

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

**LAW ENFORCEMENT-RELATED INJURY – 087-16**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Sergeant A	17 years, 2 months
Officer A	7 years, 4 months
Officer B	3 years, 8 months
Officer C	11 years, 4 months
Officer D	1 year, 5 months
Officer E	7 years, 6 months
Officer H	6 months

**Reason for Police Contact**

Officers responded to a call of a nude suspect walking down the street. Upon arrival, the suspect became combative with the officers and refused to comply with their lawful commands. The officers responded with less-lethal and non-lethal options, resulting in a law enforcement-related injury (LERI).

<b>Suspect</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject: Male, 23 years old.

**Board of Police Commissioners' Review**

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

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

The following incident was adjudicated by the BOPC on December 5, 2017.

### **Incident Summary**

Communications Division (CD) received a 911 call from Witness A, who reported a male, completely nude, walking slowly on a public street. CD also received another 911 call from an unknown female caller, who also reported observing a nude male with multiple bruises walking on the same street. In response to the two 911 calls, CD broadcast a call of a nude male walking on a public street.

Police Officers A and B were conducting crime suppression in the area when they heard the radio call and requested that CD send them the incident. The officers responded to the location.

This was Officer A and B's first day working together. According to Officer A, the officers discussed the type of weapons systems each possessed and determined that Officer A would be the driver and assume the role of the contact officer and Officer B would be the passenger and responsible for communications.

**Note:** According to Officer B, the officers did not specifically discuss contact and cover tactics. Because he was the passenger and Officer A was the driver, it was implied that he would be responsible for communications and the contact officer.

Officer B stated the he conducted a five-second TASER activation prior to leaving the station to ensure that his TASER was functioning properly. According to Officer A's TASER report history, he did not conduct a five second TASER activation on his TASER prior to leaving the station.

The officers arrived in the area and notified CD that they were at scene utilizing their vehicle's Mobile Digital Computer (MDC). They were traveling in an attempt to locate the suspect. Officer A looked out of his driver's side front window and observed the Subject standing in the parking lot of a strip mall complex. Officer A alerted his partner of his observations, turned, and parked his vehicle at the driveway apron on the curb of the location. As he parked the police vehicle, Officer A activated his Body-Worn Video (BWV) camera. Officers A and B exited their vehicles, but remained behind their respective doors for cover.

According to Officer A, as he stood behind his door for cover, the Subject was standing approximately 10 to 15 feet away from the driveway, directly in front of the police vehicle. According to Officer A, the Subject was completely nude, his lips were pressed together, his arms were at his sides with his hands clenched into fists, and he looked

like he was in an agitated state. The Subject immediately began to walk toward the driver side of the police vehicle at a fast walking pace.

**Note:** According to Officer B, the Subject's body was initially rigid, but as he approached the police vehicle, the Subject moved at an average walking pace, almost nonchalantly.

The Subject's hands were still clenched in fists as he approached and turned toward Officer A, who was still positioned at his driver's side door. Officer A ordered the Subject to stop, but he continued to walk toward him.

**Note:** In reviewing Officer A's BWV, the Subject was observed walking toward the front driver's side of the police vehicle with his left arm swinging against his side; however, once he approached the driver side, both arms were behind him. He walked through the space between the driver side door and a retaining wall next to the driveway, and quickly turned as Officer A stepped forward toward him.

Officer A believed that the Subject intended to initiate a physical confrontation, and he decided to get control of the Subject and place him against the retaining wall. Officer A stepped away from the door, approached the Subject who was walking past the open driver side door, and immediately used his left hand to grab his left elbow, while grabbing his left wrist with his right hand, and moving his left arm behind his back.

**Note:** In reviewing Officer A's BWV, the Subject suddenly pivoted to his right, as Officer A placed hands on him. As both officers placed hands on the Subject, he continued his walking pace.

Simultaneously, Officer B observed the Subject approach Officer A and moved from his passenger side door, around the front of the vehicle. Officer B approached the Subject and used his left hand to grab the Subject's upper right arm, and his right hand to grab his right wrist, moving his right arm behind his back.

As the officers moved his arms behind his back, the Subject, immediately began to resist the officers, pulling his arms forward, away from the officers.

In an attempt to further control the Subject, the officers moved the Subject against a concrete half wall that divided the parking lot from the sidewalk, located approximately three feet away from the police vehicle, using their body weight to push him against the wall. The wall was covered by foliage along the sidewalk side. Both officers placed their upper chest against the Subject's upper arms. According to the officers, the Subject's body was rigid, and he continued to resist the officers. As the officers struggled with the Subject, both their BWV cameras became dislodged and fell to the ground.

**Note:** According to Witness B, who was observing from inside the parking

lot, he observed a small object fall from Officer A's chest area. Witness B later walked to the location by the wall and observed two black objects he recognized to be BWV cameras and two sets of handcuffs on the sidewalk next to the retaining wall. Ultimately Officer B retrieved the two cameras and handcuffs from the sidewalk approximately two feet away from their police vehicle.

At the time of the incident, there was a significant amount of rain falling, which made it difficult for the officers to maintain their grip on the Subject. As the physical altercation continued, Officer A told his partner to request a back-up.

Officer B utilized a microphone on the lapel of his jacket, that was attached to his radio, to broadcast a request for a back-up.

**Note:** Immediately after Officer B's backup request, an unrelated radio call was broadcast. After the broadcast, CD acknowledged the back-up request and broadcast that a back-up unit was responding.

Officer B believed he needed to handcuff the Subject as soon as possible. Officer B used his bodyweight against the right side of the Subject's body and, with his right hand, maintained his grasp of the Subject's right wrist, which was behind his back. Officer B released his left hand from the Subject's upper right arm, reached back and removed his handcuffs. As he removed his handcuffs, the Subject pulled his right arm away, breaking free from Officer B's grasp.

According to Officer A, as the Subject pulled his right arm away from his partner, he pivoted on his left foot, turned, and swung his right arm at Officer A's head, striking him above his left eye. After Officer A felt the strike, he let go of the Subject's left arm and backed away approximately seven to ten feet. Officer A reached up and touched his eyebrow. When he looked at his hand, he observed his hand covered with blood.

**Note:** According to Officer A, he was not sure what part of the Subject's right arm struck him. According to Witness B, he observed the Subject swinging his arms, striking Officer A on the left side of his face with his right hand clenched in a fist.

According to Officer B, immediately after the Subject broke free, he felt the Subject strike him on the lower right jaw. After striking Officer B, the Subject took a fighting stance, lowering his body, his feet and legs were bladed with his right leg back, and both of his hands clenched into fists up near his face.

**Note:** According to Officer B, he did not know which part of the Subject's arm struck him. According to Witness B, the Subject continued to swing his arms after striking Officer A and struck Officer B in the face with his clenched fist.

After Officer B felt the strike, he backed away approximately three to four feet. Officer B still had his handcuffs in his right hand and made the decision to deploy his TASER as quickly as possible. Officer B immediately dropped the handcuffs and reached across his torso with his right hand and unholstered his TASER.

Because the Subject was already combative, Officer B believed he needed to activate the TASER immediately and did not give the Subject a warning prior to the TASER activation.

**Note:** According to Witness B, he heard Officer B say something to the effect of “We’re going to tase you” or “I’m going to tase you.”

Because both officers’ BWV cameras had already been knocked off, and the officers had moved away from where the cameras fell, there was no audio of this portion of the contact.

Officer B stated that the Subject was standing approximately six to seven feet in front of him when he aimed at the Subject’s center chest area and activated the TASER.

According to Officer B, one of the TASER darts struck the Subject’s arm, which was positioned in front of his body. He was not sure where, or if, the other TASER dart struck the Subject.

**Note:** According to Officer A, the Subject used profanity immediately after the TASER was activated and was facing both officers at the time.

According to Officer B, after the TASER darts made contact with the Subject, he let out a groan, and seemed to be briefly affected by the TASER activation, but then began walking away from the officers. Officer B stated that he activated the TASER approximately three to four more times, but does not recall hearing the sound of the TASER activation. The Subject continued to walk. As the officers followed, Officer B knew that his TASER had no effect on the Subject, who had been combative with the officers, and decided to utilize his collapsible baton. He removed the TASER cartridge from the TASER and threw the cartridge on the sidewalk, and holstered his TASER. The officers continually ordered the Subject to stop and to get down on the ground.

**Note:** The investigation determined that Officer B activated his TASER three times; the first activation, for a duration of five seconds, a second activation, for a duration of five seconds, and a third activation, for a duration of one second.

According to both officers, the Subject walked away in an almost nonchalant manner, with his arms swinging freely, although his hands were still clenched into fists. The Subject did not respond to the officers’ commands to stop and get down on the ground.

**Note:** The Subject continued to walk until he was in front of a building,

and was now approximately 10 to 15 feet away from the officers. The officers continued to follow the Subject and had closed the distance to approximately three to four feet away. According to Officer B, he was parallel to the suspect, and Officer A was slightly behind him. Officer B was slightly to the Subject's left and Officer A to his right side.

**Note:** According to Officer A, he was closer to the brick wall of an adjacent building, and Officer B was closer to the street as both officers gave the Subject commands to stop, stop resisting, and to face the wall.

According to Officer B, the Subject had struck both the officers as he was aggressive and combative with them, and was ignoring their commands to stop and get down on the ground. He was attempting to flee from being taken into custody by walking away. Officer B knew that his TASER did not have an effect, and decided to use another less lethal option in order to stop the Subject.

Officer B removed his collapsible baton, which was located on the left side of his equipment belt, next to his handheld radio, with his right hand. In an effort to get the Subject to stop and get down on the ground, Officer B extended his collapsible baton and struck the Subject's left lower knee area, approximately three times. As Officer B struck his left leg, the Subject continued to walk. Officer B continued to order the Subject to stop and get on the ground.

**Note:** According to Officer B's statement, he gave the Subject some type of warning prior to striking the Subject, but was unsure of what he said. According to Officer A, who at the time had blood continuously running down his face, he was unsure if there was any verbal communication from Officer B regarding the baton strikes. He observed the Subject continue to walk close to the brick wall of the building as Officer B was striking his left leg and shin area.

According to Officer B, after the initial strikes, the Subject stopped, turned around, faced him, and laughed as he raised both of his middle fingers toward Officer B and stated, "Fuck you." The Subject then continued to walk, and both officers continued to order the Subject to stop.

Officer B struck the Subject approximately two to three more times on the left knee. According to both officers, the strikes had no effect and the Subject continued to walk while the officers continued to order him to stop.

After observing that the baton strikes had no effect, Officer A utilized his handheld radio to broadcast an "officer needs help" request.

**Note:** Force Investigation Division detectives reviewed CD recordings of the incident. The recordings did not capture the "officer needs help" broadcast. However, during a review of the DICVS, Officer A could be

heard broadcasting a request for help.

Officer A knew that the initial TASER and baton strikes had been ineffective. He advised Officer B that he was going to tase the Subject again in order to take him into custody. Because the Subject had already struck the officers and the previous TASER and baton strikes seemed to be ineffective, Officer A wanted to surprise the Subject and did not give a warning. Officer A unholstered his TASER, aimed it at the left side of the Subject's torso, just below the ribs, and activated his TASER. As the TASER activated, the Subject's body immediately became rigid, he stopped his movement and fell face first to the sidewalk, with his hands underneath his torso.

According to both officers, after the TASER activation, the Subject immediately placed both hands on the ground and began to push himself up.

In an attempt to control the Subject, Officer B, who still had his collapsible baton in his right hand, placed his knee on the left side of the Subject's upper back.

As the Subject attempted to raise himself off of the ground, Officer A activated the TASER a second time. Officer B stood up, and the Subject fell onto his back and lay on the sidewalk. The Subject was looking straight up with both arms on his chest and his hands clenched into fists. Immediately after the second activation, the Subject began to roll around and raise himself to a seated position. The officers believed the Subject was attempting to get to his feet a second time.

The following recounts the actions of those officers who used force during the incident. The incident was unfolding rapidly and many of the officers' actions, although depicted in a certain order, occurred simultaneously.

Police Officers C and D were in the area when they heard Officers A and B assigned to the radio call. Due to the nature of the call, the officers decided to respond to the location. As the officers responded, they heard the officers request a backup. Officer C notified CD over his vehicle's radio that he was responding to the backup request, and CD acknowledged the response. Officer D activated the police vehicle's emergency equipment as the officers responded.

As the officers arrived at scene, Officer C exited his passenger side front door and approached the location. Officer C observed the Subject on his back, Officers A and B standing over the Subject, and heard the sound of a TASER activation by Officer A.

Immediately after the sound of the activation stopped, Officer C observed the Subject rock his body and attempt to stand up.

**Note:** According to Officer C, it took approximately one minute to arrive at the scene. When Officers C and D arrived at scene, there was no indication that they notified CD of their arrival.

As Officer C reached the Subject, he observed the Subject roll onto his stomach. Officer C straddled the middle of the Subject's back, placing his right forearm between the Subject's shoulder blades and neck, while using bodyweight in an attempt to control the Subject. The Subject continued to push back against Officer C's forearm. Officer C heard the sound of an additional TASER activation by Officer A.

Sergeant A heard the backup request and advised CD that he was en route to the incident.

**Note:** According to Sergeant A, due to the critical nature of the incident, he did not immediately notify CD of his arrival at the scene.

As Sergeant A exited his vehicle and approached the location, he observed the Subject lying on his back and heard the sound of screaming. According to Sergeant A, he advised the officers to grab the suspect's arm, roll him over, and handcuff him. Sergeant A observed the Subject pull his arms and legs in toward the center of his body. According to Sergeant A, the Subject suddenly kicked his legs out. Sergeant A ordered Officer A to tase the Subject again.

Officer A activated the TASER a third time. Immediately after the third activation, the officers attempted to roll the Subject onto his stomach in order to handcuff him. The officers continued to order the Subject to turn over and to stop resisting.

According to Officer B, as the officers attempted to roll the Subject onto his stomach, he still held his collapsible baton. In an attempt to assist the officers, Officer B placed his right foot underneath the Subject's left arm and lifted, assisting the Subject onto his stomach.

**Note:** A review of Officer C's BWV recording corroborates Officer B's account of his actions.

As the officers rolled the Subject to his left onto his stomach, Officer C laid across the Subject's upper back area and Officer A, still holding his TASER, placed his knee on the Subject's buttocks to control him. Police Officers E and F arrived at scene.

Officer E observed Officer C attempting to pull the Subject's arms, which were tucked underneath his upper body. Officer E placed his left knee on the left side of the Subject's upper back as he reached under Officer C to pull the Subject's right hand from underneath his chest. Officers C and E were attempting to pull the Subject's arms from underneath his chest in an attempt to handcuff him. The Subject continued to resist the officers and attempted to get up from the sidewalk. Sergeant A advised Officer A to activate the TASER a fourth time.

After the fourth activation, the Subject dropped down onto the sidewalk and onto his stomach. Officer C used his body weight in order to keep him on the ground as he placed his arms behind his back. Sergeant A placed his hands on the back of both of



the Subject's calves to keep him from kicking. Officer B holstered his collapsible baton, grabbed the Subject's left arm and placed it behind the Subject's back, enabling Officer C to complete the handcuffing.

**Note:** According to Officer A, he also applied his right knee to the Subject's left buttock.

Police Officer G arrived at the scene and approached Sergeant A, who asked him to hobble the Subject. To prevent the Subject from kicking, Sergeant A kept his hands on both of his calves after the hobble was applied.

After the Subject was handcuffed and hobbled, he was placed in a seated position without further incident.

**Note:** Although Officer A stated he activated his TASER approximately four times, the TASER information printout showed seven activations, each lasting a duration of five seconds, during the time of the incident.

Sergeant B arrived at the scene and initiated a Non-Categorical Use of Force (NCUOF) investigation.

Officer D broadcast to CD a request for a Rescue Ambulance (RA) for Officer A. Two minutes later, Officer D broadcast to CD a request for a second RA for the Subject.

Los Angeles Fire Department (LAFD) personnel arrived at the scene and conducted an initial medical assessment of Officer A. As they were assessing Officer A, other LAFD personnel arrived at the scene and began the initial medical treatment for a laceration over Officer A's left eye. A Rescue Ambulance transported Officer A to a local hospital for further medical treatment.

After assessing Officer A and determining that he did not require immediate medical attention, LAFD personnel evaluated the Subject's medical condition. The Firefighter/Paramedics observed that the Subject appeared to be under the influence of an unknown narcotic. Additionally, they observed what appeared to be burns and soot on various parts of his body. A Rescue Ambulance subsequently transported the Subject to a local hospital for treatment.

The emergency room physician advised the officers that they were making a determination as to whether the Subject's injuries occurred as a result of the use of force.

The Area Watch Commander contacted Force Investigation Division (FID) regarding the incident, and was advised that FID personnel would respond to the hospital.

The first representative from FID arrived at the hospital to conduct an assessment of the Subject's condition to determine if the incident met the criteria for a Categorical Use of

Force (CUOF).

FID detectives determined that the criteria for a CUOF had been met and began the investigation. The Area Watch Commander was notified, and initiated CUOF protocols. Sergeants B and C began separating and admonishing the involved officers and continued to monitor them.

The Subject stated he was visiting an unknown friend in the area and had ingested marijuana and Lysergic acid diethylamide (LSD). He stated that he felt despondent and wanted to end his life. The Subject entered his vehicle and ignited a fire inside the passenger compartment. The Subject stated that once his clothes caught fire, he felt burns and immediately exited the vehicle and removed his clothing. He then walked around until he was confronted by the police. He admitted to punching both officers and he was aware he had been tased, taken into custody, and transported to the hospital.

FID personnel reviewed all documents and circumstances surrounding the separation and monitoring of the involved officers and determined that all protocols were followed and appropriately documented.

### **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), when appropriate; 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 Sergeant A's, along with Officers A, B, C, D, E and H's tactics to warrant a Tactical Debrief.

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

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

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

- The BOPC found Officers A and B's less-lethal use of 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**

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. The officers are reminded of the importance of maintaining constant communication during an ongoing tactical situation.

#### **2. Spark Check**

The investigation revealed that Officer A did not conduct a Spark Check at the start of his watch. Officer A is reminded to conduct a Spark Check at the beginning of every watch to ensure the TASER is functioning as designed before deploying in the field.

#### **3. Agitated Delirium**

The investigation revealed that the Subject displayed behavior consistent with a person suffering from a state of Agitated Delirium. In an effort to improve future tactical performance, the officers should also review Los Angeles Police Department Use of Force Tactics Directive No. 13.1, Agitated Delirium, dated December 2013.

#### **4. Updating Status**

The investigation revealed that Officers A and B did not update their status as they moved from location to location, until after they contacted the Subject. The officers are reminded of the importance of updating their status so ensure that Communications Division is aware of their location should the incident necessitate the response of additional personnel.

#### **5. Use of Force Warning**

The investigation revealed that Officers A and B did not provide a Use of Force Warning to the Subject. While the officers' actions were appropriate during this incident, the officers are reminded that a Use of Force Warning shall be given

whenever tactically feasible. The BOPC directed that this topic be discussed during the Tactical Debrief.

## **6. Optimal TASER Target Locations**

According to Officer B, when he deployed his TASER he aimed for the Subject's center chest area. Officer B is reminded that the optimal target areas for the use of the TASER in probe mode during a frontal shot is the navel area.

## **7. Maintaining Equipment**

The investigation revealed that Officer B "dropped" his handcuffs while deploying his TASER. Officer B is reminded of the importance of maintaining control of his equipment during an incident to prevent the possibility of it being obtained by a suspect.

- 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. In this case, there were identified areas where improvement could be made and 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.

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

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

- **Sergeant A** – (Firm Grip and Body Weight)

According to Sergeant A, he pinned the Subject's legs and applied body weight to control his legs.

- **Officer A** – (Firm Grips, Physical Force, and Body Weight)

According to Officer A, he grabbed the Subject's left elbow with his left hand in a C-Grip and then grabbed the Subject's left wrist with his right hand and put the Subject's arm behind his back. As he grabbed the Subject, Officer A moved him against a retaining wall to control him.

Officer A placed his left hand onto the Subject's right hip area and right knee on top of the Subject's left buttock, and used bodyweight to assist with holding him down.

- **Officer B** – (Firm Grips, Physical Force, and Body Weight)

According to Officer B, he grabbed the Subject's right arm with a firm grip and tried to push him towards a wall to use as a controlling agent and then handcuff the Subject.

When Officer A deployed the TASER, the Subject fell to the ground, and Officer B attempted to get on top of the Subject to control him. He placed his knee on the left portion of the Subject's upper back and applied bodyweight to control the Subject.

When Sergeant A issued commands to get the Subject onto his stomach, Officer B placed the toe of his right foot under the Subject's right arm and lifted the Subject up to help roll him over.

According to Officer B, he holstered his baton and then applied a firm grip on the Subject's left wrist area to assist with handcuffing.

- **Officer C** – (Firm Grips, Physical Force, and Body Weight)

According to Officer C, he got on top of the Subject's back and used his left hand to grab a hold of the Subject's left wrist, then placed his right forearm in between the Subject's neck and shoulder blades and applied bodyweight to prevent the Subject from pushing up against him.

- **Officer D** – (Firm Grip and Body Weight)

According to Officer D, he applied a firm grip and bodyweight on the Subject's left elbow and pressed it down onto the street.

- **Officer E** – (Firm Grip, Physical Force, and Body Weight)

According to Officer E, he utilized firm grips, physical force, and bodyweight to stop the Subject's actions and to assist Officer C with handcuffing.

- **Officer H** – (Body Weight)

According to Officer H, he put his hand on the Subject's head and applied bodyweight to prevent the Subject from moving.

- Based on the totality of the circumstances, the BOPC determined that a sergeant and an officer with similar training and experience as Sergeant A along with Officers D, E, H, C, B, and A, while faced with similar circumstances, would believe that the same application of non-lethal force would be reasonable to overcome the Subject's resistance.

Therefore, the BOPC found Sergeant A's, along with Officers A, B, C, D, E and H's non-lethal use of force to be objectively reasonable and in policy.

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

- **Officer A** – (TASER – seven activations, in probe mode, from an approximate distance of five feet)

According to Officer A, nothing appeared to be effective, so he deployed his TASER in probe mode at the Subject's left side. According to Officer A, the TASER appeared to be effective and the Subject fell to the ground face first. After the five second cycle was over, the Subject started pushing himself off the floor with his hands trying to get up onto his knees. He then activated the TASER a second time, and the Subject fell on his back. The Subject continued to resist and the sergeant directed Officer A to Tase him again.

- **Officer B** – (Baton Strikes)

According to Officer B, he gave the Subject several commands to stop and get on the ground, but the Subject ignored all the commands. He then struck the Subject two to three times in the left knee area with his baton. The Subject continued to ignore their commands, he then struck the Subject several times around his left knee area with his baton, but the strikes appeared to be ineffective.

- **Officer B** – (TASER – three activations, in probe mode, from an approximate distance of seven feet)

According to Officer B, the Subject continued to be combative, he then deployed his TASER in probe mode at the Subject, targeting his chest area. The TASER was ineffective and the Subject began to walk south along the sidewalk. He pulled the trigger of his TASER again, but it was not effective.

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

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