

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

LAW ENFORCEMENT-RELATED INJURY 027-12

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Hollywood	04/30/12		

Officer(s) Involved in Use of Force	Length of Service
Officer A	8 years, 11 months
Officer B	1 year, 1 month
Officer E	4 years, 6 months
Officer F	5 years, 3 months
Officer H	6 years, 3 months

Reason for Police Contact

Witnesses called 9-1-1 upon observing and hearing about the Subject's assault against a delivery truck driver in the parking lot of a grocery store.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
Subject: Male White, 62 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 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 March 5, 2013.

Incident Summary

Witness A, a truck driver for a grocery store, was making a delivery to the store. Witness A backed his truck into the loading dock in the parking lot of the store and exited his truck. Witness A observed a male, later identified as the Subject, yelling and

pacing back and forth in the parking lot. The Subject walked toward Witness A. As Witness A backed away, the Subject charged toward him and punched him once in the stomach with his fist. Witness A fled from the Subject and returned to the cab of his truck in fear for his safety. Another grocery store truck driver, later identified as Witness B, witnessed the Subject's actions. Witnesses A and B called the store manager and reported the Subject's assault. Witness C, a security guard at the store, and store manager, Witness D, responded to the rear parking lot. Witness C asked the Subject to leave, but the Subject remained. Witness D saw that the Subject had foam around his mouth and went back inside the store to call the police.

Witness D telephoned the Los Angeles Police Department (LAPD), Communications Division (CD) via 911, and requested the police to respond. Witness D reported that "a homeless guy" had attacked one of the store's truck drivers.

CD broadcast, "Battery subject in [a] parking lot[.] Su[bj]ect: male[...], thin build, late fifties, wearing a baseball cap, blue shirt, blue jeans, possibly under the influence."

Officers A and B monitored the emergency call for service and broadcast to CD they would handle the call. The comments on the Mobile Digital Computer (MDC) noted, "In the upstairs parking lot. Su[bj]ect: male [...], thin build late fifties, baseball cap, blue shirt, blue jeans, possibly under the influence, assaulted truck driver. Rescue ambulance refused. No weapons, NFI (no further information)."

As Officer A turned into the driveway that led to the parking lot entrance, both Officers A and B observed Witness C standing on the side of the parking lot entrance. Witness C pointed toward the parking lot and said, "He's right there." Officer A turned into the parking lot, and both officers observed the Subject standing in the parking lot. The Subject was the only person in the parking lot, and matched the subject description provided by CD. Officer A stopped the police car close to the Subject.

Officer A broadcast to CD that he had arrived at the location and requested one additional unit, indicating that the officers would be in the upper parking lot.

Both Officers A and B exited the police vehicle and stood behind their respective car doors. The officers observed that the Subject had white foam around his mouth and stood in a fighting stance with his hands clenched into fists and raised in front of his chest.

As described by Witness B, the Subject was holding his fist up and threatening to punch the officers. Through an interpreter, Victim A, who was the original battery victim, recalled that the officers started to get close to him and he started to get in positions wanting to box with them. "The man was coming to attack the officers." Witnesses A, E and F also provided statements corroborating that the Subject appeared to be preparing to fight with the officers.

Officer B immediately gave the Subject repeated commands to put his hands up and turn around. The Subject did not comply, maintained his fighting stance, and yelled

profanity, along with additional unintelligible words. Based on the Subject's appearance and demeanor, the officers believed the Subject was under the influence of narcotics or alcohol, or suffered from mental illness.

Uniformed Officers C and D broadcast they were en route.

The Subject continued to face the officers and backed away from them toward the corner of the parking lot. The Subject yelled a profanity at officers and stated, "I'm not going to jail," before yelling more unintelligible words. Officer A was aware the parking lot entrance was the only way in or out of the parking lot, so he told Officer B to prevent the Subject's escape.

Officer A saw Witness C standing near the parking lot entrance. Officer A called out to Witness C, "Where's the guy that called us?" Witness C replied, "Right here." Witness A stepped from around the loading dock wall. In the Subject's presence, Officer A briefly spoke with Witness A, confirmed that the Subject battered Witness A, and that Witness A wanted the Subject arrested. Officer A told Witness A to wait. Witness A stood with Witness C at the parking lot entrance.

During this time, Officer B continued providing verbal commands to the Subject to put his hands up and turn around. The Subject remained uncooperative, keeping his fists up in front of him and responded with more profanity. Officer A told Officer B to get the TASER out and again advised Officer B that they should attempt to hold their positions until the additional unit arrived.

Officer B, based on the Subject's aggressive fighting stance, drew his TASER and warned the Subject, "Put your hands up and turn around or you're going to get tased and hurt." Officer A also warned the Subject that if he did not turn around and place his hands on his head, he was going to get tased. Both officers heard the Subject say use more profanity and yell words to the effect of, "Shoot me in the face with it. I'm not going to jail." Officer B again warned the Subject stating, "Put your hands up and turn around or you're getting tased."

The Subject, who still held his hands up in fists, moved toward Officer B to within approximately eight to ten feet of him. Officer A observed the Subject approach Officer B, and told Officer B to tase him. In the belief that the Subject presented a threat to him and Officer A, Officer B aimed the TASER at the Subject's abdomen area, and activated the TASER from a distance of approximately eight to ten feet. Officer B observed the Subject pivot his body, and one of the darts appeared to strike the Subject on the abdomen. Both officers observed that the other dart missed the Subject. The TASER had no effect on the Subject, who continued to advance more aggressively toward Officer B. Officer B quickly ejected the cartridge, and placed the TASER into the waistband area of his utility belt.

Officer A moved toward the Subject's right side, and removed his side handle baton from his utility belt. When the Subject approached to within four feet of Officer B, Officer

B used a right front kick to the Subject's abdomen to stop his advance. Simultaneously, Officer A held his side handle baton with both hands and used a power stroke, hitting the Subject on the right forearm. Officer A assessed and observed the Subject step back and lose his balance. The Subject stopped charging towards Officer B and focused his attention on Officer A. The Subject crouched down, and Officer B removed his side handle baton from his utility belt. The Subject then straightened up with fists raised, yelled unintelligibly and immediately charged again toward Officer B. Both officers repeatedly ordered the Subject to stop fighting and resisting throughout the incident.

Note: A grocery store surveillance camera located in the corner of the parking lot, on the exterior wall of the loading dock recorded a portion of the use of force incident. The corner of the parking lot where Officer B utilized the TASER, front kick, and both officers' initial baton strike(s) occurred out of view of the surveillance camera. The surveillance camera corroborated the officers' account that the Subject alternately charged toward them.

As the Subject moved toward Officer A with his fists raised, Officer B used a power stroke, hitting the Subject on the left arm and/or left hip area. The Subject, who still held his fists up, turned his attention toward Officer B and moved toward him. As the Subject alternately approached the officers with his fists raised in front of his jaw or chest area, both officers alternately struck the Subject with their batons to stop his threat, overcome his resistance and gain his compliance. Officers A and B assessed after each baton strike, and observed the Subject momentarily stop his advance toward one officer and then with his fists raised, advance on the officer who struck him. Officer B aimed for and believed he struck the Subject's left arm or left hip area and left leg during the incident.

Officer A stated that after his second or third baton strike to the Subject's right side where he targeted the Subject's forearm or wrist, the Subject stepped back far enough away from him to allow Officer A time to broadcast a request for backup. CD repeated Officer A's backup request, and further requested an Air Unit. Air Support Division personnel shortly thereafter broadcast to CD that they were en route.

Parole Impact Team (PIT) officers monitored the backup request and went en route to the scene, including Officers E, F, G, H and I, as well as Sergeant A.

Officer A's third or fourth baton strike, which struck the Subject's right forearm or wrist area, appeared to be effective because the Subject began to move his right arm back as though hurt. The Subject then began to attempt to catch the end of Officer A's baton. As a result, Officer A targeted the Subject's right elbow during his last two baton strikes. Officer A stated that during what he estimated to be his fifth baton strike, he attempted to strike the Subject's right elbow, and as he swung his baton midway, the Subject dropped his right shoulder and the right side of his head down, along with his right elbow. As a result, Officer A believed his baton may have glanced off the Subject's

shoulder and accidentally struck the right side of the Subject's head; however, Officer A was not positive he struck the Subject's head.

Note: Officer A never saw a physical reaction from the Subject, nor did he see an injury to the Subject's head during the altercation to indicate the Subject had been struck on the head with his baton. Officer B did not see where Officer A's baton struck the Subject. Officer A further indicated that the baton hit the Subject's right shoulder and then glanced off towards his head, and Officer A may have incidentally struck the Subject in the head with his baton. The baton strikes captured on the surveillance video did not strike the Subject's head.

After alternately striking the Subject with their batons approximately six or seven times each, the Subject stumbled forward and fell to the ground on his right side. At about this time, Officer A told Officer B, "Take him down." Officer B placed his baton under his right arm, and used his body weight on the Subject's left shoulder to hold him down. Officer A used his body weight and held the Subject down on his left side/waist area. Officers A and B struggled to handcuff the Subject, who twisted, turned, and kicked his legs in an attempt to roll over onto his back.

Witness C stated he saw the "partner officer" (Officer A) strike the Subject once on the head with the baton while wrestling on the ground. Witness C was unsure which side of the Subject's head was struck. Witness A and Victim A, when asked if they ever saw the officers strike the Subject on the head with a baton, both stated, "No," and Witness B stated, "No. They didn't. They were going to the...body and legs." Witness E, from his apartment balcony located north of the parking lot, stated he saw Officer B strike the Subject with his baton on what appeared to be "the ear to jaw area" and believed the Subject then went to the ground. Witness F, from his apartment balcony located nearby, stated that the officers struck the Subject everywhere, on the face, neck, arm and legs.

Officer A could feel the Subject opening and closing his right hand as though reaching for something. Given his belief that the Subject was attempting to arm himself, Officer A punched the Subject once with his right fist to the lower, right rear side of the Subject's back. Officer A repeatedly ordered the Subject to "give me your right hand," and "put your hands behind your back." The Subject continued to hold his right arm under his torso, as he twisted and kicked. Officer A, with his right elbow, struck the Subject approximately four times on his lower right back and lower right side in an attempt to gain pain compliance to pull his right arm out. The Subject continued to twist, kick his legs, and attempt to roll over onto his back.

Note: When Officer B confronted the Subject with the TASER, Witness A went to his truck and retrieved his cell phone. Witness A then recorded the officers with his cell phone as they struggled with the Subject on the ground, and took the Subject into custody. The cell phone video revealed that, Officer A deployed one punch with his right fist and four right elbow strikes to the Subject's lower right back and lower right side.

The Air Unit arrived and broadcast their status overhead to CD. Tactical Flight Officer J observed the officers struggle with the Subject on the ground and directed the backup units to the rear parking lot. Officer J broadcast to CD to change the request to a help call because he observed the officers struggling on the ground.

As Officer B continued to hold the Subject's left hand, Officer A was able to place a handcuff on the Subject's left wrist. Officer A stated he was unsure if he placed a handcuff on the Subject's left wrist during or after he used elbow strikes on the Subject.

Note: The cell phone video revealed that Officer A appeared to place a handcuff on the Subject's left wrist prior to using a punch and elbow strikes.

Sergeant B had monitored the Air Unit's request for help and responded to the scene. Officers E and F also arrived, followed within seconds by Officers G and H. As Officer F approached, he observed Officer A place his foot on one of the Subject's legs in an attempt to stop the Subject from kicking, as he (Officer A) attempted to pull the Subject's hand from underneath his torso to handcuff it.

Note: The cell phone video depicted Officer A place his left foot on the back of the Subject's left leg, then thrust his right foot down on the back of the Subject's right leg twice. The cell phone video also depicted Officer A use his right elbow to strike the Subject two additional times on his lower back and lower right side

According to Officer E, as Officers A and B appeared to be attempting to physically restrain the Subject on the ground to handcuff him, Officer E could not see the Subject's right hand, and observed the Subject push himself off the ground and quickly move his right hand to his waistband. In the belief the Subject was attempting to arm himself or harm the officers, Officer E struck the Subject twice with his right knee on the Subject's right upper arm area. After the second knee strike, Officer E was able to pry the Subject's right arm from underneath his torso. Officer E grabbed the Subject's right wrist and placed it behind his back. Officers A and E handcuffed the Subject's right wrist.

Officer F grabbed the Subject's legs at the ankles, crossed them and used his body weight on the Subject's legs to prevent him from kicking, so that the officers could gain control of his arms. The Subject stopped kicking; however, to prevent him from kicking again, Officer F asked Officer B for his Hobble Restraint Device (HRD). Officer H held both of the Subject's legs at the back of the calves in case the Subject kicked. Officer F stated that he applied an HRD around the Subject's crossed ankles. Officer H told Officer A that they would take control of the Subject.

Note: Officer H did not describe placing his foot on the back of the Subject's right thigh; however, the cell phone video depicted Officer H, upon arrival, place his left foot on the back of the Subject's right thigh as

he and Officers E and F took control of the Subject from Officers A and B. Officer H then held the Subject's legs as Officer F applied the HRD below the Subject's knees rather than at his ankles. The cell phone video also depicted Officer F, after the HRD was applied, holding the HRD clasp and placing his left foot on top of the Subject's ankles.

Officer A broadcast that the incident had been resolved, directed responding units to downgrade their response, and requested a supervisor.

Officer E held the Subject's upper body and placed him in a seated position with his legs extended out in front of him. Officer E held the Subject's handcuffed left wrist in a wrist lock and maintained control of the Subject with Officer H. Officer F continued to hold the end of the HRD. Officer G approached the Subject and saw that he was handcuffed. The Subject remained verbally abusive, but not physically combative.

Officer J requested a rescue ambulance (RA) to respond to the scene for the Subject, who had unknown injuries. Sergeant A and Officer I arrived at the scene, and broadcast accordingly. As Officers E and H continued to maintain control of the Subject, Officer I conducted a pat down search of him for weapons. Among the items he removed were two small folding knives, a pipe commonly used to smoke narcotics, and a yellow canister.

Sergeant A determined Officer A and Officer B were the primary officers involved in the use of force incident and obtained a brief synopsis. Sergeant A also called the Watch Commander, Sergeant C, and notified him of the incident. Sergeant A was advised Sergeant B would handle the investigation. Sergeant A then attempted to identify witnesses, and ensure the crime scene was secure. Shortly thereafter, Officers C and D arrived at the scene and broadcast their status to CD.

Los Angeles Fire Department (LAFD) personnel received an alarm to respond to the location and arrived on scene. Rescue ambulance personnel assessed the Subject, and provided emergency medical treatment to him. The Subject was transported to a local hospital for further treatment.

Sergeant B next arrived on scene. He observed the Rescue Ambulance depart, followed by a police vehicle. Sergeant B was briefed by Officers A and B. Sergeant B believed the incident was going to be a non-categorical use of force investigation. Officer A approached Sergeant B and informed him he may have accidentally struck the Subject on the head with his baton. Officer A said that he was unsure, but believed when he aimed for the Subject's arm, the baton strike may have glanced off the Subject's shoulder and possibly struck the Subject's head. Sergeant B telephonically notified Sergeant C of Officer A's possible unintentional head strike with the baton.

Sergeant C began notifications of the possible unintentional strike to the Subject's head, which included the Assistant Watch Commander, Sergeant D. Sergeant D directed Sergeant B to begin categorical use of force protocols, and Sergeant B complied. Sergeant B admonished Officers A and B not to discuss the incident and separated

them, directing them to stand on opposite sides of their police vehicle. Sergeant B obtained statements from each officer. Sergeant B monitored the officers pending the arrival of additional supervisors to the scene to transport them to the police station for interviews with Force Investigation Division (FID).

Sergeant B established a Command Post (CP) at the scene, and assumed the duties of Incident Commander. Sergeant B assigned Officers C and D to guard the crime scene. Sergeants D and E responded to the scene to assist Sergeant B. Sergeants B and D interviewed witnesses at the scene.

Note: During this time, it was unknown if the Subject was going to be admitted to the hospital for his injuries. Sergeant B was only able to verify that the Subject had sustained contusions, abrasions, and a laceration to the right ear that required sutures. In addition, the Subject had been sedated twice at the hospital because he was uncooperative with hospital personnel. FID Lieutenant A gave approval to Sergeant B to conduct civilian witness interviews before they left the location. Lieutenant A also directed FID Detective A to respond to the incident to conduct an assessment as to whether or not the incident met the criteria of a categorical use of force incident due to the possible head strike.

Detective A arrived at the scene and met with Sergeants B, D and E. Sergeant B briefed Detective A about the incident and the Subject's medical status. Detective A viewed the cell phone video at the scene and met with personnel at the grocery store and briefly viewed the grocery store surveillance video that captured a portion of the use of force incident.

The circumstances surrounding the incident indicated the use of force investigation met the criteria for a Non-Categorical use of force investigation, and categorical use of force protocols were suspended.

The Subject was later absentee booked for 69 PC, Felony Resisting at the Jail.

Several hours later, the Subject was released from a local hospital. Officers K and L transported the Subject to the police station to be interviewed and to complete the booking process. At the station, Sergeant C advised the Subject of his Miranda rights, which the Subject refused to waive.

The subject was then transported to Jail Division (JD) Metropolitan Jail Section (MJS) Dispensary for medical screening and housing. The Subject was examined and determined to have low blood pressure. Medical personnel directed the officers to request an RA to respond.

Officer M broadcast a request for an RA to respond to JD MJS. In response, LAFD personnel responded to the dispensary, arriving a short time thereafter. The Subject was subsequently transported to a local medical center. Upon arrival, The Subject was admitted to the medical center, where medical personnel subsequently determined that

he had a shattered spleen as a result of the use of force. Once the Subject was admitted to the medical center, the incident became a categorical use of force investigation and FID personnel assumed investigative responsibility.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

The BOPC found Officers A, B, E, F and H's tactics to warrant a Tactical Debrief.

B. Non-Lethal Use of Force

The BOPC found Officers A, B, C, E, F and H's non-lethal use of force to be in policy, no further action.

C. Less-Lethal Use of Force

The BOPC found Officer B's lethal use of force to be in policy, no further action.

Basis for Findings

A. Tactics

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.

After a thorough review of the incident, the BOPC determined that there was no substantial deviation from approved Department tactical training.

In conclusion, a Tactical Debrief is the appropriate mechanism for the significantly involved personnel to evaluate the events and actions that took place during the incident and assess all tactical considerations to better handle a similar incident in

the future. The BOPC will direct Officers A, B, E, F and H to attend a Tactical Debrief.

B. Non-Lethal Use of Force

While attempting to take the Subject into custody, Officers A and B became involved in a struggle with the Subject. In response to the back up request, additional units arrived to assist with controlling the Subject and taking him into custody. Throughout the incident, the following officers used the following Non-Lethal Force to accomplish this task:

- **Officer A** – Baton Strikes, Front Punch, Elbow Strikes, Kicks, Physical Force, Bodyweight and Firm Grip
- **Officer B** – Baton Strikes, Front Kick, Bodyweight and Firm Grip
- **Officer E** – Knee Strikes and Firm Grip
- **Officer F** – Bodyweight and Firm Grip
- **Officer H** – Bodyweight and Firm Grip

As the Subject continued to not comply with orders to surrender, Officer B, realizing that it was unsafe to approach, deployed and discharged the TASER on the Subject (see Less-Lethal Force), which was ineffective. The Subject aggressively advanced toward Officer B, coming within four feet of him. Officer B delivered a front kick with his right foot to the Subject's abdomen to stop his advance.

At the same time that Officer B kicked the Subject, Officer A withdrew his side handle baton from his utility belt. Officer A held the baton with both hands and delivered a power stroke to the Subject's right forearm. Officer A assessed his baton strike and observed the Subject stumble backward, at which time the Subject focused his attention on Officer A. Officer B removed his side handle baton from his utility belt. The Subject crouched down, and then stood up with his fist raised in a fighting stance while yelling at Officers A and B. The Subject charged toward Officer B and then changed direction and charged toward Officer A. As the Subject charged toward Officer A, Officer B struck the Subject with the baton, utilizing a power stroke to the Subject's left arm/hip area.

Officers A and B continued to provide verbal commands to the Subject throughout the incident to stop fighting and to stop resisting, to no avail. The Subject turned his attention to Officer B and advanced toward him. Officers A and B alternately struck the Subject with their respective batons as the Subject focused on the opposing officer. Officer B struck the Subject approximately six or seven times with the baton, striking the Subject on the left arm, left hip area, and left leg.

Note: Officers A and B assessed after each baton strike to see if the Subject was complying with their commands and still actively resisting.

Officer A delivered approximately two baton power strokes to the right side of the Subject's body. The Subject continued to ignore the officers' verbal commands to stop resisting and Officer A delivered two additional baton power strokes to the Subject's right knee area. Officer A attempted to strike the Subject's right elbow with a power stroke and as Officer A delivered the baton strike, the Subject lowered his right shoulder and head in a downward movement. As a result of the Subject lowering his head and shoulders, Officer A believed that his baton might have unintentionally struck the Subject in the head. The Subject fell to the ground due to his own forward momentum and the remainder of the struggle continued on the ground.

Note: The investigation did not determine if Officer A struck the Subject on his head with his baton. Officer B stated that he did not observe Officer A strike the Subject on his head with his baton. Additionally, when the Subject fell to the ground with significant forward momentum, it is possible that the Subject sustained his head injury as a result of the fall, or during the ensuing ground struggle.

Officer B used his bodyweight to hold the Subject's left shoulder down, while Officer A used his bodyweight on the Subject's left side and waist area. Officers A and B attempted to handcuff the Subject, however, they were unable to complete the handcuffing due to the Subject kicking, twisting and turning. Officer A was able to apply the handcuff to the Subject's left wrist. Officer A could feel the Subject's right hand, which was underneath the Subject's torso, opening and closing in what Officer A believed was an attempt by the Subject to locate and arm himself with a weapon. Officer A delivered a right punch to the lower right side of the Subject's back. Officer A continued to order the Subject to release his hands, although the Subject did not comply. Officer A delivered several right elbow strikes to the Subject's lower right back and lower right side in an attempt to gain control of the Subject's right hand.

To prevent the Subject from kicking his legs, Officer A placed his left foot on the back of the Subject's left leg. Officer A then delivered two right heel kicks to the back of the Subject's right thigh to prevent the Subject from rolling over.

Officers E, F and H arrived to assist. Officer E observed the Subject reaching for his waistband, and believed the Subject was attempting to arm himself. To stop the Subject from reaching for his waistband, Officer E delivered two right knee strikes to the Subject's right triceps area. After Officer E delivered the knee strikes, he was able to pry the Subject's right hand from underneath him using a firm grip. Officer F used his bodyweight and firm grip to hold the Subject's legs down. Officer H used his left foot on the Subject's right leg to prevent the Subject from kicking. Officer E grabbed the Subject's right wrist and placed it behind the Subject's back as Officer A held the Subject's handcuffed left wrist. Officers A and E were then able to complete the handcuffing process.

To prevent the Subject from kicking, Officer H used a firm grip on both of the Subject's calves as Officer F applied the HRD around his legs. Officer F placed his left foot on top of the Subject's ankle after the HRD had been applied to prevent further movement. Officer E then placed the Subject in an upright seated position.

After a thorough review of the incident, the BOPC determined that officers with similar training and experience as Officers A, B, E, F and H would reasonably believe the application of Non-Lethal Force would be reasonable to overcome the Subject's resistance in an effort to take him into custody. In conclusion, the BOPC found Officers A, B, E, F and H's use of Non-Lethal Force to be objectively reasonable and In Policy, No Further Action.

C. Less-Lethal Use of Force

Officer B – one TASER activation from 8 to 10 feet.

Officer B verbally ordered the Subject to put his hands up and turn around. The Subject did not comply with Officer B's commands and put his fists up and yelled profanity, as the Subject stood in an aggressive fighting stance. Officer B warned the Subject at least twice that the TASER was going to be utilized, at which time the Subject responded with more profanity and stated, "Shoot me in the face with it."

The Subject advanced upon Officer B, who aimed the TASER at the Subject's abdomen and discharged it at the Subject from approximately eight to ten feet. One of the TASER darts appeared to strike the Subject in the abdomen and the other dart missed as the Subject continued to move about. The TASER had no effect on the Subject and he continued to not comply with the officers' orders to surrender. Officer B secured the TASER on his person and continued to verbalize with the Subject in an effort to gain his compliance.

The standard set forth in Department policy dictates that the decision to use force must be judged through the perspective of a reasonable officer with similar training and experience and in a similar circumstance. The BOPC determined that an officer with similar training and experience would reasonably believe that the force used to stop the Subject's aggressive advance was reasonable and would have acted in a similar manner. In conclusion, the BOPC found Officer B's use of Less-Lethal Force to be objectively reasonable and In Policy.