject, he struck the Subject on the lower back with the butt-end of his beanbag shotgun to push him toward the ground.

Officers are generally discouraged from using the beanbag shotgun as an impact device because of the possibility that the weapon may contain additional rounds,

creating a circumstance wherein there remains the potential for a round to be inadvertently discharged. However, Officer D was cognizant of the number of rounds he had discharged and that the weapon system was empty. Consideration must also be given to the fact that Officer D was forced to respond to the aggressive actions of the Subject, which required an immediate response that did not afford him ample time to sling or ground the beanbag shotgun.

In evaluating the officer's actions, the BOPC determined that based on the totality of the circumstances, although the use of a beanbag shotgun as an impact device often times is not ideal, in this case, it did not represent a substantial deviation from approved Department tactical training. However, Officer D was reminded of the concerns associated with the use of a beanbag shotgun as an impact device. The BOPC directed that this topic be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:

1. Beanbag Shotgun Target Areas

Officer D stated that when he fired his beanbag shotgun at the Subject, his target area was the Subject's chest area. Department tactics specify that the target area for the beanbag shotgun should initially target the navel or belt line. If proven ineffective, a viable target area, leg, arm, or hand should be considered.

2. Distraction Strikes

In this instance, Officer D stated that he utilized "distraction strikes" to subdue the Subject during the altercation. The Department no longer utilizes the term "distraction strikes" when referring to strikes utilized during non-lethal use of force incidents. However, as discussed, each of the strikes was objectively reasonable based on the facts and circumstances.

3. Strikes to the Head

Absent exigent or unusual circumstances, fist strikes should be used primarily on soft tissue areas to prevent injury to the hand. The BOPC assessed the circumstances of this violent altercation and determined that although the strikes to the head deviated from the identified target areas, it was objectively reasonable based on the facts and circumstances articulated by the involved officers.

4. Multiple TASER Activations

In this instance the officers utilized the TASER direct stun applications repeatedly. While these were unique circumstances, based on Department tactical training, officers should generally avoid extended or repeated TASER

activations to reduce the risk of injury. Subsequently, the BOPC directed that these topics be discussed during the Tactical Debrief.

- The evaluation of tactics requires that consideration be given to the fact officers are forced to make split-second decisions under very dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific. Each tactical incident inherently results in consideration for improvement.

Each incident must be looked at objectively and the areas of concern must be evaluated based on the totality of the circumstances. The BOPC appreciated the unusual circumstances that the officers faced in this case and understand the unique challenges they had to overcome with the resources they had.

In conclusion, the BOPC found Officers A, B, C, D, E, F, G and H's tactics to warrant a Tactical Debrief.

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

- In this instance, the Subject was unaffected by Officer D's four beanbag sock rounds and continued running across the couch toward Officer C. The Subject stepped over the armrest of the couch and Officer C moved toward the Subject in an effort to block the door and prevent his escape.

Subsequent to the Subject charging Officer C an extensive use of force occurred wherein eight officers utilized a variety of non-lethal applications of force. The force utilized was administered simultaneously while attempting to overcome the Subject's resistance and effect his arrest. The following are accounts of each officer's non-lethal applications of force.

- **Officer A**

### **Bodyweight**

As the Subject ran on top of the couch towards Officer C, he went down, and officers jumped on top of him.

### **Punches**

During the struggle Officer A observed multiple officers utilizing numerous TASER activations in the direct stun mode. The aforementioned activations proved ineffective. Additionally, Officer A observed the Subject attempt to take possession of Officer B's service pistol and when that failed, the Subject attempted to take Officer B's TASER. In an effort to distract the Subject, Officer A utilized a punch to the left side of the Subject's face. Officer A recalled that he struck the Subject in the left side of the face with a punch.

- **Officer B**

**Bodyweight**

Officer B lay across the Subject's body.

- **Officer C**

**Bodyweight-Physical Force**

Officer C grabbed the Subject's arm. His right hand went around the Subject's back, grabbed his shirt, and redirected him inside the apartment. At which time Officers A, B, and D helped Officer C with a team take down. As they were going down, Officer C gave way to the Subject's upper body and tried to control his legs.

- **Officer D**

**Strike**

Officer B struck the Subject in his back as he charged his partner with the butt of the shotgun and he went down to the ground. Officer B conducted a close contact with the Taser, which did not have any effect.

**Punches**

Officer D stated that he administered three to five punches to the Subject's facial area at the same time the Subject was attempting to strike Officer D. Officer D recalled that the Subject was trying to punch the officers. At the same time, officers were holding onto the Subject's hands and trying to give distraction strikes to his face.

The struggle continued, and Officer D obtained his handcuffs to effect an arrest. Officer B informed the involved officers that the Subject had grabbed his TASER. Subsequently, Officer D utilized two punches to the Subject's facial area while holding the handcuff. Officer D heard someone say, "He has my TASER." At that point Officer D began to issue more distraction strikes with the handcuff in his hand to the Subject's face.

**Strikes**

Officer D injured his hand, causing him to reposition his hand and utilize the manacle portion of the handcuff to strike the Subject's facial area. Officer D recalled that he conducted two distraction strikes with the cuff in his hand to the Subject's face. He still had control of the TASER. His hand began to swell up, and he couldn't punch anymore. So he began to use the top part of his knuckles and then took the handcuff itself to the Subject's face.

Additionally, in this instance, Officer D was involved in a prolonged struggle to gain control of the Subject as he continuously resisted a total of eight officers. During the incident, Officer D indicated that Officer B stated that the Subject had gained control of his TASER. Officer D, in response to the Subject's actions, delivered two

punches to the Subject's face while holding the chain portion of the handcuffs in his hand. The aforementioned punches caused injury to Officer D's hand/knuckles and as a result Officer D reacquired his grip of the handcuffs with one manacle moving freely in his hand. Officer D then delivered two additional strikes to the face with the manacle portion of the handcuff. Subsequently, the Subject released his grip on Officer B's TASER.

During this incident the involved officers utilized multiple applications of non-lethal and less-lethal uses of force. The Subject continuously resisted the officers and aggressively attempted to obtain a TASER and service pistol. Subsequently, Officer D utilized two punches to the face of the Subject in an attempt to subdue him. However, Officer D injured his hand, causing him to readjust his grip on the handcuff, leaving one manacle of the device to swing freely as he administered two additional strikes to the Subject's facial area. Officer D's strikes proved effective as the Subject released his hold on Officer B's TASER. The Subject was attempting to take Officer B's TASER, thus creating a situation where the involved officer's safety would be compromised.

The BOPC evaluated the strikes to the face with the handcuff manacle and determined that it did not constitute lethal force because it did not create "a substantial risk of causing death or serious bodily injury." Therefore, this application of force was evaluated as a non-lethal use of force.

In evaluating the officer's actions, the BOPC determined that based on the totality of the circumstances, although improvement could be made, the utilization of the manacle as a striking device was objectively reasonable and consistent with Department policy. However, the BOPC directed that this topic be discussed during the Tactical Debrief.

- **Officer E**

**Bodyweight**

The Subject turned over into a prone position, and Officer E got on top of him to try to control of his arm.

**Punches**

The Subject got both arms out in front of him like he was reaching for something. So the Subject grabbed Officer E's left arm again, and Officer E grabbed him with two hands in an attempt to try to wrestle his arm back, but he was actively resisting. And at that point he delivered a couple punches to the Subject's face. The Subject was actively trying to pull away, and as he was moving forward, it looked like he was trying to bite somebody. Officer E delivered three to five more punches.

- **Officer G**

**Bodyweight**

Officer G put his knees down on top of the Subject's legs and utilized his body weight to keep him from shifting his weight up and just to keep him sprawled out so the officer could concentrate on handcuffing him.

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

In conclusion, the BOPC found Officers A, B, C, D, E and G's application of non-lethal force to be in policy.

**C. Less-Lethal Use of Force**

- In this instance, Officer A attempted to communicate with the Subject in an effort to get him to walk outside to speak with him. The Subject did not acknowledge the officers and continued to stare blankly at the ground. The involved officers formulated a plan to take the Subject into custody.

As the Subject became combative, less-lethal applications of force were utilized to take the Subject into custody. The following are brief accounts of each officer's less-lethal application of force.

- **Officer A**

- One TASER direct stun to the left shoulder blade.

As the struggle continued, Officer A observed that the officers were experiencing difficulty taking the Subject into custody. Officer A was given a TASER by an unidentified officer and subsequently administered one direct stun TASER application to the Subject's left shoulder blade.

- **Officer B**

- One TASER direct stun to the right hip.
- One TASER direct stun to the lower back.
- One TASER direct stun to the lower back hip area.

Officer B heard Officer A advise him that the Subject was reaching for Officer B's holster. After numerous commands, punches and kicks (see Non-Lethal Use of Force), the Subject continued to struggle and fight. In an attempt to control the Subject, Officer B utilized his TASER and administered a direct stun activation to the Subject's right hip, which seemed to be ineffective.

As a result, Officer B delivered an additional direct stun activation to the Subject's lower back. The second activation was also ineffective. In response to Officer B's actions, the Subject grabbed Officer B's TASER while he continued to kick and buck the officers. Officer B eventually gained control of his TASER and administered a five-second direct stun activation to the Subject's lower back hip area.

- **Officer D**

- Two Beanbag sock rounds to the right side of rib cage.
- One Beanbag sock round to the back.
- One Beanbag sock round to the right side of the face.
- Two TASER direct stuns to the back of the neck.

Based on the Subject's actions, Officer D believed it was unsafe to approach and warned the Subject that if he did not comply he would be shot with a beanbag shotgun and he could be hurt. The officers received no response from the Subject. Therefore, Officer D made the beanbag announcement and discharged one sock round at the Subject's upper torso.

The Subject suddenly obtained a glass picture frame from wall. The Subject held the picture frame in a position that was consistent with a throwing motion. Consequently, Officer D fired a second sock round at the Subject, striking him in his ribcage.

The Subject dropped the frame, lowered his head and charged Officer C. Believing that the Subject was attempting to attack Officer C, Officer D fired a third and fourth sock round at the Subject, striking him on the back and facial area. Officer D recalled that the Subject charged Officer C, so he fired another round hitting the Subject on his back. That didn't stop the Subject, so Officer D fired another round, which hit the Subject in the side of the face.

Officer D indicated that when he fired his third and fourth sock rounds at the Subject, his intended target area was the chest. Furthermore, Officer D stated that when the Subject ran toward Officer C he ducked.

The Subject was unaffected by the beanbag sock rounds and continued toward Officer C. The Subject approached Officer C at which time Officer C grabbed the Subject's left arm and pulled him to the ground. Subsequently, the struggle continued, and the Subject continued to kick and flail his arms in an effort to escape the grasp of the officers. In an attempt to control the Subject, Officer D positioned himself behind the Subject's head and administered two five-second direct stun contacts to the back of the Subject's neck. The TASER appeared to have no effect on the Subject and he continued to struggle with the officers.

In this instance, based on Officer D's statements regarding the intended target area, it can be presumed that the sock round that struck the Subject's face was inadvertent.

- **Officer F**

- One TASER direct stun to the right thigh.
- Three TASER direct stuns to the right thigh.
- One TASER direct stun to the buttocks.

Officer F utilized his TASER in an attempt to subdue the Subject while he was struggling to acquire Officer B's TASER. Officer F administered a direct stun to the Subject's right thigh area, however the Subject continued to resist the officers. Officer F subsequently administered three additional direct stuns to the Subject's right thigh. Following the fourth direct stun, the Subject successfully got Officer F off of him, at which time Officer F administered a fifth direct stun to the Subject's back because he believed the Subject had a hold on the other officer's TASER.

- **Officer H**

- One TASER direct stun to the upper back.
- Two TASER direct stuns to the middle of the back.
- One TASER direct stun to the lower back.

Officer H arrived on scene and heard Officer B state that the Subject had his TASER. In an effort to subdue the Subject and compel him to release the TASER, Officer H announced he was going to utilize his TASER. Officer H administered a direct stun TASER activation to the Subject's upper back. Officer H recalled that the Subject was being combative, trying to stand himself up, and Officer H heard the Subject say, "He's trying to get my TASER," repeatedly. It was easier to use a contact type shot. Officer H found an area towards the Subject's upper back and applied the TASER one time. Officer H stepped back, and the Subject was still struggling. Officer H tased him again in the same location.

Officer H observed that the initial TASER activations were ineffective and consequently applied two additional direct stun TASER activations to the Subject's upper back. The TASER appeared to be ineffective through the Subject's clothing; therefore, Officer H was advised to attempt the activation to the Subject's exposed skin. Officer H recalled that Officer G was close to the Subject's legs, and Officer H applied the TASER to the Subject's lower back for five seconds. The Subject's arms immediately jumped out, and officers were then able to gain control of the Subject's arm.

After a thorough review of the involved officers' statements, the BOPC determined that officers with similar training and experience as Officers A, B, F and H would

reasonably believe that the application of less-lethal force would be reasonable to overcome the Subject's resistance.

In conclusion, the BOPC found Officers A, B, F and H's application of non-lethal force to be objectively reasonable and in policy.

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

- **Officer E** - One kick to the left side of the Subject's face.

In this instance, Officer A noticed the Subject attempting to grab Officer B's weapon, at which time he alerted the other involved officers. In an effort to stop the Subject's actions and prevent a possible officer-involved shooting, Officer E kicked the left side of the Subject's face. Officer E repeatedly ordered the Subject to stop resisting; however the Subject continued his aggressive behavior. Officer E recalled that it looked as though the Subject's hand was reaching back towards the belt area of the one of the officers. He heard Officer A say, "He's reaching for your gun." Officer E could see him starting to turn. And since there was nowhere for Officer E to put his body weight and gain control over the Subject in order to prevent him from actually grabbing an officer's gun, Officer E kicked him in the face.

Based on the totality of the circumstances, officers with similar training and experience as Officer E would reasonably believe that the use of lethal force in order to overcome the Subject's attempt to disarm Officer B and take him into custody would be justified.

In conclusion, the BOPC found Officer E's application of lethal force to be objectively reasonable and in policy.