

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

OFFICER-INVOLVED SHOOTING – 049-16

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Hollywood	8/2/2016		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	8 years, 6 months
Officer B	5 years, 4 months
Officer C	11 years, 7 months
Officer D	9 months
Officer E	10 years
Officer F	9 years, 2 months
Officer G	7 years, 4 months
Officer H	1 years, 2 months
Officer I	1 years, 2 months

Reason for Police Contact

Officers responded to a disturbance call regarding an incident that occurred inside a pharmacy. Upon contact, officers attempted to identify the Subject and tried to pat him down for weapons. A physical altercation occurred, resulting in an officer-involved shooting (OIS).

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 29 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 June 20, 2017.

Incident Summary

Communications Division (CD) received a 911 call from the Person Reporting (PR), a drug store/pharmacy employee. The PR advised CD there was a person in the store attempting to purchase several items with a suspicious check.

CD transmitted a non-coded business dispute call to Officers A and B, via their Mobile Digital Computer (MDC). Officer A was driving a marked black and white police vehicle, equipped with a Digital In-Car Video System (DICVS). The officers used their computer to acknowledge the call for service and placed themselves en route.

This was the officers' first shift working with one another and they had responded to several calls together, during which time they had general discussions about tactics. Since Officer A was driving, they agreed that he would be the contact officer and Officer B would be the cover officer. As Officer A drove to the store, Officer B read the comments to him and they briefly discussed the call.

The officers arrived and showed themselves at scene via their MDC. The officers parked their vehicle in the northeast parking lot of the shopping center where the drug store was located.

The officers were equipped with DICVS microphones that were attached to their equipment belts; however, the DICVS was not activated. At the time of this incident, Department policy did not require officers to activate their DICVS for non-coded calls.

The officers exited their police vehicle and proceeded to enter the store. Based on the store's interior surveillance video, Officer A entered the store first, followed by two male witnesses, Witnesses A and B, and then Officer B. The store's layout had the cash registers situated to the east of the front entrance. There were three registers, with one along the south wall, and two directly to the north, with a walkway aisle between them. The Subject was standing near cash register number 1 and was being assisted by the store's clerk, Witness C.

When the officers entered, the Subject looked in Officer A's direction and acknowledged the officers' presence by asking Witness C if they had called the police. Officer A walked through the register aisle, observed the Subject, and stopped for a moment when the Subject greeted him in a congenial manner. Officer A stated that he was unsure if the Subject was the person the store personnel had called about, so, he continued to walk east and met with the PR, who was near the end of the registers and obtained additional information. She pointed the Subject out and informed Officer A that

the Subject was attempting to purchase items with a check and credit cards, but their computer system was not accepting either form of payment. The PR also told Officer A that the Subject was causing a scene and they wanted him to leave the store.

Officers A and B approached the Subject, who was carrying a 12-pack case of beer in his hands. Officer A engaged the Subject in conversation to determine the issue and told him that the store manager wanted him to leave the store. The Subject told Officer A that he simply wanted to purchase some items and Officer A replied that if he had the means to pay, he would be allowed to complete his purchase. While Officer A was speaking with the Subject, Witness C handed the check that the Subject was trying to use to Officer B to view. Within moments, Officer B showed the check to Officer A. After viewing the name on the check, Officer A asked the Subject for his name, to which he replied, "John Doe." Officer A then determined that they should detain the Subject pending a forgery investigation.

Officers A and B moved closer to the Subject, who had placed the beer on the counter and moved to the ATM. Officer A directed him to place his hands behind his back, palms together, and interlace his fingers. The Subject responded by turning his back toward the officers, placing his hands together behind his back, interlocking his thumbs, palms facing outward, and stepping backwards toward them. Officer A repeated his directions and told him to place his palms together and interlace his fingers, to which the Subject replied, "I don't want to do it. Your instructions are so complex and I don't want any misunderstandings." At which point, Officer A, with Officer B standing by his side, approached the Subject within arm's reach. Using his right hand, Officer A reached out and grabbed the Subject's hands and fingers to handcuff him.

Officer A said he could feel the Subject immediately tense his body and stiffen his arms. Within a moment, the Subject separated his hands, rotated his right arm above his head, turned his body toward the officers, and held onto Officer A's fingers. Officer B immediately reacted to the Subject's sudden movement by grabbing his left arm with both hands, attempting to gain control of him. With Officer B still holding on to the Subject's left arm, Officer A separated himself from the Subject's grip. The Subject moved backwards toward the east, as Officer B tried to hold on to him. Officer A perceived that the Subject was dragging his partner toward the back of the store. Using his right-hand Officer A drew his collapsible baton that was attached to his equipment belt, used a downward sweeping motion to extend the baton, and chased after the Subject. Officer B was still attempting to hold onto him, but the Subject broke free and pushed him aside when Officer A drew his baton.

Witnesses A and B, and the officers observed that the Subject took on a fighting stance, squared his body, clinched his fists, and stated, "You want to fight, let's fight." Officer A lunged toward the Subject and, with his right arm, swung the baton toward the Subject, right to left, but missed. The lunge, the swing, and the miss caused Officer A to lose his balance and fall onto his knees.

The PR stated that after Officer A missed, the Subject said, "This is how you hit somebody." The Subject immediately went on the offensive and punched Officer A in the face with his fist, then jumped on top of him and knocked him to the ground, causing Officer A to drop his baton.

Officer A stated, "I saw something that appeared like an arm swinging toward me like in a fraction of a second. Then I heard like - - felt something slamming into my face. So, all I saw was white for about a second. It felt like I was dazed. Then everything turned black."

Officer B went to aid his partner and was immediately wrestled to the ground by the Subject. He then pushed and slammed both officers against the candy display rack, causing the shelf to shake from the impact. Officer A stumbled to his feet and moved to the east, out of the surveillance camera's view for a few seconds. At that point in the fight, Officer A believed that he may have lost consciousness from the blow to his head. Meanwhile, Officer B was on his hands and knees trying to get up, when the Subject continued his attack and grabbed him from behind.

The Subject got behind Officer B, squatted down, straddled him, placed his right arm around his throat, swiftly lifted him up, and violently dove backwards onto his back. The momentum of his actions forced Officer B's entire body to swing backwards in the air, causing him to land on his back on top of the Subject. Officer B said he could feel the Subject was tightening the chokehold he had around his neck. He believed he was about to lose consciousness, because his breathing was becoming labored and shallow. According to Officer B, he realized he was in a very vulnerable situation and feared that the Subject would knock him unconscious, disarm him, and kill him. He instinctively tucked his chin down to his chest to stop him from positioning his arm farther around his throat, grabbed his right arm to prevent him from choking him, and simultaneously protected his holstered gun by capping it with his right elbow.

Officer A is seen back in camera view approaching Officer B and the Subject while holding his pistol in a two-handed position. Officer A said he was dazed from the blows to the head and could only see through his right eye. He described his field of view as if looking through a pin hole. He said that when he looked around to gain "situational awareness," he saw that the Subject had Officer B in a chokehold. Believing that the Subject was posing a deadly threat and was actively attempting to kill him, he unholstered his pistol.

At the same time this was occurring, several of the witnesses and the officers heard the Subject yell, "Stop or I'll kill him!" As Officer A approached, he made the decision that he would first attempt to free his partner without shooting the Subject, but if he was not able to, he would shoot him to stop his actions. As he got near, he heard Officer B yell, "No, don't do it!" Officer A was unsure if his statement was directed at him or the Subject.

Officer A reached down with his left hand and grabbed the Subject's right arm, and with Officer A's help, Officer B broke free from him. The Subject, in turn, immediately redirected his attention toward Officer A and grabbed Officer A's pistol with both hands. He then pulled Officer A down to the ground and wrapped his legs around him. According to Officer B, at that point in the fight, he was unaware that the Subject had grabbed Officer A's pistol and was attempting to disarm him.

Officer B stood up, and as his partner was wrestling with the Subject on the ground, he bent down and punched the Subject in the face approximately three times. Officer B straightened up and ran to the entrance of the store to verify that he was broadcasting the correct location. Meanwhile, Officer A fought with the Subject for control of his pistol. He could feel that the Subject was physically very strong and was gaining the upper hand by the way the Subject would shift his body or adjust his hold on the gun toward a more advantageous position, in addition to being punched by the Subject. Officer A continued to struggle with him and believed he was losing the fight due to the repeated blows to his head.

Officer A believed he had no other option to stop the Subject's deadly threat other than to shoot him. He could feel that the Subject was positioned to the side and behind him. While holding the pistol with both hands, he estimated the Subject's position and fired one round over his left shoulder, with no apparent effect. After firing that round, Officer A immediately felt that the Subject began to jerk the gun around even more, so he estimated the Subject's position again and fired a second round, again with no apparent effect. It was later determined that the Subject was struck in the left torso by one of Officer A's rounds.

According to Officer B, as he neared the front doors to make his broadcast, he heard two gunshots, turned around and saw the Subject holding Officer A's pistol with both hands, attempting to take it from him.

Officer B ran back and tried to remove the Subject's hands from the pistol, without success. He believed that he and his partner were losing the fight and had no other option but to shoot the Subject to stop his actions.

As Officer A and the Subject continued to wrestle for the gun, their body positions shifted, with Officer A on top and the Subject lying on his back. At that point, the Subject began slowly turning the muzzle of the gun toward Officer A and stated to him, "You know this is going to end up bad for you." Officer A believed he was losing and could not stop the Subject from turning the gun on him. He decided he would remove the magazine from his pistol, and if the Subject continued to turn the muzzle toward him, he would be able to only fire the round in the chamber. A moment before removing the magazine, he heard a single gunshot.

Officer B positioned himself near the Subject's legs, unholstered his pistol, and held it with his right hand. The Subject was still lying on his back with Officer A on top. With a single hand, he aimed it downward, approximately four inches away from the Subject's

left knee, and fired one round, the bullet impacting his leg. This immediately caused the Subject to release Officer A's weapon. Officer A regained control of his gun, straddled the Subject, aiming his pistol toward the Subject's head, and remained in that position and waited for additional units to arrive.

Officer B broadcast, "Help call, shots fired," but received no response from CD. He looked down at his radio and noticed that it was on a different frequency. He grabbed Officer A's radio microphone and re-broadcast the help call. While the officers waited for additional units to arrive, they decided that they would attempt to handcuff the Subject. Officer B holstered his weapon, removed handcuffs from his pouch, and handcuffed the Subject's right wrist, but was unable to cuff the left hand because the Subject had tucked his left arm underneath his body and refused to be cuffed. Officer A picked up his gun magazine and inserted it into his pistol and holstered his weapon.

The first of several units to arrive were Hollywood Officers C and D, who ran into the drug store and saw Officer A on top of the Subject, who was facedown, and Officer B holding onto the Subject by the right hand, while trying to handcuff him. With Officer C on his left and Officer D on his right, the arriving officers placed their knees on top of the Subject's upper shoulder area and applied body weight. They then used physical strength and attempted to cuff the Subject, without success. The Subject was actively resisting the officers by preventing his arms from being brought together.

Officer A stood up and saw that the Subject was still resisting and refusing to be cuffed.

He removed his TASER from his holster, bent down, aimed the TASER toward the Subject's lower back and fired. The probes struck the Subject's lower back. Officer A used the "Three Point Drive Stun" method and completed the electronic connection by pressing the TASER to the Subject's right leg, and applied one full cycle.

The tasing appeared to have limited success, because it allowed the officers to get the Subject's arms closer together, but not close enough to complete the handcuffing. Officer A tased the Subject a second time.

Soon after the officers tased the Subject, numerous Hollywood officers arrived at scene to assist. Officer A then stood up. Officer E approached Officer A and noticed that he was bleeding from the face, and he grabbed his TASER, removed the dart cartridge, took it from him, and then handed it to Officer F. Officers A and B were then escorted out of the store by officers.

Officer E placed a knee on top of the Subject's right thigh and applied body weight. Using physical strength, Officer G used his hands and held the Subject's right arm by the bicep and forearm area. Officer H used his hands and held the Subject's legs to prevent him from bucking and turning over.

Officer F said the officers continued to struggle with handcuffing the Subject, who continued to resist by thrashing his body from side to side and kicking his legs, and

trying to roll over on to his back. Officer F positioned himself on the Subject's right side and placed his right knee on his buttocks, applying body weight. He inserted the TASER cartridge and used the Three Point Drive Stun method by placing the TASER on the Subject's right thigh and activated the TASER for a full cycle. This allowed officers to bring the Subject's hands even closer together to handcuff him. At that point, the Subject reached down behind his back, grabbed Officer F's hands, and dug his nails into his skin. The Subject also grabbed Officer F's TASER and attempted to take it from him. Officer F alerted the officers that the Subject had hold of the TASER. Officer F activated the TASER a second time, which allowed officers to complete the handcuffing.

Even after the Subject was handcuffed, he continued resisting, which required the officers to hobble him. Throughout the entire time that officers struggled to control the Subject, they verbalized with him to stop fighting, but he continued to resist them. Officer E, with the help of Officer H, placed a hobble on the Subject's legs near his ankles. The Subject was still able to move freely and continued bucking and attempted to roll onto his back. Officer E applied a secondary hobble above his knees with the assistance of Officer I. Officer E then placed an additional hobble around his elbows to prevent further movement.

Sergeants A and B arrived at the scene. Sergeant A declared himself over the radio as the Incident Commander (IC) and began directing officers to establish a crime scene. Sergeant A entered the store and directed officers to carry the Subject closer to the doorway to preserve the shooting scene and to allow him to receive medical treatment from the responding paramedics. Sergeant B separated Officer B, took a Public Safety Statement (PSS), and remained with him.

Officers D, E, G, H, I, and J carried the Subject to the doorway. During this time the Subject was constantly yelling expletives and making irrational remarks. Officers applied a spit mask on the Subject, and remained with him until paramedics arrived and transported him to a local hospital.

Sergeant C arrived at the scene. Sergeant A directed him to accompany Officer A to the hospital, obtain a PSS, and remain with him.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). 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 Officer A and B's tactics to warrant Administrative Disapproval. The BOPC found Officers C, D, E, F, G, H, and I's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

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

E. Lethal Use of Force

The BOPC found Officers A and B's lethal use of force to be in policy.

Basis for Findings

Detention

- Officers A and B responded to a radio call of a business dispute at a local store. The officers investigated and determined the Subject was possibly attempting to use forged checks, and then attempted to detain the Subject for further investigation. The officers' actions were appropriate and within Department policies and procedures.

Tactical De-Escalation

- Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

The officers initially made verbal contact with the suspect as they attempted to determine what type of crime may have occurred. As their investigation developed they decided to detain the suspect for further investigation of possible forgery. The suspect immediately began to resist and violently attacked both officers, choking one officer and trying to disarm the other officer. The officers were faced with an immediate serious bodily injury with the possibility of death circumstance, resulting in the use of lethal force by the officers.

A. Tactics

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

1. Tactical Communication and Planning

Officers A and B did not communicate a tactical plan of approach to take the Subject into custody. Additionally, neither officer communicated their actions, or the Subject's actions, to their partner throughout the incident.

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. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this case, Officer A did not advise his partner of his intentions to detain the suspect for a forgery investigation. As a result, his partner was not aware that he was going to handcuff the Subject and was not fully prepared to react to the Subject's actions. Additionally, as the incident unfolded, each officer was acting independently of each other and were not working as a team to resolve the tactical situation.

Based on the totality of the circumstances, the BOPC determined that the officer's lack of communication and planning substantially and unjustifiably deviated from approved Department tactical training.

2. Situational Awareness

Officer B left his partner to go to the front entrance of the location to obtain an address to broadcast for back-up while Subject attempted to take his partner's service pistol.

It is imperative upon officers during rapidly unfolding tactical situations to be able to maintain situational awareness allowing them to multi-task in order to successfully resolve the incident without increasing the risk of harm to themselves or their partners.

In this case, Officer B left Officer A during a very critical time of the Use of Force incident. His situational awareness was deficient when he chose to leave his partner during a life-threatening situation to obtain an address for responding units. Officer B was also unaware that his hand-held radio was not on the Hollywood Area base frequency.

Based on the totality of the circumstances, the BOPC determined that Officers B's lack of situational awareness substantially and unjustifiably deviated from approved Department tactical training.

3. Back-Up vs. Help Call

Officer B repeatedly broadcast a request for back-up instead of broadcasting a Help Call while the Subject was attempting to disarm his partner.

Although officers are given discretion regarding the appropriate time to broadcast a request for additional resources based on the ongoing tactical situation, it would have been tactically advantageous for Officer B to broadcast a Help Call after the OIS to alert responding personnel of the seriousness of the incident.

In this case, Officer B broadcast a back-up request for a suspect whose actions presented the threat of serious bodily injury or death.

Based on the totality of the circumstances, the BOPC determined that in this circumstance Officers B's decision to request back-up instead of initiating a Help Call substantially and unjustifiably deviated from approved Department tactical training.

- The BOPC also considered the following:
 1. **Initiating Contact to Handcuff** – The investigation revealed that the Subject was not complying with Officer A's commands to spread his feet and put his hands in the proper handcuffing position. While failure to comply with an officer's commands to assume proper positioning can be an issue of communication, it can also be an indicator of intentional non-compliance by the suspect in an effort to gain the tactical advantage over the officer and should be considered as a possibility before contacting the suspect.
 2. **Activating Hand-Held Radio Help Button** – The investigation revealed that Officer B did not activate the Help Button on his Hand-Held Radio when it would have been tactically prudent to do so. Officer B is reminded that activating the Help Button can be used to request immediate aid while allowing an officer to maintain a tactical advantage regardless of the radio frequency.
 3. **Punches to Bony Areas** – The investigation revealed that Officer B punched the Subject with a closed fist three times to his face. Officer B is reminded that punches to bony areas can cause injury, thus reducing the officer's effectiveness and limiting their ability to defend themselves.

4. **Initiating Physical Contact While Holding Service Pistol** – The investigation revealed that Officer A used his left hand to initiate physical contact with the Subject while holding his service pistol in his right hand. Officer A is reminded that an officer's hands should be free of any equipment when initiating physical contact with a suspect, as it may inhibit an officer's ability to fully engage the suspect.
5. **Holding Radio in Left Hand and Service Pistol in Right Hand** – The investigation revealed that Officer B held his hand-held radio in his left hand while holding his service pistol in his right hand. In addition, he also held his hand-held radio and his service pistol in his right hand while holding Officer A's hand-held radio in his left hand. Officer B is reminded of the tactical disadvantage of carrying a service pistol in one hand and an additional piece of equipment in the other hand.

These topics will be discussed at the Tactical Debrief.

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

Each tactical incident also 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 the officer's individual actions that took place during this incident.

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

B. Drawing and Exhibiting

- According to Officer A, as he stood up, he observed that the Subject had Officer B in a chokehold, so he drew his service pistol and approached the Subject.

According to Officer B, he observed that the Subject had a hold of Officer A's service pistol and was attempting to take it from him. He then drew his service pistol.

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

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

C. Non-Lethal Use of Force

- **Officer A** – (firm grips)

According to Officer A, as he was going to handcuff the Subject, the Subject tensed up and then began to resist. He then grabbed the Subject's right arm with a firm grip in an effort to control his arm so the officers could handcuff him.

- **Officer B** – (firm grip, punches, and elbow strike)

According to Officer B, he used a firm grip on the Subject's left arm in an attempt to assist his partner with controlling the Subject so he could handcuff him. He observed the Subject tussling and hitting his partner, and then saw them both fall on the ground. He then punched the Subject several times in the face in an attempt to stop him from resisting their efforts to take him into custody. He used an elbow strike to the Subject's rib area in an attempt to get out of the choke hold.

- **Officer C** – (body weight and firm grip)

According to Officer C, he observed Officers A and B struggling to take the Subject into custody and assisted the officers with controlling the Subject by applying body weight on the Subject's left shoulder. He then applied a firm grip on the Subject's left arm to control it so that the officers could handcuff the Subject.

- **Officer D** – (firm grip, body weight, and Hobble Restraint Device (HRD))

According to Officer D, he observed Officers A and B attempting to take the Subject into custody and used a firm grip and body weight to assist the officers with taking him into custody. The Subject continued to resist the officers after being handcuffed, so he assisted with applying the HRD to his knees and arms.

- **Officer E** – (body weight, Physical force, and HRD)

According to Officer E, he observed Officers A and B attempting to take the Subject into custody and used body weight to assist the officers with taking him into custody. Officer F advised him that the suspect had his TASER. He looked over and observed that the suspect had his hand around Officer F's TASER. He then pried the Subject's fingers off of the TASER. The Subject continued to resist the officers and he used a HRD to secure his feet and knees. He then used physical force to lift the Subject's arms so the other officers could place a HRD on his arms.

- **Officer F** – (body weight)

According to Officer F, he observed the officers attempting to take the Subject into custody and used body weight to assist the officers with taking him into custody.

- **Officer G** – (body weight and HRD)

According to Officer G, he observed the officers attempting to take the Subject into custody and used body weight to assist the officers with taking him into custody.

- **Officer H** – (HRD and body weight)

According to Officer H, he observed the Subject resisting the officers' attempts to take him into custody and used body weight to assist Officer E with placing a HRD on the Subject's feet.

Officer I – HRD.

According to Officer I, he observed the Subject resisting the officers' attempts to take him into custody and assisted with placing an HRD around the Subject's knees.

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

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

D. Less-Lethal Use of Force

- **Officer A** – (TASER, two five-second activations in three-point drive stun mode)

According to Officer A, additional officers arrived on-scene and were attempting to take the Subject into custody. The Subject continued to resist the officers and he used his TASER to overcome the Subject's resistance.

After the first TASER activation, the Subject continued to resist, and the officers were still unable to complete the handcuffing process. Officer A then activated the TASER in three-point drive stun mode; however, it was not effective and the Subject continued to resist.

- **Officer F** – (TASER, two five-second activations in three-point drive stun mode)

According to Officer F, he observed that the Subject was kicking, fighting, and attempting to break free from the officers. He then activated the TASER in the three-point drive stun mode to overcome the Subject's resistance.

After the Subject was handcuffed, he grabbed onto the TASER in Officer F's hands. According to Officer F, he then activated the TASER a second time to free the TASER from the Subject's grip.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and F, while faced with similar circumstances, would believe the application of the TASER to overcome the Subject's resistance was objectively reasonable.

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

E. Use of Lethal Force

- **Officer A** – (pistol, two rounds)

According to Officer A, the Subject grabbed him and spun him around. He was only halfway conscious and felt the Subject hitting him in the head. He felt that if he was unable to stop the Subject right then he would just pass out. He then pointed the muzzle of his service pistol toward the Subject and fired one round.

According to Officer A, he felt his gun being jerked around, believed that the Subject was trying to take his gun away, and fired another round at the Subject. Neither round appeared to have any effect on the Subject, because the Subject continued to resist while still holding onto his service pistol.

- **Officer B** – (pistol, one round in a downward direction from a close contact position)

According to Officer B, he observed that the Subject had a hold of Officer A's service pistol and was attempting to take it away from him. He quickly assessed and determined that he did not have a clear shot at the Subject's upper body. He then aimed his service weapon at the Subject's right knee and fired one round from a close contact position to stop the Subject's actions.

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

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