

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

**OFFICER-INVOLVED SHOOTING 051-18**

**Division                      Date                                      Duty-On (X) Off ( ) Uniform-Yes (X) No ( )**

Rampart                      8/20/18

**Officer(s) Involved in Use of Force                                      Length of Service**

Officer A    11 years, 9 months  
Officer B    11 years, 7 months

**Reason for Police Contact**

Officers assigned to a crime suppression detail attempted to detain a Subject on a bicycle for an observed vehicle code violation. When the Subject fled on his bicycle, he produced a handgun (later determined to be a BB gun) and pointed it in the direction of one of the officers, resulting in an officer-involved shooting (OIS). The Subject, who was not struck by the fired round, fled on foot. After a brief foot pursuit, the Subject was taken into custody.

**Subject(s)                                      Deceased ( )                                      Wounded ( )                                      Non-Hit (X)**

Subject: Male, 35 years of age.

**Board of Police Commissioners' Review**

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

The following incident was adjudicated by the BOPC on July 16, 2019.

## **Incident Summary**

Officers were assigned to a crime suppression detail, with the purpose of their deployment being to address an increase in gang-related violent crimes, as well as property crimes, with an emphasis on motor vehicle burglaries. A briefing was held wherein the crime suppression detail objectives were discussed, and it was established that the officers were to conduct high visibility patrol and enforcement activities.

Officers A and B were conducting patrols, as directed. While doing so, they observed the Subject in the middle of the street, approximately two blocks from their location. According to Officer A, the Subject was standing in the middle of the street, straddling a bicycle without a light for illumination during the hours of darkness, a vehicle code violation. They believed the Subject's safety was at risk from vehicular traffic.

Officer B stated that during roll call he/she received information indicating there had been robberies, violent crimes, and property crimes occurring in the area he was assigned to. He/she said one robbery suspect was described as a man riding a bike. Officer A said his mission was to combat violent crime. He/she said that based on roll call that day, there had been an uptick in strong-arm robberies.

According to Officer A, he/she drove toward the Subject on the bicycle with the intent to advise him to move out of the street. As the officers approached the Subject, they observed him looking downward, while still astride his bicycle. According to Officer B, he/she observed that the bicycle did not have a properly affixed light. Officer B stated that he/she intended to conduct a consensual encounter for the purpose of obtaining information to ascertain if the Subject was possibly involved in criminal activity.

Officer A slowly drove toward the Subject and stopped approximately five feet away from him. Officer B spoke with the Subject through the open passenger window of the police vehicle and directed him to step out of the roadway. According to the officers, the Subject appeared to react angrily, with hostility in his tone. The Subject told the officers he was good and that they needed to leave. The Subject also argued with the officers regarding the equipment on his bicycle, as he gestured to a strobe light underneath his bicycle seat. Officer B advised the Subject that the light had to be affixed to the front of the bicycle. The Subject continued to protest. Officer B then opened his/her door, which was the passenger door of the police vehicle.

Officer B stepped out of the police vehicle and closed his/her door. As Officer B exited the vehicle, the Subject mounted his bicycle and began to ride away. Officer B ran forward as he/she told Officer A to drive forward. Officer A accelerated the police vehicle in the direction of the Subject, as Officer B ran behind the police vehicle. According to Officer B, he/she believed his/her partner drove away to follow the Subject. Officer B also believed that Officer A was going to stop at the intersection to track the Subject's direction. According to Officer A, he/she observed Officer B run after the Subject, at which point he/she drove forward in an effort to get in front of the Subject.

While fleeing on the bicycle, the Subject abruptly moved directly in the path of Officer A's police vehicle. As the Subject continued to ride the bicycle he looked back over his right shoulder in the direction of the officers. The Subject then quickly reached into the right pocket of his shorts and turned his torso to his right. Officer A believed that the Subject was potentially arming himself with a weapon. Subsequently, Officer A unholstered his/her service pistol. As Officer A did so, he/she applied his/her vehicle's brakes to slow and create distance from the Subject.

The Subject removed a handgun, which he pointed directly at Officer A. According to Officer A, the Subject raised the firearm perpendicular to his shoulders, fully extended his arms, and pointed the firearm at him/her. The investigation later determined that the object the Subject pointed at Officer A was a BB gun.

Officer B unholstered his/her service pistol and held it in a two-handed, low-ready position. Officer B moved to his/her left as he/she pointed his/her pistol in the direction of the Subject and shouted a warning to Officer A that the Subject had a gun.

Officer A believed the Subject intended to shoot him/her. Subsequently, Officer A extended his/her arms out in a two-handed grip over the steering wheel. Officer A aimed his/her service pistol at the Subject and discharged one round through the front windshield of the police vehicle. Due to Officer B's positioning behind the police vehicle, Officer B did not observe Officer A fire his/her pistol.

Witnesses A and B had been in their vehicle looking for parking. While doing so, they observed a uniformed officer, presumably Officer B, standing alongside a vehicle. They observed what they believed to have been the officer fire once, from a two-handed standing shooting stance. According to Witness B, he observed a male next to the officer holding a pistol, pointed directly at the officer.

Witness A stated he believed that he observed the muzzle flash of the officer's pistol as he heard a gunshot. Through investigation it was determined that Officer B's flashlight had turned on several times during the shooting incident.

After Officer A discharged a round through the windshield of the police vehicle, the Subject fell off his bicycle onto the ground. The Subject then immediately stood up and began to run away from the officers.

Officers A and B ran after the Subject, with Officer B in the lead position. As officers gave chase, Officer B observed the Subject throw a pistol onto the sidewalk. Officer B picked up the pistol and placed it in his/her pants pocket.

The Subject turned his body and looked over his right shoulder at the officers, but continued his pace, running from the officers. Officers A and B chased the Subject until he stopped on a concrete pathway that led to a stairwell area near the back side of a hospital. At this point, Officer A unholstered his/her service pistol and held it in a two-handed, low-ready position.

Officer B communicated with Officer A to cover the Subject. Officer B holstered his/her pistol and approached the Subject's left side. Officer B used his/her left hand to grip the Subject's left wrist and immediately felt the Subject tense his arm. Officer B used his/her right hand to grab the back of the Subject's neck. Officer B then initiated a takedown, placing the Subject face down on the ground. Officer B knelt to the left of the Subject. According to Officer B, once the Subject was on the ground, he/she was able to place the Subject's left hand behind his back with minimal effort; however, the Subject placed his right hand under his body, near his waistband.

Officer A knelt near the Subject's head, placing his/her right hand on the Subject's upper back and using his/her left hand to grab the Subject's left arm. The Subject did not comply with officers' commands to stop resisting.

According to Officer A, he/she holstered his/her service pistol and knelt on the ground next to the Subject's right shoulder to assist Officer B. Officer A placed both hands on top of the Subject's back and shoulder area and applied bodyweight to stop his movement. According to Officer A, he/she used his/her left hand to grab the Subject's right elbow and reached under the Subject to grab his right wrist in a wrist lock. The Subject resisted, tucking his right wrist and hand underneath his torso.

Once the Subject's left wrist was placed behind his back, Officer B moved his/her left hand to grip the Subject's left wrist as Officer A removed his/her handcuffs and handed them to Officer B. Officer B grabbed the handcuffs and handcuffed the Subject's left wrist, then gripped the manacle of the handcuffs with his/her left hand.

The Subject continued to disregard Officer B's commands to place his hand behind his back, as he continued to tuck his right arm underneath him. Believing that the Subject was attempting to reach toward his waist for a secondary weapon, Officer A used his/her right fist and struck the Subject on the left cheek of his face. According to Officer A, this was the only body part accessible to Officer A from his/her position as the officers attempted to facilitate handcuffing.

According to Officer A, the Subject's right arm continued to remain rigid underneath his waist area; however, the Subject turned his head to a position where his forehead was pressed to the ground. Officer A used his/her right fist and issued a second strike to the right side of the Subject's face as he/she commanded the Subject to release his arm. The Subject continued the head movement and moved his face to his right, exposing his right cheek.

According to Officer A, the Subject did not comply and continued to tighten his muscles, remaining rigid. Officer A used his/her right fist and struck the Subject a third and final time on the right side of his face. At this time, Officer A felt the Subject release tension of his arm, enabling Officer A to place it behind the Subject's back.

Officer B completed handcuffing the Subject's wrists and attempted to place him in a standing position. The Subject resisted Officer B's attempts to assist him, dropping his weight down to the ground in an effort to lay down on his back. Officer B ultimately placed the Subject in a seated position with his legs outstretched in front of him and his back resting against Officer B's legs.

The Subject stated three times during the arrest process that he could not breathe. In response, Officer B commanded the Subject to stop resisting so that the officers could handcuff him and request an ambulance. Officer B attempted several times to get the Subject to a standing position. Officer B also requested a Rescue Ambulance for the Subject.

Sergeants A and B arrived at the scene and contacted Officers A and B. Officer B advised the sergeants that he/she was in possession of the Subject's pistol. The sergeants then walked Officer B to Sergeant A's vehicle and instructed Officer B to place the Subject's pistol inside Sergeant A's trunk. Sergeant B then assumed monitoring responsibility of Officer B.

Sergeant A inquired if an officer-involved shooting (OIS) had occurred, at which time Officer A confirmed he/she had been involved in an OIS. Sergeant A confirmed that no other personnel were involved, maintained oversight of Officers A and B, and obtained a Public Safety Statement from Officer A.

Sergeant A directed arriving units to secure the OIS scene. Sergeant A also requested additional supervisors for crime scene management while he/she continued to monitor Officers A and B.

Sergeant C arrived at the scene and assumed the role of the Incident Commander. Sergeant C set up a command post; requested additional units and supervision; directed units to set up an inner and outer perimeter; directed units to canvass the area for witnesses, and made the appropriate notifications.

### **Los Angeles Board of Police Commissioners' Findings**

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

#### **A. Tactics**

The BOPC found Officers A and B's tactics to warrant Administrative Disapproval.

## **B. Drawing and Exhibiting**

The BOPC found Officers A and B's drawing and exhibiting of a firearm to be In Policy.

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

The BOPC found Officers A and B's non-lethal use of force to be In Policy.

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

The BOPC found Officer A's lethal use of force to be In 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 the subject'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 suspect 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. Code Six**

When a unit is conducting a field investigation and no assistance is anticipated, a "Code Six," followed by the location, shall be broadcast. The purpose of broadcasting a Code Six location is to advise Communications Division and officers in the area of the officers' location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

In this case, the officers were involved in an officer-initiated activity. Thus, the BOPC found that the officers had sufficient time to broadcast their Code Six

location as well as any other relevant information prior to contacting the Subject and initiating their investigation.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's decision not to advise Communications Division of their Code Six location was a substantial deviation, without justification, from approved Department tactical training.

## **2. Tactical Communication**

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, the BOPC noted the following concerns regarding the tactical communication between Officers A and B:

- Officer A did not communicate his/her intent to pull up and stop next to the Subject.
- Officer B believed that the Subject may have been involved in criminal activity related to burglaries and robberies in the area, but did not communicate this information to Officer A.
- Officer B exited the police vehicle to detain the Subject for further investigation of criminal activity. Officer A believed Officer B exited the vehicle to detain the Subject for vehicle code violations.
- Officer A did not communicate his/her intent to remain in the police vehicle or to drive to the Subject when he fled on the bicycle.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's lack of effective communication during this incident placed the officers at a tactical disadvantage and therefore, was a substantial deviation, without justification, from approved Department tactical training.

## **3. Tactical Vehicle Deployment**

The positioning of the police vehicle when conducting a stop is critical in order to provide the officers a tactical advantage, should the incident escalate.

In this case, Officer A stopped the police vehicle in a position where the passenger side door was close to the subject to be contacted. The BOPC noted that Officer A placed him/herself and his partner at a significant tactical disadvantage and limited their options by positioning the police vehicle near the Subject, whose identity and intentions were unknown at the time.



Based on the totality of the circumstances, the BOPC determined, that Officer A's tactical positioning of the police vehicle, parallel to the Subject's bicycle, was a substantial deviation, without justification, from approved Department tactical training.

#### **4. Initiating Contact While Seated in a Police Vehicle**

Proper safety tactics demand that officers exit their patrol vehicles to conduct pedestrian contacts. Approaching and conducting the contact on foot allows officers to devote complete concentration to observing the pedestrian, better visibility of the pedestrian, better mobility, the ability to detain and search an individual, if necessary, and greater advantage if a foot pursuit should occur.

In this case, the officers pulled up to the Subject, advised him of the vehicle code violations and asked him to get out of the roadway for his own safety. The BOPC noted that although the officers did not believe the Subject was armed or was a threat to their safety at that moment, the officers placed themselves at a significant tactical disadvantage and limited their options by initiating contact, while seated in their police vehicle, with a Subject whose identity and intentions were unknown at the time.

Based upon the totality of the circumstances, the BOPC determined that Officers A and B's decision to contact the Subject while still seated in their police vehicle was a substantial deviation, without justification, from approved Department tactical training.

#### **5. Tactical Planning**

Officers must approach every contact with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable.

After the Subject fled from the officers on his bicycle, Officer A formulated a tactical plan to drive the police vehicle past the Subject and block his path of travel. Conversely, Officer B formulated a separate tactical plan to remain out of the police vehicle and in the roadway in the event the Subject doubled-back in his/her direction.

The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, thus ensuring a coordinated effort and successful resolution. 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 BOPC noted that Officers A and B's tactical plans would have placed them at a disadvantage had the Subject decided to engage one or both officers while they were separated.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's respective tactical plans were not reasonable and a substantial deviation, without justification, from approved Department tactical training.

## **6. Crossfire**

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. The ability to adjust to a tactical situation ensures minimal exposure to the officers.

In this case, Officer B drew his/her service pistol and pointed it at the Subject, while Officer A, who was seated in the driver's seat of the police vehicle, was in his/her foreground.

Based upon the totality of the circumstances, the BOPC determined that Officer B's actions compromised the safety of his/her partner and therefore, were a substantial deviation, without justification, from approved Department tactical training.

## **7. Approaching a Possibly Armed Suspect**

Entering a suspect's space prematurely may force the suspect to act, ultimately escalating the situation. Whenever possible, officers should place an object between themselves and the suspect as cover or a barrier.

In this case, Officers A and B approached the Subject whom they believed was possibly armed. The officers observed that the Subject's hands were visible and decided to approach the Subject and take him into custody because they were concerned that the Subject was going to continue to flee into a hospital where he would have access to possible victims and hostages.

The BOPC noted that the Subject was near a door that led into a hospital. As such, based upon the Subject's prior actions and behavior, the BOPC opined that the Subject, at that moment, was a potential threat to public safety and therefore, the officers' actions were reasonable.

Based on the totality of the circumstances, the BOPC determined that in this specific circumstance, Officers A and B's decision to approach a possibly armed Subject was a substantial deviation, with justification, from approved Department tactical training.

## **8. Maintaining Service Pistol in Right Hand and Flashlight in Left Hand While Driving**

The investigation revealed that Officer A drew his/her service pistol in his/her right hand while Officer A held a flashlight in his/her left hand. It is recognized that this was unavoidable in this circumstance due to the rapidly unfolding tactical situation. However, Officer A was reminded of the tactical disadvantage of having a service pistol in one hand and a flashlight in the other hand while driving a police vehicle.

## **9. Shooting Through a Window**

The investigation revealed that Officer A fired his/her service pistol through the windshield of his/her police vehicle. Officer A was reminded that given the physical characteristics of a vehicle windshield, shooting through the windshield is highly ineffective and can significantly diminish accuracy, cause deflection of the bullet, and may result in fragmentation or other unintended outcomes.

## **10. Holding Service Pistol and Flashlight in Right Hand**

The investigation revealed that Officer B held his/her service pistol and his/her flashlight in his/her right hand while recovering the Subject's handgun with his/her left hand. Officer B was reminded of the tactical disadvantage of having a service pistol and an additional piece of equipment in the same hand.

## **11. Maintaining Control of Equipment**

The investigation revealed that while in foot pursuit, Officer B dropped his/her handheld radio onto the ground. Officer B was reminded of the importance of maintaining control of his/her equipment whenever tactically feasible.

## **12. Broadcasting on Air/K9 Frequency**

The investigation revealed that Officer A broadcast the foot pursuit and shots fired on Air/K9 frequency. Officer A was reminded of the importance of radio communication and ensuring that his/her radio is always on the proper frequency.

## **13. Profanity**

The investigation revealed that Officers A and B used profanity while giving the Subject commands. Although the officers indicated that they used profanity to establish a greater command presence because the Subject was not complying with their commands, Officers A and B were reminded that profanity may unnecessarily escalate the situation.

## **14. Non-Conflicting Simultaneous Commands**

The investigation revealed that Officers A and B gave simultaneous commands to the Subject during the incident. Although the commands were non-conflicting, the officers were reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

## **15. Punches to Bony Areas**

The investigation revealed that Officer A punched the Subject three times in the face with a closed fist. Officer A was reminded that punches to the bony areas of the body can cause injury, which would reduce the officer's effectiveness and limit the officer's ability to defend themselves.

These topics were to be discussed at the Tactical Debrief.

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

In conducting an objective assessment of this case, the BOPC determined that the tactics utilized by Officers A and B substantially, and unjustifiably, deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

## **B. Drawing and Exhibiting**

- According to Officer A, as he/she began driving in the direction of the bicyclist, the Subject looked back at him/her and reached into his right front shorts pocket. Officer A then drew his/her service pistol because he/she believed that the Subject was reaching to grab a weapon.

After the Subject fled on foot, Officer A observed the Subject had stopped and was standing in the middle of the sidewalk near the rear door of a business. The Subject was yelling and appeared to be agitated. Believing that the Subject was possibly still armed and a danger to the public, Officer A drew his/her service pistol a second time.

According to Officer B, as the Subject was fleeing on the bicycle, Officer B observed the Subject look back towards Officer A and start to turn the bicycle a bit. The Subject then stopped his bicycle and simultaneously reached into his waistband with his right hand, removed a blue steel semi-automatic handgun, and started to point the handgun towards Officer A. Based on his/her observations, Officer B drew his/her service pistol.

Officer B was initially positioned slightly to the right of the police vehicle. When he/she saw that the Subject had produced a firearm, Officer B unholstered his/her duty pistol and started moving to his/her left.

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

Therefore, the BOPC found Officers A and B's drawing and exhibiting of a firearm to be In Policy.

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

- **Officer A – (Bodyweight, Firm Grips, Physical Force, Punches)**

According to Officer A, after the Subject was on the ground, Officer A holstered his/her service pistol and used his/her hands to apply bodyweight to the Subject's upper torso. Officer A then attempted numerous times to pull the Subject's right arm out from underneath his body.

According to Officer A, the Subject was still actively resisting, and Officer A did not know if the Subject was armed with any other weapons. In an effort to get the Subject to remove his right arm from underneath his body, Officer A punched the Subject, one time, on the left side of his face, with his/her closed right fist.

According to Officer A, he/she assessed and observed that the Subject did not release his arm. The Subject then stated that he could not breathe and turned his head toward the right, exposing the right side of his face. Officer A then punched the Subject a second time, on the right side of his face, with his/her closed right fist.

According to Officer A, after the second punch, he/she assessed and could feel that the Subject's body was rigid and his muscles were all engaged. The Subject again said he could not breathe and refused to release his arm from underneath his body. Officer A then punched the Subject a third time, on the right side of his face, with his/her closed right fist. The Subject released his right arm from underneath his body.

- **Officer B – (Takedown, Bodyweight, Firm Grips, and Physical Force)**

According to Officer B, he/she used his/her left hand to grab the Subject's left wrist and used his/her right hand to grab the back of the Subject's neck to control his body movement. Officer B then felt the Subject's left arm immediately tense up. Believing that the Subject was not going to go to the ground as commanded, Officer B moved his/her body to the left and guided the Subject to the ground and onto his stomach.

According to Officer B, he/she observed that the Subject's right arm was underneath his stomach, and Officer B was not sure if the Subject was attempting to arm himself with a secondary weapon. At that point, Officer B removed his/her right hand from the back of the Subject's neck and applied body weight on the left side of the Subject's body. Officer B then placed the Subject's left hand in the small of his back. Officer B ultimately handcuffed the Subject's right and left wrists.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, 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 and B's non-lethal use of force to be In Policy.

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

- **Officer A – (pistol, one round)**

According to Officer A, he/she observed the Subject remove what appeared to be a firearm from his right front pocket. The Subject then twisted his torso in a clockwise direction, almost facing directly towards Officer A, brought the firearm up, and pointed it in Officer A's direction. In fear that the Subject was going to shoot and kill him/her, Officer A fired one round from his/her service pistol, through the windshield of the police vehicle, at the Subject to stop the threat.

Although the apparent firearm was later determined to have been a replica handgun/BB gun, Officer A reasonably perceived the item as a firearm. Therefore, consistent with the Subject posing a risk of serious bodily injury or death to Officer A, Officer A fired one round at the Subject. Officer A then conducted an assessment, observing the Subject fall off his bicycle. Officer A believed he/she had struck the Subject and that the Subject's actions no longer posed a threat of serious bodily injury or death. Officer A then ceased firing his/her service pistol.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury and that the firearm use of force would be objectively reasonable.

Therefore, the BOPC found Officer A's lethal use of force to be In Policy.