

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

**LAW ENFORCEMENT RELATED INJURY – 63-13**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Newton	07/20/13		
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<b>Officers(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	4 years, 1 month
Officer B	4 years, 1 month

**Reason for Police Contact**

Officers A and B were attempting to detain the Subject for an assault investigation when the Subject fled on a bicycle, resulting in a Law Enforcement Related Injury (LERI).

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject: Male, 32 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 suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Chief 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 June 24, 2014.

## **Incident Summary**

On the date of this incident, Witness A called 911 and told the Los Angeles Police Department (LAPD) Communications Division (CD) that the Subject had pulled a gun on him and threatened to kill him.

CD issued a broadcast that there was a man with a gun, wearing a white shirt, black shorts, with a backpack on a bicycle, unknown type handgun in backpack, and that officers should respond with emergency lights and siren. The call was assigned to Newton Patrol Division uniformed Officers A and B, who were in a marked black and white police vehicle equipped with ballistic door panels. While enroute to the call, Officer B read the comments of the call from their Mobile Digital Computer (MDC) to Officer A. Air Support Division Police Officers C and D heard the radio call and also responded.

CD broadcast additional information that Witness A was a male, wearing a blue shirt and green pants, and would direct the officers to the Subject. As Officers A and B drove toward the call, they observed Witness A, who flagged the officers down and told them that he was the person who had called. Officer B advised CD that they has arrived at the location as Officer A pulled to the curb.

Witness A urgently told the officers that he knew where the Subject was and pointed to a nearby hotel. The officers remained in their vehicle, while Witness A explained that he was punched in the face by the Subject and that the Subject had removed a gun from a backpack and pulled it on him. According to Witness A, the Subject then put the gun back in his backpack and walked away. Witness A believed the Subject went into a nearby hotel.

While Officer A was speaking with Witness A, he observed a male, who matched the description of the Subject that was provided by Witness A, near the hotel. The Subject then picked up a green bicycle that was lying on the sidewalk and quickly pedaled away. Officer A asked Witness A if the person on the green bicycle was the person that pulled a gun on him. Witness A confirmed that it was and told the officers that the Subject had the gun in his backpack. Officers A and B drove their vehicle east and followed the Subject.

According to Officer A, he was attempting to get close enough to see the Subject's hands and observe where he was going. Although Officer B did not broadcast that the officers were following the Subject, he was aware that another patrol unit was backing them up on the call.

After riding approximately one block, the Subject turned his bicycle north and as Officer A turned north, he activated his emergency lights and siren to get the Subject's attention and make him stop. After travelling approximately 100 yards, the Subject turned and looked back at the officers. According to Officer A, the Subject mouthed, "Oh, shit," or something similar and nodded his head in disappointment. When Officer A's vehicle

was within five feet of the Subject, he stopped his vehicle. Simultaneously, the Subject turned his bicycle around and began travelling south.

**Note:** The Subject was interviewed upon being taken into custody and stated that the officer told him to pull over and to stop the bike, but he turned the bike around and went in the opposite direction.

**Note:** Officer A indicated his intent when his car came to a stop was to get out, obtain a steady platform and broadcast the officers' location, but that the Subject's turn was continuous, and it did not provide him an opportunity to make a broadcast.

With his door open, Officer B unholstered his duty pistol. Officer B held his pistol in a two-handed low-ready position. Officer B observed the Subject wearing the backpack and believed that with the gun in the backpack, in close proximity to him, the Subject could potentially take it out and shoot them. With the door open and while he was half in and half out of the vehicle, Officer B ordered the Subject to stop, put his hands up, and get on the ground. According to Officer B, the Subject repeatedly yelled, "I didn't do anything," as he continued riding south. The Subject was approximately four feet away in the street as he passed the passenger side of the officers' vehicle. It appeared to Officer B that the Subject observed his handgun and was scared. Officer B believed the Subject wanted to escape from the officers.

Based on the Subject's movement and behavior, Officer B holstered his pistol and went in foot pursuit to prevent the Subject from fleeing. As the Subject rode south, Officer B observed him still wearing the backpack on his back with both straps over his shoulders. Officer B broadcast a back-up request on the local radio frequency (Simplex) as the Subject continued south, and then east.

**Note:** Officer B elected to go in foot pursuit of the Subject rather than reenter the police vehicle because, after running a short distance, he believed the police vehicle was too far away from him, and he did not want to take his eyes off of the Subject.

On their initial approach to the call, Officer B had been in contact with the Air Unit on a Simplex frequency, such that Officer B went in foot pursuit, his radio was still on Simplex. Officer B did not know if the air unit or any other unit acknowledged his broadcast.

Simultaneously, Officer A drove his vehicle, in reverse, southbound and continued in reverse until he reached the intersection, where he drove forward and followed the Subject. Officer A stated his intent was to follow and contain the Subject.

Officer A repeatedly looked back to maintain sight of Officer B, who continued on foot on the sidewalk. Officer A observed that the Subject was no longer wearing the backpack, but had now moved it to his right hand. Officer A had his overhead emergency lights activated and manually activated his siren as he repeatedly yelled for

the Subject to stop, using his unaided voice. The Subject repeatedly looked back at him while continuing to hold the backpack in his right hand.

As the Subject continued east, he rode into the westbound traffic lanes against traffic. Officer A stated he followed the Subject with his police vehicle to avoid being on the Subject's right side. Officer A believed the Subject had the gun in the backpack next to his right hand and believed it would be easier for the Subject to shoot him from that position. Officer A also stated that since the Subject was riding into oncoming traffic, he believed his police vehicle, with its overhead emergency lights and siren on, could be more easily seen by oncoming traffic.

As Officer A closed the distance between he and the Subject as they continued east in the westbound traffic lanes, Officer A observed that the zipper to the backpack was open. While steering the bicycle with his left hand, the Subject transitioned the backpack to his right side. The Subject maintained control of the backpack by pressing it against the right side of his body with the inside of his upper right arm. Officer A observed the Subject looking back at him over his right shoulder with his body bladed back toward him. The Subject reached inside the backpack with his right hand through the large compartment opening. With his hand in the backpack, the Subject extended his right arm back toward Officer A. Officer A believed the Subject was holding the gun in his right hand and that he was going to shoot him through the backpack.

**Note:** Video surveillance depicts the Subject travelling eastbound in the westbound traffic lanes. The backpack is visible on Subject's right side. The position of Subject's right hand and arm cannot be determined.

Based on the Subject's actions, Officer A believed his best option to avoid being shot was to get the Subject off the bicycle by bumping him with his vehicle. Officer A believed if he stopped, got out and unholstered his weapon it would have taken too much time and he needed to act quickly to save his life and the lives of others who were on the sidewalk at the time.

According to Officer A, at an approximate speed of 5 to 10 miles an hour, he steered his vehicle toward the Subject and bumped the bicycle's rear tire with the front right portion of his police vehicle. Officer A then steered his vehicle to the left, away from the Subject, while braking. The contact caused the Subject to go to the ground in the number one, eastbound lane.

**Note:** Video surveillance depicts Officer A following the Subject east in the westbound lanes for approximately 50 yards. Officer B stated that during the pursuit, he did not lose sight of the Subject or Officer A. Officer B's vantage point did not allow him to see Subject's actions or the vehicle actually make contact with the bicycle. Video surveillance depicts Officer B in the number two lane of westbound traffic, approximately 50 yards behind Officer A, at the approximate time when Officer A struck the Subject with his police vehicle.

Officer A stopped his vehicle, exited and expected to see the Subject on the ground. Officer A unholstered his pistol because he was in close proximity to a potentially armed Subject.

When Officer A exited his vehicle, he observed the Subject get up and begin running toward the southeast corner, with the backpack in his right hand. Officer A holstered his pistol and followed the Subject, attempting to contain him. Officer A broadcast to CD that they were in foot pursuit of a man with a gun and provided his location.

At the southeast corner, the Subject tripped over the curb and fell onto the sidewalk while still holding the backpack. While on the ground, the Subject moved a short distance on his hands and knees, before he threw the backpack approximately five feet to the curb.

**Note:** A review of video surveillance depicts a partially obscured view of the impact between the police vehicle and the Subject. The position of Subject's hand prior to the impact cannot be determined. After the impact, the Subject is seen getting up and running in a southeasterly direction, prior to tripping on the curb at the southeast corner of the intersection.

The officers each placed a knee on the Subject's back and used their body weight to control the Subject, as he attempted to get away.

The Subject was subsequently handcuffed without further incident. During the handcuffing, Officer A heard the Subject say, "I was just trying to sell it. I was just trying to sell it." Officer A assumed the Subject was referring to the gun. Officer B retrieved the backpack from the curb and brought it to Officer A, while Officer A maintained control of Subject. Officer A searched the Subject for additional weapons, but did not locate any. Officer A looked in the backpack and determined the weapon was a BB gun.

Officer A issued a broadcast requesting additional units for crowd control and advised that the Subject was in custody. Officer A also broadcast a request for a Rescue Ambulance (RA). Shortly after the Subject was taken into custody, a hostile crowd gathered. According to Officer A, Witness A went to the scene and told members of the crowd that he was the one who called the police. Based on the fact that the crowd was hostile and to ensure the preservation of evidence, Officer A placed the backpack with the BB gun in the trunk of his police vehicle for safe keeping.

Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) arrived at the scene. The Subject was transported to a local hospital for medical treatment.

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

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all 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 and Exhibiting 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 unanimously made the following findings.

#### **A. Tactics**

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

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

The BOPC found Officers A and B's drawing and exhibition of a firearm to be in policy.

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

The BOPC found Officers A, B's use of non-lethal 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**

#### **A. Tactics**

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

1. Situational Awareness

Officer B effectively utilized Department resources to convey information to his partner, Officer A, the air unit over the area, and the unit responding to the radio call. As Officer A drove to the radio call, Officer B read the comments of the call from the Mobile Digital Computer (MDC). Officer B also decided to maximize his sphere of observation over the area by utilizing the air unit overhead. In addition, Officer B heard another unit broadcast their response to the radio call.

Officers are often required to gather and transmit critical information when responding to a call for service. In this situation, Officer B effectively and appropriately utilized the resources available to him to disseminate pertinent information without delay.

**Note:** Officer B used his hand-held radio to communicate with the air unit; however, the radio in the officers' police vehicle remained on the Area base frequency.

The BOPC recognized Officer B's initiative and awareness to ensure all involved personnel were mindful of the current situation and his understanding of the importance of exchanging information. The topic of situational awareness will be discussed during the Tactical Debrief.

## 2. Tactical/Vehicle Deployment

Officers A and B remained in their police vehicle, as they spoke with Witness A regarding the reported armed Subject.

The officers observed Witness A flagging them down and matched the description of the PR – male wearing a blue shirt and green pants. Consequently, the officers pulled over to the curb and contacted Witness A without exiting their vehicle. Based on the comments of the radio call and their prompt response to the scene, the officers elected to remain inside of their vehicle, as they intended to only ascertain the information necessary from Witness A to quickly redeploy in the area in search for the armed Subject.

**Note:** The officers arrived at the scene approximately six minutes after receiving the radio call.

According to Officer A, this incident happened very quickly, and due to the location of where the officers were with the high buildings, combined with not knowing where the Subject was, and knowing he was on a bicycle nearby, it just seemed to be tactically advantageous to remain in the vehicle to obtain the basic information before stepping out.

According to Officer B, he does not typically remain in his vehicle when contacting a victim of a crime; however this situation possessed exigent circumstances because the Subject had a gun and could be inside a nearby hotel. Officer B wanted to obtain as much information as possible and then go to the hotel and locate the Subject.

The BOPC took into consideration that Officers A and B's decision to remain inside of their vehicle while speaking to Witness A was based on several reasonable factors. One of these factors was as the officers approached; they noted Witness A matched the description of the PR from the comments of the call. Witness A also flagged the officers down once they were in sight of Witness A, further indicating that Witness A was likely the PR. Witness A was also in the area where the crime occurred, logically connecting him to the incident. Finally, the BOPC took into consideration that the officers' decision to remain inside of

their police vehicle was so that they could obtain initial information to locate the Subject quickly and was relatively short in duration.

Officers A and B are reminded that remaining inside the police vehicle while speaking with persons regarding criminal activity, no matter the duration, places them at a tactical disadvantage. The BOPC would have preferred that they exit their vehicle and speak with the individuals related to the incident, providing the officers with the highest level of safety, consistent with Department tactical training.

In conclusion, the BOPC's assessment of the officers' actions regarding remaining inside the police vehicle while speaking with individuals was a substantial deviation from Department approved tactical training. However, as indicated during the BOPC's aforementioned rationale, the officers' actions were justified in this specific case. This topic will be discussed during the Tactical Debrief.

### 3. Radio Communication/Back-up Request

Officers A and B followed the Subject on the roadway for approximately a block. During this period neither Officer A nor B updated their status with CD. As the Subject continued north, Officer B broadcast a back-up request on the Area's Simplex frequency.

**Note:** On their initial approach to the call, Officer B switched to the Simplex frequency in order to make contact with the air unit for their assistance. When Officer B initiated his foot pursuit, his radio remained on simplex. Officer B did not know if the air unit or any units acknowledged his broadcast.

Although, the BOPC appreciated the officers' initiative and quick response to a potentially dangerous situation, the importance of an appropriate and timely communication broadcast can never be understated. The BOPC did, however, recognize that this was a rapidly unfolding tactical situation that may have impacted the officers' ability to safely broadcast their updated status. This was coupled with Officers A and B's prior knowledge that an additional unit was en route to their location. However, they are reminded of the importance that continual assessment of their current situation is a necessary tool for the highest level of tactical performance. The BOPC would have preferred the officers provide an updated broadcast, facilitating the response of additional units to their location should they become necessary.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's actions did not substantially deviate from approved Department tactical training. This will be a topic for discussion at the Tactical Debrief.

### 4. Separation



Officer A pursued the Subject in their police vehicle, while Officer B pursued the Subject on foot for approximately one and a half blocks. The officers' entire pursuit of the Subject was conducted with Officer A in their police vehicle and Officer B chasing behind them on foot.

According to Officer A, he and Officer B have worked together for a number of years and discussed tactics, knowing that they never lose sight of each other. Officer A stated that if one of them is in foot pursuit, it is advantageous to have the vehicle nearby in the event they need it. According to Officer A, it is also an advantage to have the vehicle because one officer will be fresh from not running, in the event the Subject wants to fight.

According to Officer B, at that point, the Subject immediately placed his foot on both pedals and rode off at a fast rate. Officer B stated he was unable to get back into the police vehicle, so he initiated a foot pursuit.

The BOPC evaluated the decision by Officer A to remain inside the police vehicle while his partner engaged in the foot pursuit and determined that it was not consistent with approved Department tactical training. Such a decision would unreasonably delay either officer's ability to render aid to the other when confronted by the Subject. Officer A's actions subsequently placed himself and his partner at a tactical disadvantage with a Subject they believed to be armed with a firearm. As such, the officers were separated from each other for approximately one block until Officer A used their police vehicle to stop the Subject.

**Note:** A review of video surveillance depicts Officer A driving past the northeast corner of an intersection and approximately eight seconds later, Officer B is observed passing the same corner on foot.

The BOPC further noted that Officer B bears equal responsibility in the actions which led up to his separation from Officer A. Officer B's decision to initiate a foot pursuit of an armed subject without communicating to his partner contributed to tactical deficiencies in this situation. It was the BOPC's expectation that an officer communicates such pertinent information to his or her partner so that appropriate tactical decisions can be made by both officers. Officer B also did not utilize overt actions or radio communication during the time he was separated from his partner in an effort to gain Officer A's attention.

According to Officer B, he and Officer A had discussed tactics on prior occasions. Officer B indicated that this particular method of chasing a Subject (one officer in the car and the other on foot) had been previously successful because the person driving the vehicle moves faster than someone running or on a bicycle. According to Officer B, the car would then be used to block the path of the Subject so that the officer in foot pursuit can catch up and they meet together.

In conclusion, Officers A and B were equally responsible for the substantial deviation regarding their pursuit of the Subject. The decision to engage in the pursuit of an armed Subject without immediate tactical support from each other substantially and unjustifiably deviated from approved Department tactical training. This topic will be discussed during the Tactical Debrief.

#### 5. Tactical Driving – Wrong Way

In an effort to avoid the Subject's right side, Officer A drove on the wrong side of the roadway with his emergency lights and siren on, as he pursued the Subject. Generally, driving on the wrong side of the roadway is not consistent with Department tactical training. However, in this case, Officer A was faced with a unique set of circumstances during the Subject's unexpected and rapid movements.

Those actions, coupled with Officer A observing the Subject reposition his backpack with his right hand inside the bag where the handgun was believed to be located, as the Subject pointed the backpack in his direction, led Officer A to conclude that the Subject was going to shoot him. Consequently, Officer A decided to react contrary to approved Department tactical training in order to counter the Subject's actions.

Based on the previous information Officer A ascertained from Witness A, that the Subject was in possession of a handgun inside this backpack, in conjunction with the Subject's current actions leading to the belief that he was about to be shot, Officer A's redeployment to the opposite side of the roadway was understandable under these circumstances. Furthermore, although driving on the wrong side of the roadway inherently places the public at risk, that fact was outweighed by Officer A's perceived Immediate Defense of Life (IDOL). In addition, Officer A activated his emergency lights and siren to alert any vehicles on the roadway of his movements. Officer A further believed the initiation of his emergency equipment would alert potential oncoming traffic of the Subject's presence on his bicycle.

Although Officer A's actions demonstrated a substantial deviation from approved Department tactical training, it was justified under the specific circumstances. Officer A had to make a split-second decision, during a rapidly unfolding incident that presented a potentially dangerous situation for him and others. Nevertheless, Officer A is reminded of the inherent dangers to himself, his partner and uninvolved community members while in pursuit of the Subject into opposing lanes of traffic. This topic will be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:
  1. Simplex Frequency

While en route to the radio call, Officer B utilized the simplex frequency on his hand-held radio to communicate with the air unit. However, Officer B did not switch his radio back to the Area Base Frequency. As the incident developed, Officer B inadvertently broadcast a back-up request on the simplex frequency and did not know if any other unit acknowledged his request.

Officers A and B are reminded that the use of simplex frequency has inherent limitations, and officer safety can be compromised in the event officers do not hear and are unaware of rapidly unfolding tactical situations. Therefore, Officers A and B could benefit from a review of the simplex frequency limitations. This topic will be discussed during the Tactical Debrief.

## 2. Preservation of Evidence

Once the Subject was taken into custody, Officer B retrieved the Subject's backpack from the street and brought it back to Officer A. Officer A looked into the backpack and determined the handgun was a BB gun. Officer A is reminded that preservation of evidence is paramount upon the conclusion of an OIS incident.

Furthermore, following the incident a hostile crowd gathered, causing Officer A to place the backpack in the trunk of the police vehicle. Although it was reasonable for Officers A and B to recover the evidence in this case, preservation of evidence cannot be understated. This will be a topic 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.

Each tactical incident merits a comprehensive debriefing. A Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident with the objective of improving overall organizational and individual performance.

In conclusion, the BOPC found Officers A and B's tactics to warrant a finding of Administrative Disapproval.

## **B. Drawing/Exhibiting**

- Officers A and B responded to a "415 [disturbance] man with a gun" radio call. Upon their arrival, the officers were flagged down by Witness A, who advised the officers that the Subject had punched him in the face and brandished a handgun. The Subject then placed the gun in a black backpack and walked away. As the officers met with Witness A, the Subject was initially observed on foot, then riding away on a

bicycle. The officers followed and attempted to stop the Subject. Believing that the Subject was armed with a firearm, Officer B drew his service pistol and ordered the Subject to stop.

According to Officer B, he unholstered his gun because he knew that the Subject had been identified by Witness A as being armed with a gun in his backpack. Officer B recalled observing a black backpack on the Subject at the time he unholstered his gun because the Subject had immediate access to the weapon. Officer B recognized that that the Subject could remove the weapon and shoot at him and/or Officer A and could harm someone nearby.

The Subject refused to stop and rode away. Believing that he could apprehend the Subject, Officer B holstered his pistol and pursued the Subject on foot, while Officer A followed in the police vehicle.

As Officer A pursued the Subject in the police vehicle, he observed the Subject holding his backpack with his right hand. Officer A observed the Subject reach into his backpack and concluded that the Subject was going to acquire the handgun and shoot him. Believing he was in imminent danger, Officer A intentionally struck the rear tire of the bicycle with the right front bumper of the police vehicle. This action caused the Subject to fall off of the bicycle and onto the roadway. Officer A exited their vehicle and believing the Subject possessed a handgun, drew his pistol. The Subject stood up and ran a short distance before falling on the curb, where he was taken into custody.

According to Officer A, he had a potentially armed Subject that was very close to him and believed that he needed to have his duty weapon out in order to protect himself. Officer A was giving commands to the Subject and knew that at any time, the Subject could come up and fire on him.

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 that the situation may escalate to the point where lethal 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**

- After Officer A struck the bicycle with their police vehicle, the Subject fell onto the roadway. Subsequently, the Subject stood up and fled on foot, away from Officer A. As the Subject ran toward the curb, he tripped and fell onto the sidewalk while still in possession of the backpack. On his hands and feet, the Subject moved a short distance before throwing the backpack approximately five feet onto the curb.

**Note:** A review of video surveillance footage depicts a partially obscured view of the impact between the police vehicle and the Subject's bicycle. After the impact, the Subject was seen standing up from the roadway and running in a southeasterly direction. Approximately eight seconds later, Officer B appeared in the video running toward Officer A and the Subject's location.

Officers A and B approached the Subject and used non-lethal force to overcome the Subject's resistance and prevent his escape. Officers A and B each placed a knee on the Subject's back and used bodyweight and firm grips to control and handcuff him. Officer B retrieved the backpack from the curb and brought it to Officer A, while Officer A maintained control of the Subject.

- **Officer A** – Bodyweight, Physical Force and Firm Grip.

According to Officer A, prior to taking the Subject into custody, he still had the backpack. The Subject threw the backpack away from him as soon as he did, Officer A used his bodyweight to handcuff him. Officer A also needed Officer B to help handcuff him because the Subject was still moving and trying to get away.

- **Officer B** – Bodyweight, Physical Force and Firm Grip.

According to Officer B, he placed his bodyweight on the Subject's back so that he would not move and then grabbed his right hand. Officer B recalled that Officer A had the Subject's left hand and he (Officer B) handcuffed the Subject.

After a thorough review of the incident and involved officers' statements, the BOPC determined that officers with similar training and experience as Officers A and B would believe the application of non-lethal force was reasonable to overcome the Subject's resistance and prevent his escape.

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

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

- As Officer A pursued the Subject in the police vehicle, he observed the Subject holding his backpack with his right hand. Officer A observed the Subject reach into his backpack where the gun was believed to be. Believing the Subject was going to retrieve the gun and shoot him, Officer A intentionally struck the rear tire of the bicycle with the right front bumper of the police vehicle. This action knocked the Subject off of the bicycle and onto the roadway.

According to Officer A, he believed that if he did nothing, the Subject was going to shoot him, therefore, his only options at that time in his mind were either to get the Subject off the bike by striking him with the car or stopping, getting out and drawing his weapon and that would take too much time. Officer A recalled that he had to

make a quick decision to save his life and the life of others because there were pedestrians on the sidewalk and the Subject needed to be stopped if he had a gun running around the streets.

During his second interview, Officer A was asked to describe the events right before the impact. Officer A recalled that when he observed the Subject, he was holding onto the backpack as well as the handlebar. The Subject removed his right hand from the handlebar still holding onto that backpack, pressed it up against the right side of his body and slid his right hand into the backpack where he believed the gun was located. The Subject then extended his arm back towards him in a manner which Officer A believed was done to shoot him through the backpack.

**Note:** Officer A estimated his police vehicle was traveling approximately five to 10 miles per hour when he struck the bicycle.

Based on the totality of information reviewed, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe that the Subject posed an immediate threat of serious bodily injury or death where the use of lethal force would be justified.

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