

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

HEAD STRIKE WITH AN IMPACT WEAPON - 054-12

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No (X)
Pacific	08/22/12		

Officer(s) Involved in Use of Force	Length of Service
Detective A	17 years, 3 months
Officer B	15 years, 8 months
Officer C	15 years, 11 months
Officer E	12 years, 11 months
Officer F	12 years

Reason for Police Contact

LAPD officers, along with agents from an outside law enforcement agency, executed a planned arrest of the Subject for illegal possession and trafficking of firearms and served a search warrant at his residence. A categorical use of force incident resulted.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
Subject: Male, 37 years of age.			

Board of Police Commissioners' Review

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

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on July 30, 2013.

Incident Summary

LAPD officers, along with agents from an outside law enforcement agency, executed a planned arrest of a Subject for illegal possession and trafficking of firearms and served a search warrant at his residence.

Previously, outside agency agents developed information that the Subject was trafficking firearms which were then sold to gang members.

Representatives from the outside agency contacted the Los Angeles office for assistance with the investigation and arrest of the Subject. Detective A and Agent A immediately opened an investigation into the Subject. During the inquiry into the Subject's criminal history, Detective A learned the Subject had multiple felony convictions which made it illegal for him to purchase or possess firearms.

Based on the above information, Detective A and Agent A formulated a plan to arrest the Subject. The Subject would be taken into custody and arrested for being a felon in possession of firearms. A search warrant would then be served on the Subject's residence.

A liquor store was selected to conduct the operation. The plan was to arrest the Subject in the rear parking lot of the liquor store. The rear parking lot had only one entrance and exit and, due to the high walls around it, appeared to be tactically suitable. .

Detective A and Agent A held a briefing in the parking lot of an LAPD training facility. During the briefing, Detective A and Agent A provided a synopsis of the case and their plan of action to the involved personnel.

Officers G and H conducted a tactical briefing which included the topics of the arrest and search warrant. Officer G also provided a picture of the Subject to the group and discussed the Subject's prior criminal history.

The arrest team staged north of the liquor store. Those officers were dressed in their standard issued utilities and tactical gear and were to utilize an armored black vehicle during the operation.

In addition, an air unit was overhead broadcasting the Subject's actions to those involved in the operation. Officer A wore a device which allowed his communication with the Subject to be broadcast in real time in case an emergency arose during the transaction.

Officer D observed and broadcast that the Subject had exited his residence and entered a vehicle. Several minutes later, Detective B observed the Subject in the vehicle drive into the rear of the liquor store parking lot.

Detective A directed officers to move in for the arrest of the Subject. Before any officers made their way to the rear parking lot, Officer I broadcast that the Subject had reentered his vehicle and was driving through the parking lot toward the street.

Detective B watched as the Subject drove toward the parking lot/exit. Detective B observed that the pre-planned containment units were not in position to prevent the Subject from leaving the location, as briefed. As such, Detective B simulated he was a citizen attempting to drive his vehicle into the driveway of the liquor store. Detective B stopped his vehicle on a section of the driveway which partially blocked the Subject's exit onto the road.

Simultaneously to Detective B stopping his vehicle on the street, Officers E and F drove their marked black and white police vehicle and stopped in the street on the side of the driveway. Together, their vehicles blocked the Subject from driving further on the street, which provided additional time for the arrest team to position their vehicle behind the Subject's vehicle and conduct a felony vehicle stop.

Detective B exited his vehicle and sought cover as Officer E drove the undercover vehicle behind the Subject's vehicle. The specialized unit officers deployed behind the Subject's vehicle and Officer J, who was armed with a shotgun, stated to the Subject, "Los Angeles Police Department, put your hands on top of your head and move away from the vehicle, get on the ground."

The Subject exited his vehicle, stood by the driver's door and raised his hands to shoulder level. The Subject looked around and then suddenly ran onto the street, toward a gas station located across the street. The Subject indicated that he jumped out of his car because he knew he was going to be taken into custody. He said he got scared because he saw so many officers with their guns out.

Note: Detective A and Officer B were aware of the Subject's prior arrests and convictions for possession of firearms and that he had purchased several firearms during the previous six to seven months. Detective A and Officer B believed the Subject was armed with a firearm.

Detective A drove down the street and activated his vehicle's rear emergency lights. Detective A stopped his vehicle at an angle on the street to block traffic. Officer B observed the Subject running on the street and yelled at him, "Stop, stop!" through his vehicle's open window.

Officer C exited the vehicle and observed the Subject trying to ascertain where he could run and then turned around and grabbed his waistband and took off running. Officer C ran to the corner in an effort to establish a perimeter to contain the Subject.

Detective A believed the Subject was going to run to the gas station located on the other side of the street and was concerned the Subject would have access to another vehicle or otherwise place the public in jeopardy if he made it into the gas station. Detective A activated his emergency lights and siren and attempted to drive his vehicle between the Subject and the gas station to dissuade the Subject from running into the gas station.

Officer B indicated that the Subject held onto his waistband while he ran which caused him to believe the Subject was armed and was going to shoot Officer B or his partner or the car. The Subject continued grasping at his waistband. Officer B reached down to the floorboard of the vehicle and picked up his shotgun. Officer B pointed the shotgun at the Subject, who continued to run. Officer B yelled at the Subject to stop and put his hands up. The Subject refused to comply and ran to the rear parking lot of a restaurant near the gas station.

Detective A and Officer B pursued the Subject to the rear parking lot of the restaurant. The Subject stopped running but appeared to look for an avenue of escape as he kept his hands under his shirt, grabbing his waistband.

Detective A was concerned the Subject would escape into the surrounding neighborhood. Due to the immediacy and closeness of the gas station and a school under a hundred yards away from that location, Detective A believed the officers needed to act immediately in the interest of public safety and isolate the Subject. Detective A used his vehicle to effectively contain the Subject within the rear parking lot and subsequently stopped adjacent to the Subject. Officer B opened his door, pointed his shotgun at the Subject and yelled, "Stop, put your hands up!" The Subject refused to comply.

Officer B exited the vehicle, holding his shotgun. Officer B held the pistol grip with his right hand as he issued verbal commands to the Subject. Officer B believed the Subject was advancing towards him with his hands still in his waistband area. In an effort to create some distance, Officer B kicked the Subject in the abdomen with his right foot which created a distance of approximately five feet.

Officer B again yelled, "Stop, put your hands up!" The Subject ignored the commands and with his hands still near his waistband continued to look around. Officer B kicked the Subject a second time in the abdomen while yelling, "Get on the ground." The Subject continued to not comply with Officer B's commands.

Meanwhile, specialized unit Officers E and F arrived in the rear parking lot of the restaurant, exited their vehicle and ran toward the Subject. Officer F used both of his hands and pushed the Subject on his chest with the intention of knocking him off balance and getting him down to the ground. Officer F pushed the Subject up against the wall and attempted to grab the Subject's left arm. The moment Officer F made contact with the Subject, he heard a "thud," and the Subject went to the ground.

Believing the Subject was armed and refusing to submit to custody, Officer B believed additional force was necessary to take the Subject into custody. At that point, Officer B conducted a strike with his hand. Officer B approached the Subject and canted the stock of the shotgun down and went with his right fist towards the Subject's face area. The Subject immediately went face down to the ground as Officer B yelled to the officers at scene to check the Subject's waistband.

Note: Officer B intended to punch the Subject in the face with his fist while still holding the shotgun. Officer B did not know if the shotgun made contact with the Subject.

The restaurant was equipped with a video surveillance camera which depicted the Subject's hands near his waistband prior to the use of force. The video also depicts the Subject may have been struck in the face with the shotgun. A review of the videotaped arrest of this incident appeared to show that the Subject was struck with the shotgun, consistent with the "thud" heard by Officer F.

Detective A exited his vehicle and indicated that an officer was beginning to engage the Subject, who still was not compliant, and it appeared that the Subject was being aggressive. The Subject was subsequently taken to the ground facedown, where Detective A placed his hands on the Subject's upper torso area and held him down.

Officer E approached and observed the Subject face down on the ground. The Subject's left hand was tucked under his abdomen and his left elbow stuck out away from his torso. Officer E believed the Subject was armed and attempted to pull the Subject's arm from underneath his body and place it behind his back to handcuff him. Simultaneously, Officer E ordered the Subject to show him his hand but he refused. In an effort to gain control of the Subject's left arm, Officer E used his left hand and punched the Subject two times on his left rear shoulder area. Officer E also placed his knee on the Subject's left shoulder blade area to gain leverage and enable him to pull the Subject's arm out from under his body.

Officer C, who had initially exited the vehicle, ran to the rear parking lot of the restaurant where he saw Officers E and F trying to handcuff the Subject. Officer C approached the Subject and punched him one time in the face with a closed fist. Officer C believed his distraction strike would help the officers overcome the Subject's resistance and successfully handcuff the Subject. Immediately after Officer C punched the Subject, Officers E and F were able to handcuff the Subject and complete a search. No weapons were found on the Subject.

Officer B looked at the Subject and saw blood on his face. Officer B was not sure if the blood was from the Subject falling to the ground after he was punched in the face or if it was from the Subject struggling with the officers while on the ground, during the handcuffing process.

Detective B arrived in the rear parking lot of the restaurant and observed the Subject bleeding. Detective B approached Detective A and Officers B and C to ask what had occurred. Officer B stated that he was involved in a use of force with the Subject. Officer B also stated he punched the Subject in the face and kicked him two times in the abdomen.

Officer J, an Emergency Medical Technician (EMT), cleared the Subject's vehicle and made his way across the street. Officer J approached the Subject, noted his injury and applied gauze to the left side of the Subject's forehead where he was bleeding.

Officer G requested a Rescue Ambulance (RA) for the Subject. Los Angeles Fire Department personnel were dispatched to the location. Fire Department personnel treated the Subject at the scene and transported him to a local hospital. Officer F rode in the RA with the Subject, while his partner, Officer E, followed in their police vehicle.

Lieutenant A, who was assigned to oversee the search warrant, heard the radio broadcast requesting the RA and responded to the scene. Upon his arrival, Officer B told Lieutenant A and Detective B he had struck the Subject with his fist. Lieutenant A asked Detective B if his hand hurt. Officer B realized he did not feel any pain in his hand, at which point Officer B began to believe he may have inadvertently hit the Subject with the shotgun instead of his hand and advised Lieutenant A and Detective B of this possibility.

Detective B observed a surveillance camera located to the rear of the restaurant and went inside to view any possible video. After viewing the video, Detective B believed a Categorical Use of Force had occurred. Subsequently, Lieutenant A also viewed the video. Consequently, Officer B was separated from the other officers at the scene and advised not to discuss the incident with anyone else. Officer B remained separated and monitored until he was interviewed by Force Investigation Division (FID).

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 Detectives A and B's tactics to warrant administrative disapproval. The BOPC found Officers B, C, E and F's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

The BOPC found Officers B, E and F's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC found Detective A's, along with Officers B, C, E and F's use of non-lethal force to be in policy.

D. Lethal Use of Force

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

Basis for Findings

A. Tactics

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

1. Tactical Communication

In this instance, an officer broadcast that the Subject had exited his residence, entered his vehicle and drove toward the liquor store. Based on a review of the statements, it appears it was unclear who would be broadcasting the Subject's movements as the operation unfolded.

Detective B recalled that the officers had arranged for Air Support to be overhead to monitor because the officers knew it would be difficult to ensure they had one hundred percent coverage. Officer F recalled not knowing that the Subject was at the location. He also indicated there was a delay in the communication.

Detective A recalled that as the planned meet-up was in progress, he was on the radio notifying that it was progressing and for the Take Down Team to move in and try and eliminate any lag time so the officers could respond appropriately to effect arrest.

When asked if he was given the responsibility to broadcast everything that was occurring, Officer I (the Tactical Flight Officer) recalled that such responsibility was not specifically given to him. He believed there was a point man at the scene but when the subject drove up, he didn't know if the point man had direct eyes on the scene, so Officer I voluntarily started providing information on what the Subject was doing.

In conclusion, the BOPC determined that the officers' actions did not substantially deviate from approved Department tactical training.

2. Tactical Plan Discipline

In this instance, the Subject entered his vehicle and drove toward the location. The BOPC recognizes and appreciates the challenges associated with this enforcement action as well as the planning that was involved to ensure this operation was conducted in the safest manner possible. However, there were deviations from the tactical plan where a contingency had been incorporated that delineated specific action to be implemented in the event the Subject exited the parking lot in his vehicle.

Operational success is directly related to adherence to the tactical plan. With a tactical plan developed that involved the utilization of uniformed arrest team communicated to all participants, and an air unit overhead, the BOPC was concerned regarding the decision by plainclothes personnel inserting themselves into the tactical situation, specifically Detectives A and B and Officer B.

The tactical plan contingency directed that if the Subject was able to escape in a vehicle, black and white vehicles would initiate a pursuit. If the Subject ran, the black and whites would attempt to detain, capture, or contain the Subject.

To that end, the BOPC was critical of and determined that Detective B substantially deviated from approved Department tactical training without justification. As to the decision by Detective A and Officer B to pursue the Subject, the BOPC acknowledged that the inherent nature of this operation creates a circumstance wherein inevitably variables will be introduced that requires officers to make split-second decisions to adapt to the circumstances.

The BOPC conducted a thorough and comprehensive review of the circumstances and concluded that the decision by Detective A and Officer B to pursue the Subject was a consequence of the tactical scenario as it unfolded, rather than an overt decision to deviate from the tactical plan. Therefore, the BOPC determined that the decision to pursue the Subject, although not ideal, was appropriate for the tactical situation and thus did not substantially deviate from approved Department tactical training.

In conclusion, Detectives A and B and Officer B could improve their future performance with a review of the use of uniformed personnel during a preplanned undercover tactical operation.

3. Tactical Vehicle Deployment

In this instance, as Detective A and Officer B pursued the Subject across the street, Detective A attempted to corral the Subject.

Detective A recalled that the Subject was running with his hand in his waistband, and Detective A believed the Subject was armed. The Subject was running towards the gas station on the corner, and Detective A believed the Subject was trying gain an advantage, possibly take a hostage, and try to escape. Detective A used his vehicle as a barrier to try and push the Subject away from the public and into an empty parking lot, so as to prevent an active shooter situation from occurring. Detective A used his vehicle in the manner he did to keep the Subject away from the public.

The Subject veered in a direction away from the gas station and ran down the driveway to the rear parking lot of the restaurant.

Officer B, believing that the Subject was armed and about to shoot him or his partner, reached down and picked up his shotgun, which was positioned between the center console and his left leg.

The BOPC reviewed the video of the rear parking lot and observed Detective A driving, with the Subject running along the passenger side of the vehicle, at times his hands positioned near his waistband area. As the Subject slowed his gait and the officers' vehicle was coming to a rest, Officer B could be observed exhibiting his shotgun with the front passenger door ajar. When the Subject and the officers' vehicle both stopped, the distance between Officer B and the Subject was a few feet.

Detective A was clearly aware that his driving tactics placed Officer B and himself at a severe tactical disadvantage; however, his decision to do so was in the interest of public safety.

Detective A indicated that the officers did not allow themselves as much cover as they would have in an ideal situation. Ideally, the officers would have wanted more distance and set up a perimeter. However, due to the proximity of the gas station and a school under a hundred yards away from the location, Detective A believed they needed to act immediately in the interest of public safety and isolate the Subject.

The BOPC acknowledged that consideration must be given to the fact that this was a highly stressful and dynamic incident. However, in the BOPC's overall assessment, the BOPC noted that Detective A was in ultimate control of the vehicle, and therefore ultimately responsible for the approach and deployment of the vehicle.

In the BOPC's evaluation of this tactical concern, the BOPC conducted a comprehensive and objective assessment of the actions of Detective A and Officer B and reviewed the video recording of the incident and the statements of these two involved personnel. After thorough consideration, the BOPC concluded that, although officers are trained to work as a team, the rapidly

unfolding events and the reasonable concern that the Subject was armed and posed a significant threat to the officers, required the utmost attention and concentration of Officer B. In this unique instance, it was reasonable for Officer B to focus solely on the Subject rather than engage in verbal direction to his partner. In this specific case, Detective A and Officer B had separate tactical responsibilities, the vehicle positioning and the engagement of the Subject, respectively.

In conclusion, the BOPC determined that the actions of Detective A placed Officer B and himself at a significant tactical disadvantage and substantially and unjustifiably deviated from approved Department tactical training. As for Officer B, the BOPC determined that his actions were consistent with his role in this situation and did not substantially deviate from approved Department tactical training. .

- The BOPC additionally considered the following:

1. Simultaneous (non-conflicting) Commands

The investigation revealed that several officers were issuing simultaneous/non-conflicting commands to the Subject in an attempt to gain compliance. The officers are trained to utilize the concept of contact and cover where one officer gives the verbal commands while the other provides cover due to the possibility of differing commands creating confusion in the mind of the Subject, which may ultimately result in non-compliance.

2. Situational Awareness

In this instance, Officers E and F stopped their vehicle on the driveway apron and blocked the Subject from driving onto the street. Shortly thereafter, the vehicle drove up and positioned itself behind the Subject's vehicle. Officers that were deployed in front and to the rear of the Subject's vehicle drew/exhibited their respective weapons, thereby creating a potential crossfire situation. Although the Subject remained positioned between the officers only momentarily before he fled on foot, when multiple officers are faced with a potentially armed subject that is on the move, crossfire can become a potential factor. Officers E and F are reminded to remain cognizant of their backgrounds when positioning their police vehicle.

3. Ballistic Capabilities

In this instance, as Detective A pursued the Subject, Officer B observed the Subject with his back to him, grasping his waistband area. Believing the Subject was armed and posed a deadly threat, Officer B retrieved his Department shotgun and stuck it on top of the dash facing the Subject, who was in front of the officers through the window. Officer B further stated that the window is slanted

so you have to shoot a little high so the impacts go down. Officer B is reminded that when firing through a windshield, the trajectory of round(s) can be significantly impacted.

4. Language

In this instance the Subject reported hearing an officer yell out, "*Get the f'ck on the ground.*" Personnel from FID discussed the above matter with the Commanding Officer of a specialized unit, who believed this matter did not rise to the level of misconduct, and he viewed this as more of a tactical language training issue that he would handle via counseling. Although the BOPC concurred with the action undertaken by the Captain, nevertheless this will be a topic of discussion during the Tactical Debrief.

5. Initiating Contact while Holding a Shotgun

In this instance, Officer B intended to punch the Subject in the face; however, as the act occurred while holding his shotgun, it precipitated an inadvertent head strike. Officer B is reminded that an officer's hands should be free of equipment when initiating physical contact with a suspect as they may inhibit an officer's ability to fully engage the Subject.

6. Punches to the Boney Areas

In this instance, Officer F punched the Subject on the left side of his face. Officer F is reminded that punches to boney areas may cause self-injury, resulting in the inability to utilize other force options.

7. Control of a Handcuffed Subject

In this instance, while the Subject was being transported in an ambulance to a hospital, accompanied by Officer F, the Subject retrieved a cellular phone from his person. According to Los Angeles Fire Department personnel, the Subject was on the phone and an officer took his phone. Although the Subject had been previously searched for weapons and was handcuffed, Officer F is reminded to maintain vigilance and effective control of a subject.

These will be topics of discussion during 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.

This case resulted in significant discussion at the tactics board. Those discussions focused on the actions of Detectives A and B in light of Department expectations and approved Department tactical training. The BOPC concurred with the critical evaluation of the actions of Detective B and concur that his actions substantially deviated from approved Department tactical training without justification.

The BOPC found that the tactics utilized by Detective A substantially deviated from approved Department tactical training, and that those deviations were not justified.

As for Officers B, C, E and F, the BOPC determined that their actions did not substantially deviate from approved Department tactical training and that a Tactical Debrief is the appropriate mechanism for the above officers to discuss the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future.

The BOPC found Detectives A and B's tactics to warrant Administrative Disapproval. The BOPC also directed that Detectives A and B, along with Officers B, C, E and F attend a Tactical Debrief.

B. Drawing/Exhibiting

- In this instance, Officers B, E and F attended a briefing wherein information was disseminated that the Subject was trafficking firearms from out-of-state.

Officers E and F deployed their police vehicle on the apron of the driveway in front of the Subject's vehicle. As they exited their vehicle and tactically deployed behind their respective doors, they drew their service pistols.

Officer F believed the situation could escalate to great bodily injury or death to himself or to the public. Also, Officer F knew there were guns involved in the transaction. Officer E recalled that due to 13 years of law enforcement experience, combined with the fact that the Subject had "traded" in weapons and narcotics, often the people involved in such activities could be expected to be armed.

The Subject exited his vehicle and fled on foot across the street. As Detective A and Officer B drove after the Subject, Officer B retrieved his shotgun, which was leaning against the front seat, positioned between his left leg and the center console area.

Officer B felt that the Subject was going to shoot him or his partner because the Subject was grasping at his waistband. Officer B was wondering whether the Subject was going to turn around and shoot. Officer B reached down to the ground and picked up the shotgun.

Based on the totality of the circumstances, the BOPC determined that officers with similar training and experience as Officers B, E and F, 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 Officers B, E and F's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

- **Officer B** – Front Kicks
- **Officer C** – Punch
- **Officer E** – Punches, Bodyweight, Physical Force
- **Officer F** – Physical Force, Firm Grips
- **Detective A** – Bodyweight

In this instance, the Subject fled on foot with his hands holding his waistband area. Based on the Subject's actions, coupled with his criminal history, Detective A, along with Officers B, C, E and F believed the Subject was armed.

At the termination of the foot pursuit, Officer B and Detective A exited their vehicle. The Subject was standing within a few feet of Officer B with his hand on his waistband area. The Subject ignored Officer B's commands to put his hands up and appeared to advance toward Officer B, resulting in Officer B delivering two front kicks to the Subject's abdominal area, effectively pushing him rearward.

Officer B felt that the Subject was advancing on him with his hands on his waistband. The Subject was not stopping or going to the ground. Officer B utilized a front kick to try to get the Subject away from him, to try to get some distance. Officer B saw the kick was somewhat effective and saw the Subject come up with his hands still on his waistband. At this point, Officer B kicked the Subject a second time.

In the interim, Officers E and F arrived at the scene. As Officer F ran to provide assistance, he observed the Subject advance toward Officer B and Officer B deliver a front kick to the Subject. Unable to see the Subject's hands, Officer F used both hands and his left shoulder, along with his forward momentum, to push the Subject against the wall. Officer F then grabbed the Subject's left arm with both hands and attempted to force him to the ground.

Officer F recalled that the Subject was not complying with any of the officers' commands. It was at that point that Officer B struck the Subject in the head while holding his shotgun.

The Subject collapsed to the ground in a prone position with both hands concealed under his body. Detective A knelt down next to the Subject and placed his hands on the Subject's upper torso area to hold it down.

Detective A recalled that the Subject was not complying with the orders. Officers had to put his hands on the Subject to take the Subject into custody. Detective A had both his hands on his upper chest area trying to keep him from moving around as one of the officers handcuffed the Subject.

Simultaneously, Officer E attempted to gain control of the Subject's left arm and Officer F's right arm. The Subject refused to voluntarily remove his hands from under his body, resulting in Officer E punching the Subject twice on his left rear shoulder area. Officer E also placed his knee on the Subject's left shoulder blade area to obtain leverage and facilitate the removal of the Subject's left arm from underneath his body. Officer E recalled that the officers' primary concern was trying to get leverage with respect to the Subject's hands.

Shortly thereafter, Officer C arrived at the scene. Noting the officers were struggling to handcuff the Subject, Officer C punched the Subject on the left side of his face. Officer C recalled seeing officers on top of the Subject giving him commands to stop resisting. He could hear the officers also saying to watch the Subject's hands, but the Subject was not cooperating and was resisting the officers. Officer C wanted to prevent any injuries to himself or his partners, given that the Subject had a gun. Officer C ran and utilized a distraction strike against the Subject, where he gave him a punch with a closed fist and hit him in the face.

Officers E and F then handcuffed the Subject.

The BOPC determined that an officer with similar training and experience would reasonably believe that the force used to effect the Subject's arrest was justified and would have acted in a similar manner. In conclusion, the BOPC found Detective A, along with Officers B, C, E and F's non-lethal use of force to be in policy.

D. Lethal Use of Force

- Officer B and Detective A pursued the Subject, whom the officers believed to be armed, in their vehicle, while Officer B was yelling out the open passenger window, ordering the Subject to stop. The Subject ignored Officer B's commands and continued to flee to the rear parking lot of the restaurant. Officer B recalled that at this point he felt as though the Subject was going to shoot him or his partner.

As the Subject slowed to a walk, Detective A stopped the vehicle, positioning the passenger side near the Subject. Officer B exited his vehicle with his shotgun, yelling at the Subject to put his hands up. Believing that the Subject was advancing toward him, Officer B delivered two front kicks to the Subject, creating a distance of

approximately five feet between them. The Subject continued, while holding onto his waistband. Officer B was waiting for the Subject's gun to come out.

Officer B continued to order the Subject to put his hands up and get on the ground; however, the Subject ignored the officer's commands. Moments later, Officer F ran up and grabbed the Subject's left arm. Regarding the status of the Subject's right hand, Officer B observed it to be concealed underneath his shirt grasping at the waistband area. In response, Officer B punched the Subject in the face with his right fist while holding his shotgun. The Subject collapsed to the ground in a prone position. Officer B believed that more force was necessary because of the Subject's actions, so he decided to conduct a strike with his hand. He approached the Subject and canted the stock of the shotgun down and went with his right fist towards the Subject's face area. And when the impact happened, he saw the Subject go down to the ground. Officer B yelled, "Check the waistband."

Officer B stepped rearward and provided cover, while Detective A and Officers C and E joined in the struggle to handcuff the Subject. Once the Subject was handcuffed and searched, Officer B observed blood on the Subject's face. As Officer B believed he had punched the Subject in the face with his fist, Officer B surmised the Subject's head injury was incurred as the Subject fell to the ground.

Detective B and Lieutenant A arrived at the scene and they, along with personnel from the specialized unit, initiated a preliminary investigation to determine what had occurred and the involvement of their respective personnel.

Detective B indicated that when he spoke with Officer B, Officer B said that he was involved in a use of force. He indicated that he had punched the Subject but also indicated that he was unsure whether the shotgun had made contact with the Subject or not.

The BOPC noted Officer B was very forthcoming when he provided his statement to Detective B regarding the punch and the role the shotgun may have played. Still not identified as a Categorical Use of Force incident, Officer B's realization that he may have inadvertently struck the Subject with the shotgun was catalyzed by Lieutenant A asking if his hand hurt.

Officer B recalled that when he was asked what happened, he responded that he utilized a front kick and punched the Subject. Officer B went down. When asked how his hand was, Officer B knew his hand felt okay. Officer B then thought that he may have accidentally hit the Subject with the firearm because if Officer B had struck the Subject with a hand, he would have broken his hand. He told Lieutenant A that he meant to punch the Subject, but it was possible he could have hit him with the shotgun even though he did not intend to do so. Officer B's intentions were to use a distraction strike to the face to try to make sure that he didn't go for his gun.

The BOPC evaluated evidence to determine the nature of the head strike. They reviewed the photographs of the Subject's head injury, the video capturing the incident and transcribed statements.

Note: The FID investigators were unable to determine with certainty how the Subject's head injury occurred based solely on a review of the video. The video of the incident was enhanced. After viewing the enhanced videos, FID investigators were still unable to determine the cause of the Subject's injury. A synopsis of the incident, along with photographs of the Subject's injury was provided to the Los Angeles County Department of Coroner for analysis. The coroner's office personnel were unable to definitively determine how the Subject's injury occurred and opined the Subject's injury may have been caused by either the shotgun or Officer B's hand or a combination of both.

After giving consideration to all the evidence, the BOPC concluded it was not possible to definitively determine the mechanism that caused the head injury. The investigation was thorough and exhausted all efforts to corroborate the position of the Subject's right hand at the time the decision was made to strike him in the head. Although this aspect of the incident was not corroborated by witness statements, there is no evidence to refute the perceptions of Officer B and his depiction of events that influenced his decision to strike the Subject in the head with his hand that controlled the stock of his shotgun. Consequently, the BOPC concluded that the strike to the Subject's head was objectively reasonable considering the likelihood that the Subject was armed and the perception that he was arming himself.

After evaluating the multitude of evidence, given the totality of the circumstances, an officer with similar training and experience as Officer B would reasonably believe that the Subject was attempting to arm himself and that he posed an imminent threat of serious bodily injury or death. In conclusion, Officer B's act of striking the Subject in the head with the shotgun was objectively reasonable and within Department policy.

In conclusion, the BOPC found Officer B's head strike and use of lethal force to be in policy.