

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

USE OF LETHAL FORCE – 029-19

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
-----------------	-------------	----------------------------	-------------------------------

77 th Street	6/15/19		
-------------------------	---------	--	--

Officer(s) Involved in Use of Force	Length of Service
--	--------------------------

Officer A	29 years, 6 months
Officer B	3 years, 8 months

Reason for Police Contact

Officers responded to a radio call of an Assault with a Deadly Weapon (ADW). Officers observed the Subject walking in the drive-through window of a fast-food restaurant. The driver officer intentionally struck the Subject with the police vehicle.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
----------------	---------------------	--------------------	--------------------

Subject: Male, 29 years of age

Board of Police Commissioners' Review

This is a 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 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 Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on May 19, 2020.

Incident Summary

On Saturday, June 15, 2019, at 1435 hours, Los Angeles Police Department (LAPD) Communications Division (CD) Police Service Representatives received two emergency calls for service from a Persons Reporting (PR) that a male suspect was armed with a large machete and chasing people in the parking lot of a hardware store. The callers also provided the suspect's description.

At 14:36:28 hours, CD broadcast the call.

The radio call was assigned to Officers A and B. According to Officer A, he/she believed there was a victim of an ADW because of the nature of the radio call indicating an ADW suspect armed with a machete.

Officers A and B were in a marked black and white police vehicle. Officer A was the driver, and Officer B was the passenger. At the time of the incident, Officers A and B were equipped with Body Worn Video (BWV), and their vehicle was equipped with a Digital In-Car Video System (DICVS). The officers' BWV and DICVS were activated and captured the incident.

Sergeant A also responded to the call.

Upon arrival, the officers drove slowly through the commercial parking lot looking for the suspect. They confirmed with CD that they had a bean bag shotgun with them.

The officers spotted the Subject walking toward the drive-through of a fast food restaurant. Officer A drove the vehicle north in the opposite direction of the drive-through traffic. Once inside the drive-through lane, the police vehicle's Digital In-Car Video System (DICVS) captured the Subject carrying a black duffel bag in his right hand and a folded black blanket over his left shoulder while walking in the drive-through lane.

Officer A continued to drive forward and intentionally used the front bumper to strike the Subject. Officer A believed his/her vehicle speed was between three to five miles per hour when he/she struck the Subject. Officer B believed the speed was approximately five miles per hour at the time of the strike. According to the vehicle's Telematics Report, the vehicle was actually traveling at 13 miles per hour.

Upon striking the Subject, Officer A stopped the vehicle and the Subject dropped to the ground.

The Subject immediately stood back up and ran. The Subject ran along the passenger side of three vehicles that were facing west in the drive-through lane. As the Subject ran past the second vehicle, he tossed the folded blanket he was carrying to his left into a hedgerow. (The blanket tossed by the Subject and a machete, which was wrapped with the blanket, were later recovered and booked as evidence.)

According to Officer B, once Officer A turned into the drive-through lane, he/she attempted to open his/her passenger side door to deploy out of the vehicle and contact the Subject; however, Officer A continued driving. As Officer A continued driving in the drive-through lane, Officer B closed his/her door to avoid the door striking his/her leg.

After the Subject had been struck, Officer B exited the vehicle and ran after the Subject. Officer B ran along the passenger side of the vehicles in the drive-through lane and was approximately two car-lengths behind the Subject. As Officer B ran past the third vehicle in the drive-through lane, the Subject ran along the side of the fast food restaurant building carrying a black bag in his right hand. Officer B indicated he/she initially gave the Subject commands in Spanish because the Subject appeared to be Hispanic, and because the Subject was carrying a black bag, he/she did not know what was inside the bag and Officer B had not confirmed where the machete was located.

The Subject turned and ran for approximately five seconds then quickly turned south along an aisle of parked vehicles. As the Subject ran past the second parked vehicle on his left side, he quickly turned east in between two parked vehicles. Officer B closed the distance on the Subject and was approximately one car length behind him. When the Subject ran between the parked vehicles, he grabbed a shopping cart with his left hand and pulled the shopping cart to the ground. Officer B ran on the left side of the cart, continued to pursue the Subject. The Subject continued running east through two aisles of parked vehicles before he turned south toward a pharmacy. At that time, Officer B closed the distance to within a few feet behind the Subject. The Subject dropped the bag he was carrying onto the ground as Officer B's right opened hand reached toward the Subject's back and pushed him off balance. The Subject and Officer B both fell to the ground. Officer B immediately stood up and approached the Subject, who remained on the ground, on his back, with his legs bent.

Officer B quickly went down to his/her knees and straddled the right side of the Subject's body. Officer B ordered the Subject to give up his hands and at the same time grabbed the Subject's wrists. Officer B used physical force to push the Subject's arms toward the Subject's chest. Officer B used his/her left hand to hold the Subject's arms against the Subject's chest. Simultaneously, Officer B used his/her right hand to grab the Subject's rear right knee and pushed the knee to turn the Subject to the left and onto his/her stomach. As the Subject turned, Officer B released his/her hold of the Subject's arms and used his/her left hand to push the Subject's right rear shoulder toward the ground. Simultaneously, Officer B placed his/her right knee on the Subject's right buttock area and his/her left knee on the Subject's upper back area. The Subject's arms were now under his chest as he faced down on the ground.

Officer B then used both hands to grab the Subject's right arm and pulled the right arm behind the Subject's lower back. Officer B held the Subject's right arm by placing his/her right hand on the Subject's right wrist and his/her right knee on the Subject's lower back. Officer B used his/her left hand to grab the Subject's left wrist and pulled the Subject's left arm behind the Subject's lower back. Officer B used his/her right knee and applied bodyweight to hold the Subject's arms behind the lower back. At 14:40:15

hours, Officer B handcuffed the Subject and took him into custody without further incident. Officer A approached Officer B as he/she completed the handcuffing.

A review of Officer B's BWV determined the duration of the foot pursuit was approximately 45 seconds. The investigation determined the distance traveled during the foot pursuit was approximately 550 feet.

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 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). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

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

B. Non-Lethal Use of Force

The BOPC found Officer B's non-lethal use of force to be In Policy.

C. Lethal Use of Force

The BOPC found Officer A's lethal Use of Force to be out of policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use

force when warranted may endanger themselves, the community and fellow officers.” (Use of Force Policy, Los Angeles Police Department Manual.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in Graham v. Connor, 490 U.S. 386 (1989), that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject’s actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer’s decision to draw or exhibit a firearm should be based on the tactical situation and the officer’s reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a subject and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an officer compromise his/her 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.

(Tactical De-Escalation Techniques, October 2016.)

A. Tactics

Tactical De-Escalation

- *Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a subject and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)*

Tactical de-escalation does not require that an officer compromise his/her 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.

Planning – Before beginning their shift, Officers A and B discussed tactics, contact and cover roles, lethal and less-lethal roles, equipment carried such as primary duty weapons. They also discussed physical fitness, during which Officer A stated to Officer B that he/she had been working out and he/she was trying to get back into shape. Officer B advised Officer A that he/she was a runner. While enroute to the radio call, Officers A and B discussed that Officer A would be the cover officer and less than lethal, while Officer B would be the contact officer and lethal. Once at the location of the incident, Officers A and B became reactionary and did not continue to communicate to each other a specific plan to handle the detention of the Subject. This incident would have benefitted from additional planning once the officers arrived at scene.

Assessment – Based on the nature of the radio call, Officers A and B believed there was a victim of an Assault with a Deadly Weapon nearby. They observed a crowd forming in the business parking lot, which was directing officers towards the Subject who was walking into the exit of the fast food restaurant drive-through. Officer A assessed the scene and observed the location was what Officer A described as a “target rich environment” in that the Subject had immediate access to additional victims. Officer A believed he/she could not let the Subject get out of sight since the Subject was in possession of a machete. As he/she drove his/her police vehicle and rounded the corner of the drive-through, Officer A observed another vehicle at the drive-through window, as well as an employee behind the open window and believed

the Subject had the ability to take them hostage. Officer A also assessed the area of the sidewalk next to the drive-through, which contained numerous pedestrians and had no fence separating either side. Officer A considered the IHOP restaurant in his/her background and knew people were inside of it as well.

After Officer A used his/her police vehicle to knock down the Subject, both Officers A and B assessed that the Subject ran on foot from the location. Both officers engaged in foot pursuit of the Subject. Officer B, having discussed physical fitness and abilities with Officer A, continued in foot pursuit of the Subject without requisite consideration of Officer A, who was trailing behind him/her. At the termination of the foot pursuit, Officer B assessed the Subject's actions and utilized non-lethal force to take him into custody.

Time – Officers A and B initially approached the location in a slow manner, attempting to determine the exact location of the Subject. Upon seeing the crowd of people following and pointing to the Subject, Officer A accelerated his/her police vehicle and drove towards the drive-through. After seeing the Subject walking in the direction of the vehicles at the drive-through window, as well as the employee at the open window, Officer A stated that he/she accelerated his/her police vehicle towards the Subject to prevent the Subject from causing harm or taking a hostage.

The BOPC noted that, although there was information that the Subject was armed from the radio broadcast, neither officer observed a weapon in the Subject's hands **at the time they encountered him**. The officers had not yet located a victim and had not confirmed that the Subject was the suspect. The BOPC noted there was no other evidence yet known to the officers which would require a rushed response into the area. Officer A, by accelerating the police vehicle into the area driving the wrong way in the drive-through and into close proximity of the Subject, reduced the time available time to the officers.

Redeployment and/or Containment – Officers A and B observed the Subject walking through the drive-through and opted for immediate engagement versus redeployment or containment. Officer A drove in the opposite direction of the drive-through and observed that he/she and Officer B could not exit the area in their police vehicle due to other vehicles in the drive-through. Officer A, by placing their police vehicle in the confined area near the restaurant, missed an opportunity to redeploy on the Subject. With the belief that the Subject was potentially armed with a weapon, Officers A and B, while engaging in a foot pursuit, should have considered setting up containment.

Other Resources – Officers A and B utilized the Air Unit, albeit without stated coordination, as an additional resource during the incident and relied on the Air Unit to broadcast their foot pursuit. Officer A also requested the Air Unit broadcast a Code Four once the Subject was taken into custody, as well as broadcast a request for an additional responding unit to secure the officers' police vehicle. Due to rapid escalation of the incident by the Subject and his running away from the officers, Officers A and B had limited additional resources available to them.

The BOPC noted that Officer A made a statement that available less-lethal weapons, such as the Beanbag Shotgun, would not be effective on armed suspects. However, the BOPC also noted the amount of less-lethal force options available to Officer A which he/she did not utilize or attempt to utilize during the incident. Instead of attempting to utilize additional force options, or call for additional resources, Officer A utilized his/her police vehicle to strike the Subject. Although this incident was unfolding in front of the officers, it would have been preferable for Officer A to initiate the response of additional resources or alternative force options in an attempt to resolve the incident without the use of lethal force.

Lines of Communication – Officers A and B discussed their observations with each other while making their way through the parking lot and searching for the Subject. As Officer A was directed to the Subject by people at scene, Officer A drove the wrong way into the exit of the drive-through. Officer B partially opened his/her passenger side door in anticipation of Officer A stopping the police vehicle. Instead of stopping the police vehicle, Officer A advised Officer B that he/she was going to strike the Subject with the police vehicle just prior to striking the Subject with the police car. Officer A did not communicate his/her intentions to approach or strike the Subject with the police vehicle with Officer B prior to that point. While in foot pursuit, Officer B attempted to communicate with the Subject in both English and Spanish. Officer B also continued to listen to and communicate with the Subject during his arrest.

While the BOPC noted Officers A and B had communicated thoroughly while enroute to the call, their communication with each other ceased during their approach to and initial contact with the Subject. The officers also did not communicate during their foot pursuit or apprehension of the Subject. The BOPC determined that the officers should have continued communicating with each other throughout the incident. Their lack of communication caused the incident to be rushed and opportunities for de-escalation to be missed. Although Officers A and B had discussed contact and cover roles prior to arriving at the scene of the radio call, upon entering the commercial parking lot their communication with each other broke down. This was reflected when Officer B stated he/she was unaware Officer A was going to utilize the front bumper of their police vehicle to strike the Subject as he/she (Officer B) was planning to open his/her passenger door to exit the police vehicle. Instead, Officer A quickly turned into the exit of the drive-through almost causing Officer B's leg to be caught between the door panel of the police vehicle and a wall in the drive-through. Additionally, the officers' lack of communication during their foot pursuit and apprehension of the Subject was further hampered by Officer A briefly returning to the police vehicle to close his/her door at the initiation of the foot pursuit. Further, Officer A was not physically able to keep pace with Officer B during the foot pursuit. Both factors contributed to a subsequent separation between Officers A and B. This incident would have benefitted from additional communication between Officers A and B after Officer A's decision to drive the wrong way into the drive-through exit.

Based on the above-noted issues, the BOPC determined there was a failure by Officers A and B to appropriately employ de-escalation techniques.

During the review of the incident, the following Debriefing Topics were noted:

1. Tactical Vehicle Deployment (Substantial Deviation – Officer A)

The investigation revealed Officer A deployed his/her vehicle in a disadvantageous position.

The BOPC noted that Officer A positioned the police vehicle around the corner of a building and into the exit of a drive-through. This placement of the police vehicle did not provide other means of ingress or egress and thus, significantly limited alternative tactical options had the Subject turned around and charged their police vehicle. Officer B was placed in a tactically disadvantageous position as he/she attempted to exit his/her police vehicle to contact the Subject and at one point, Officer B was unable to fully open his/her door due to Officer A's placement of the police vehicle in close proximity to the drive-through wall. Officer A did not discuss his/her vehicle placement with Officer B at any point prior to placing the officers in this tactically disadvantageous position. The BOPC noted that there was no apparent reason for Officer A to rush into the location of the incident.

Based on the totality of the circumstances, the BOPC determined that Officer A's actions placed him/herself and Officer B in unnecessary danger and substantially, and unjustifiably, deviated from approved Department tactical training.

2. Separation/Pursuing Armed Subjects (Substantial Deviation – Officers A and B)

Officer A trailed Officer B on foot as Officer B actively engaged in a foot pursuit of a possibly armed suspect in apprehension mode. Officer A was unable to render immediate aid to Officer B.

In this case, Officer B was unaware Officer A was going to utilize the front bumper of the police vehicle to strike the Subject in an attempt to conduct a takedown of the Subject. Officer B stated that he/she believed Officer A was going to create distance and they were going to deploy out of their police vehicle and give the Subject verbal commands. After the Subject had been struck by the police vehicle, the Subject fell to the ground, jumped to his feet and fled on foot in the opposite direction of the officers. Officer B, believing the area was heavily occupied by pedestrians, initiated a foot pursuit of the Subject. Officer B believed the Subject was concealing a machete and posed a direct threat to the driver of a nearby vehicle waiting in the drive-through and an employee working the drive-through window of the fast food restaurant. While Officer B pursued the Subject on foot, Officer A was briefly delayed as he/she returned to the police vehicle to

close the door. Officer A, who was already delayed, was not able to keep up with Officer B's pace. Officer B, having previously discussed physical fitness and abilities with Officer A, continued to engage in a foot pursuit of the Subject without requisite consideration of Officer A, who was trailing behind him/her. Officer B remained focused on apprehending the Subject to deny him access to potential additional victims in the nearby parking areas or businesses.

The UOFRB also noted that Officer A was approximately 215 feet from Officer B when Officer B took the Subject to the ground. Officer A could not render immediate aid to Officer B from his/her position during the foot pursuit as Officer A arrived next to Officer B approximately 30 seconds after Officer B and the Subject went down to the ground.

A review of Officer A's BWV captured that as Officer B was handcuffing the Subject, Officer A slowed his/her pace to a walk prior to reaching Officer B's location. Officer B had already been engaged in a non-lethal use of force with the Subject.

A review of Officer B's BWV captured that as Officer B closed the distance on the Subject, the Subject was not holding a weapon in his hands thus, he no longer posed an immediate threat to the public. The incident, as it unfolded, did not warrant Officer B actively engaging in a foot pursuit of the Subject in the absence of Officer A.

Based on the totality of the circumstances, the BOPC determined that Officer B should not have separated from Officer A during his/her foot pursuit of the Subject. In this case it was Officer B's responsibility not to out-run Officer A. It is the BOPC's expectation that as the primary officer engaged in the foot pursuit of a suspect, Officer B should have maintained awareness of Officer A's location and inability to render immediate aid. Officer B's actions were unreasonable and a substantial deviation, without justification, from approved Department tactical training.

Additionally, based on the totality of the circumstances, the UOFRB determined, and the BOPC concurred, that Officer A, as the senior officer, should have communicated to his/her partner that he/she was not able to see his/her partner. Without this communication, Officer B was unaware that he/she was over 200 feet ahead of his/her partner and not visible to his/her partner. The failure to communicate between the officers resulted in separation and unnecessary risk to both officers.

In this case, both officers shared responsibility to keep each other apprised of their location and maintain visual contact with each other. The failure of the officers to maintain an awareness of each other's location placed Officer B at a position of disadvantage as he/she remained in apprehension mode and engaged in a Non-Lethal Use of Force by him/herself with the Subject. During Officer B's handcuffing of the Subject, BWV captured Officer A slowing his/her

pace to a walk prior to reaching Officer B's location. During this foot pursuit, both officers were separated to the point where neither officer could provide immediate aid to the other. Officer A and B's actions were unreasonable and a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:
 - **Foot Pursuit Broadcast** – Officers A and B did not broadcast that they were engaged in a foot pursuit, nor did they broadcast additional pertinent information such as a suspect description, direction of travel, or the crime for which the suspect was wanted. The officers relied on the Air Unit to complete their broadcasts during the foot pursuit.

These topics were to 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 briefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to review the officer's individual actions that took place during this incident.

In conducting an objective assessment of this case, the BOPC determined that Officers A and B's actions were a substantial deviation, without justification, from Department policy and training, thus requiring a finding of Administrative Disapproval.

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

B. Non-Lethal Use of Force

- **Officer B- Bodyweight, Firm Grip**

According to Officer B, while engaging in foot pursuit of the Subject, he/she utilized his/her right, open palm to push the right side of the Subject's back in a forward direction. Officer B's push resulted in the Subject to be off balance and fall to the ground. Officer B also lost balance and fell to the ground but was able to get up quickly. The Subject fell onto his stomach initially and then rolled over onto his back. The Subject had both of his arms out in front of him. Officer B used his/her left knee to apply bodyweight on the Subject's right hand, which was on his (the Subject's) own chest. Officer B then placed his/her right knee around the area of the Subject's hip. Officer B utilized both of his/her hands to apply a firm grip to grab both of the

Subject's hands and then added bodyweight to prevent the Subject from escaping. Officer B rolled the Subject onto his stomach, placed both of the Subject's hands behind his back, and proceeded to handcuff the Subject.

In this case, the BOPC conducted a thorough review in evaluating the reasonableness of Officer B's Non-Lethal Use of Force. The BOPC noted that Officer B's attempts at de-escalation were thorough as he/she tried to utilize both English and Spanish commands during his/her foot pursuit of the Subject. The BOPC noted the Subject was not cooperative with Officer B's continuous commands to submit to arrest. At one point, the Subject attempted to use a shopping cart to physically block Officer B's path as the Subject continued to attempt to physically avoid Officer B's detention, which ultimately resulted in Officer B's use of force. The BOPC noted Officer B's professionalism during the use of force and his/her calm and respectful tone while communicating with the Subject. The BOPC also noted Officer B's quick response when the Subject stated that he could not breathe, to which Officer B responded by immediately placing the Subject into a seated position before ultimately standing him up.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B's, while faced with similar circumstances, would believe the same applications of non-lethal use of force would be reasonable to overcome the Subject's physical resistance while taking him into custody.

Therefore, the BOPC found Officer B's non-lethal use of force to be objectively reasonable and In Policy.

C. Lethal Use of Force

- **Officer A – Police Vehicle, traveling approximately 13 miles per hour.**

According to Officer A, he/she suddenly saw the Subject but could not see his hands. Officer A was thinking that the Subject was still in possession of a machete. Officer A stated that he/she just reacted to how he/she was trained and did not want the Subject to turn and raise up the machete. Officer A observed the Subject heading toward the drive-through and told his/her partner that he/she was going to take the Subject down with the car. Officer A stated that he/she wanted to utilize his/her police vehicle as a less-lethal impact device to knock the Subject to the ground so he/she would not hurt anyone and could be safely taken into custody. Officer A stated that he/she was driving approximately three to five miles per hour when he/she used his/her police vehicle as what Officer A described as a "less than lethal" force option and struck the Subject with the front bumper of the police vehicle. After making contact with the Subject, Officer A observed the Subject fall to the ground, stand up, and run away.

In this case, the BOPC conducted a thorough review of the investigation and considered several factors in evaluating the reasonableness of Officer A's use of

lethal force. During its review, the BOPC took into consideration that the Subject was reportedly an armed suspect with a machete, in a crowded parking lot. Prior to the officers' arrival, the Subject reportedly assaulted a citizen in the lot, unbeknownst to the officers. The Subject, at the time of the officers' arrival, was walking into the exit of a fast food drive-through where there were additional citizens in their vehicles and an employee behind the drive-through service window of the restaurant. Due to the nature of the radio call and the Subject walking toward citizens, Officer A stated that he/she feared the Subject would potentially cause serious bodily injury or death to unsuspecting victims in the form of taking a hostage. There were no immediate circumstances which supported that the Subject was in the process of taking a hostage, however. Officer A responded by using the front bumper of his/her police vehicle to strike the Subject, knocking him to the ground. Officer A, believing the use of the front bumper of his/her police vehicle was a use of less-lethal force, instead utilized lethal force.

The BOPC took into consideration that Officers A and B believed a victim of an assault was nearby and that the Subject was the suspect relating to the assault. The BOPC also considered the officers' inability to see a weapon in the Subject's possession. The BOPC noted Officer A's opinion that a police vehicle, traveling at a slow speed, could be used as a less-lethal force option. The concept of being able to safely control a motor vehicle while attempting to strike a pedestrian as a means to effect an arrest without causing significant injuries is not compatible with the Department's Use of Force policy. This opinion represented a failure of Officer A to understand the differences between the use of lethal and less-lethal force options and their applications, as well as Officer A's reluctance to use Department approved less-lethal devices due to his/her perception of their ineffectiveness. The BOPC noted that Department personnel are not trained in the use of a police vehicles as a less-lethal impact device.

As such, based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, would not reasonably believe that the Subject's actions presented an imminent threat of death or serious bodily injury and that the lethal use of force would not be objectively reasonable.

Therefore, the BOPC determined that Officer A's lethal use of force in this situation was not objectively reasonable. Therefore, the BOPC found Officer A's lethal use of force to be Out of Policy.