

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

LAW ENFORCEMENT-RELATED INJURY 036-19

| Division | Date | Duty-On (X) Off () | Uniform-Yes (X) No () |
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|--------|-----------|--|--|
| Newton | 7/13/2019 | | |
|--------|-----------|--|--|

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

| | |
|-----------|--------------------|
| Officer A | 13 years, 2 months |
| Officer B | 7 months |
| Officer C | 8 months |

Reason for Police Contact

Officers responded to a radio call of a man assaulting a woman. The officers contacted the Subject and attempted to take him into custody. The Subject resisted the officers, which led to the officers to utilize body weight, physical force, a wrist lock, and a punch resulting in a Law Enforcement-Related Injury.

| Subject(s) | Deceased () | Wounded (X) | Non-Hit (X) |
|-------------------|---------------------|--------------------|--------------------|
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Subject: Male, 52 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 Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on June 30, 2020.

Incident Summary

Victim A and the Subject entered a convenience store together. According to the Victim, she and the Subject were having a verbal argument regarding being turned away from a homeless shelter due to the Subject's refusal to take his medication. The argument caused the Victim to become fearful of the Subject. She attempted to flee from the Subject inside the convenience store; however, the Subject followed her.

According to Witness A, he was in the store when the Victim entered and requested that he call the police. The Subject then entered the store, grabbed the Victim by her shoulders and attempted to grab her phone. Witness A observed this and called 911.

Surveillance video from the convenience store captured the Subject punch the Victim on the right side of her face with a closed fist, and pull her wig off her head. According to the Victim, she attempted to call 911 on her cellphone; however, the Subject grabbed the phone from her. As the Subject attempted to leave the store, the Victim grabbed his shirt, causing the Subject to struggle out of his shirt and run out of the store shirtless.

The Subject fled from the store and the Victim ran after him. Witness A, still on the phone with 911, reported that the couple had left the store but were physically fighting with each other in the street. Witness A described the Subject to the 911 operator as a male, wearing no shirt and blue jeans.

The Subject continued west from the convenience store, with the Victim behind him, then into the parking lot of tire shop.

Surveillance video from the tire shop captured the Subject walking from an adjacent parking lot into the driveway, then along the east side of the tire shop. The Subject entered a small room with a yellow door on the east side of the building, just before the officers' arrival.

In response to the 911 call, Communications Division (CD) broadcast the radio call: "415 man assaulting a woman," and provided the location.

Officers A and B were assigned to the radio call. The officers responded with emergency lights and siren (Code Three) to the location and activated their Body-Worn Video (BWV) cameras.

As officers neared the location, Officer B broadcast to CD that they had arrived (Code-Six). As they approached the location, Officer A observed the Victim at the corner of the street, flagging them down near the driveway of the tire shop. As Officers A and B approached the Victim, the audio from their BWVs and Digital In-Car Video System (DICVS) captured the Victim state, "He just ran over there! In that tire company!"

As Officer A drove his/her vehicle into the property of the tire shop, Witness B, pointed toward the southeast portion of the property. Officer A parked their vehicle.

Officers A and B exited their police vehicle and began to search for the Subject on the east side of the business. Officer A unholstered his/her pistol to a one-handed, low-ready position. According to Officer A, he/she was unaware if the Subject may be armed.

According to Officer A, he/she stood behind a parked sedan to visually clear an area next to a U-Haul type truck that was parked in the east corner of the lot. Once the area around the parked truck was visually cleared, officers walked around to the west side of the truck to continue clearing that corner of the lot. Officer A directed the Victim to stay by their police vehicle as they walked south.

Officer B unholstered his/her pistol to a two-handed, low-ready position and walked south, followed by Officer A, toward a closed yellow door on the east side of the building.

Officer A's BWV captured him/her asking Witness B where the Subject was, and Witness B pointed to the east corner of the lot. According to Officer A, he/she was unsure if the Subject was hiding, and his/her BWV captured him/her directing Officer B to call the Subject out. Officer B's BWV captured him/her state, "Hey come out. Come out with your hands up where we can see them. Come out right now." According to Officer A, there was no response to these commands.

Officer A's BWV captured Officer B visually searching the area in the southeast corner of the lot. Officer A asked if Officer B could see anyone, and Officer B shook his/her head no. Officer B then holstered his/her pistol. Officer A directed Officer B to clear the corner of the lot, and Officer B once again unholstered his/her pistol.

Before passing the threshold of the yellow closed door, Officer A directed Officer B to check what he/she believed to be a bathroom. As captured on his/her BWV, Officer B approached the closed yellow door on the east side of the garage. While holding his/her pistol in his/her right hand, Officer B pushed the door open with his/her left hand, exposing the Subject, who was seated on the ground with his feet crossed.

Officer B's BWV captured him/her direct the Subject, "Come out here...Stand up. Stand up. Face away from me. Show me your hands!" Officer A holstered his/her pistol and approached to the left of Officer B. Officer A stood approximately ten feet from the doorway, as his/her BWV captured him/her state to the Subject, "Get out here...come here...stay down." Officer A directed Officer B to holster his/her pistol, which he/she did.

Officer A's BWV captured the Subject momentarily raise his hands, then place his hands onto the ground to his left, and slide his hips closer to the threshold of the door. Officer A stated to the Subject, "Stay down, stay down, come down." The Subject ultimately laid on his back with his legs outstretched inside of the room while his head, torso, and arms, extended outside of the room.

Officer B moved to the Subject's right side, used his/her left hand to grip the Subject's right wrist and his/her right hand to hold onto the Subject's right elbow. Officer A used both of his/her hands to grab the Subject's left wrist. Officers then pulled the Subject until his legs were entirely out of the storage area.

According to Officer A, his/her intention was to handcuff the Subject and detain him for a battery or assault investigation.

According to Officers A and B, the Subject initially appeared to be complying with their commands. Once the Subject was moved from the doorway, Officer B held the Subject's right forearm and right wrist with both hands. Officer A used both of his/her hands on the Subject's left wrist and first attempted to roll the Subject toward his left side. According to Officer A, the Subject immediately "tensed up" and did not allow the officers to place him onto his stomach.

Officer B gripped the Subject's left bicep/triceps with both hands and rolled the Subject onto his right side, and onto his stomach. Officer A lost his/her grip on the Subject's left arm as Officer B rolled the Subject onto his stomach. According to Officer A, the Subject tensed his arms, which became very rigid.

The officers positioned the Subject-face down with the intention of placing his hands behind his back to handcuff him. The Subject bent his left arm and placed it close into his upper body. As Officer B attempted to pull the Subject's left arm out, he/she placed his/her right knee on the Subject's back and applied body weight. Officer B placed his/her right hand on the Subject's left triceps and used his/her left hand to grab the Subject's left wrist.

As Officer A gripped the Subject's right arm, near the wrist, he/she positioned him/herself on the Subject's right side as the Subject appeared to bend his arm toward his head. Officers A and B ordered him to, "Stop moving." According to Officer B, "It seemed like he's trying to tuck it [right arm] under his - - under his chest or under his stomach."

Officer A placed his/her left knee on the center of the Subject's back and his/her right leg on the ground to the Subject's right side, as he/she applied his/her body weight while attempting to hold onto the Subject's right wrist with both hands. As the Subject continued to resist, Officer B pulled up on the Subject's left arm. The Subject rolled onto his right side and continued to resist officers by moving his arms, refusing to be handcuffed. Officer A's left knee slid off the Subject's back and onto the pavement, and he/she momentarily lost his/her grip on the Subject's right wrist.

The Subject was able to pull his right arm back in toward his head when Officer A lost his/her grip. Officer A removed his/her radio with his/her left hand, as he/she reacquired a grip on the Subject's right wrist with his/her right hand. The Subject was able to turn over onto his back, facing up at the officers. As the Subject rolled on to his back, Officer B placed his/her knees on the ground on both sides of the Subject, straddling his hips.

Additionally, as the Subject was rolling over, Officer A applied body weight with the left side of his/her upper torso laid across the Subject's upper chest. Officer A broadcast a request for backup.

Officer B continued to hold onto the Subject's left wrist with his/her left hand and was able to pin the Subject's arm down across the Subject's chest.

Officer A momentarily placed his/her radio down onto the ground, switched his/her hand position to re-grip the Subject's right wrist with his/her left hand, pinning it in a bent position near the Subject's head. Officer A then picked up the radio with his/her right hand. Officer A again broadcast a request for backup. Officer A then placed his/her radio back on the ground as he/she continued to struggle with the Subject.

Officer B repositioned him/herself to the right side of the Subject. Officer B released the Subject's wrist and used his/her right hand on the Subject's left elbow to begin pushing the elbow across the Subject's body, and grabbed the Subject's jeans near his left knee, to roll the Subject onto his stomach. Officer B then placed his/her right hand on the back of the Subject's left shoulder and completed rolling the Subject face down on to his stomach. Once the Subject was face down, Officer B placed his/her left knee on the Subject's lower back and applied body weight.

As Officer B struggled to control the Subject's left arm, the Subject was able to momentarily roll onto his right side, bending his left arm, pulling it in near his torso. Officer A ordered the Subject, "Give me your hand."

Officer B was able to reacquire his/her grip on the Subject's left wrist and forearm, and pull it behind his back. Simultaneously, Officer B placed his/her right knee on the Subject's upper back, applying body weight. Officer A advised Officer B to watch the Subject's hand to ensure it did not go near his waistband. Once the Subject's left arm was behind his back, he rolled back on to his stomach, face down. With his/her left hand, Officer B applied a wrist lock to the Subject's left wrist, while removing his/her handcuffs with his/her right hand. Officer B then placed one handcuff on the Subject's left wrist.

Officer A placed his/her left knee on the Subject's upper back area and applied body weight. Officer A continued his/her grip on the Subject's right wrist and picked up his/her radio with his/her right hand. Officer A again broadcast a request for backup.

The Subject kicked his legs and was able to lift his chest partially off the ground. As the Subject was lifting his torso off the ground, Officer B used his/her right hand to put body weight on the Subject's left shoulder; however, the Subject was still able to lift his head and torso slightly off the ground. As the Subject turned his head to the right toward Officer A, Officer B placed his/her right hand on the back of the Subject's head and applied body weight for approximately two seconds. Simultaneously, Officer A ordered the Subject to stop moving.

Officer B then began to assist Officer A in placing the Subject's right arm behind his back. Officer A was able to straighten the Subject's right arm, using both his/her hands on the Subject's right wrist as he/she began to pull it toward the Subject's back. Officer A ordered the Subject to stop moving and stop resisting. Meanwhile, Officer B used his/her right hand on the Subject's right forearm to assist with this motion. However, the Subject pulled his right arm in toward his chest while rolling his body to his left side. According to Officer B, the Subject became rigid and tensed up his body as he tucked his right hand under his torso area.

Officer A placed his/her right hand on the back of the Subject's right triceps and simultaneously placed his/her right knee on the back of the Subject's right shoulder, applying body weight. With these actions, the Subject was once again lying face down on the ground.

According to Officer A, the Subject was not complying with commands and was actively resisting. Officer A believed that the Subject was attempting to reach underneath his torso with his right hand, so he/she used his/her closed right fist and struck the Subject once in his upper back.

According to Officer A, after the distraction strike, he/she felt the Subject release the tension in his right arm, which enabled the officers to place the Subject's right arm behind his back.

Officer A placed his/her right forearm between the Subject's shoulder blades and neck, while using body weight to control the Subject. Officer B then handcuffed the Subject's right wrist. Officer A placed his/her left knee on the Subject's right upper back, and Officer B placed his/her right knee on the Subject's middle back. Officers maintained body weight on the Subject until back-up units arrived.

At this time, Officers C, D, E, F, and G arrived on scene. As the officers approached, Officer A directed them to put out a broadcast that the incident had been resolved (Code Four).

Sergeant A advised CD that he/she was Code Six at the incident.

Officer B conducted a pat down search of the Subject for weapons as the Subject laid face down on the ground. Officer B placed his/her right hand on the back of the Subject's neck and rolled the Subject to a seated position with his legs outstretched in front of him.

Officer B requested that the Subject stand up, but received no response. Officer B then placed his/her right hand under the Subject's left armpit and his/her left hand on the Subject's left bicep. Officer C used both hands to grip the Subject's upper right arm. Officers B and C lifted the Subject into a standing position as Officer A commanded the Subject to stand up in order to walk him to his/her patrol vehicle; however, the Subject would not stand on his own.

As Officers B and C lifted the Subject into a standing position, his torso bent forward. Officer A used his/her right hand to push the Subject's upper chest back into an upright position and placed his/her left hand under the Subject's right armpit to assist in carrying him to the police vehicle.

According to Sergeant A, he/she directed Officer C to grab the Subject's legs. Officer C lifted the Subject's legs and, along with Officers A and B, they carried the Subject over to police car. According to Officer A, the Subject was resisting, moving his torso back and forth, making it difficult to hold him.

Sergeant A directed the officers to place the Subject on the ground and coordinated them placing the Subject into the back seat. Officer A reacquired a grip under the Subject's right armpit, while Officers B and C gripped under his left armpit as they lifted the Subject to a standing position. The officers placed the Subject in the back seat of the vehicle on his right side. Officer E reached in from the right rear passenger area of the vehicle, grabbed underneath the Subject's armpits, and assisted in pulling the Subject across the rear seat, as Officer B gripped his jeans and pushed the Subject's legs into the vehicle. Officer E then lifted the Subject's shoulders to place the Subject into a seated position and secured him with the seatbelt.

Sergeant A directed officers to request a Rescue Ambulance (RA) for the Subject, which Officer F did. The Victim was offered an RA for her injury; however, she refused.

Los Angeles Fire Department (LAFD) Paramedic/Firefighters responded to the scene. They assessed the Subject's condition and administered medical treatment. The LAFD personnel then transported the Subject to the hospital for further medical treatment.

Officer F entered the RA and monitored the Subject, while Officer G followed in their police vehicle. According to the firefighter/paramedics, the Subject did not make any statements regarding the incident while being transported.

Officers A and B remained at scene and completed their robbery investigation. Officer A recovered and released the Victim's cellphone at scene. An Emergency Protective Order was issued to the Victim, and the officers returned to the station. Officers A and B completed a Combined Crime and Arrest Report for Robbery.

The Subject's treating physician admitted the Subject to the hospital due to elevated blood levels caused by Rhabdomyolysis.

Due to the Subject being admitted to the hospital, the Newton Day Watch Commander notified the Force Investigations Division (FID) Lieutenant of the incident. The FID Lieutenant requested that the Watch Commander have a supervisor respond to the hospital to speak with the physician and determine if the Subject's admittance to the hospital was due to the use of force.

The Newton Patrol Division Captain contacted the FID Lieutenant and advised that the attending physician would not rule out the use of force as a contributing factor to the Subject's Rhabdomyolysis. The FID Lieutenant advised that FID personnel would respond to the hospital to conduct an on-scene assessment and meet with the physician, to determine if the incident met the criteria for a Categorical Use of Force (CUOF).

FID Investigators responded to the hospital and attempted to interview the Subject regarding the use of force and requested he sign an Authorization to Release Medical Information. The Subject was read the Miranda Admonition verbatim, refused to answer all questions, and refused to release his medical information.

While at the hospital, FID investigators also met with the attending physician who advised that he, along with the admitting physician, could not rule out if the Subject's elevated blood levels were related to the use of force. The FID detectives determined that the criteria for a CUOF had been met and assumed responsibility for the investigation.

The Department Operations Center (DOC) was notified of the Law Enforcement-Related Injury (LERI).

The incident was initially handled by Sergeant A as a NCUOF investigation on the date of occurrence, however, once it was determined that the Subject would be admitted to the hospital due to the use of force, this investigation was re-classified to a CUOF on the following day. Officers A and B were telephonically notified and they were ordered not to discuss the incident until interviewed by FID personnel.

Force Investigation Division Detectives reviewed all documents and circumstances surrounding the separation and monitoring of the involved officers and found them to be appropriate.

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

A. Tactics

The BOPC found Officer A's tactics to warrant a finding of Administrative Disapproval. The BOPC found Sergeant A, along with Officers, B, C, and E's tactics to warrant a Tactical Debrief.

B. Drawing and 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, and C's non-lethal use of force to be In 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), stating 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 suspect'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 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.

Planning – Officers A and B were regular partners for approximately four weeks. During the time they worked together, they frequently discussed tactics which included contact and cover roles as well as lethal and less-lethal force options. While en route to the radio call, Officer A advised Officer B that if they located the Subject, they would immediately detain him pending an investigation.

The officers planned for their initial response, specifically if they located the Subject. However, no additional planning was discussed while en route and there was no

planning for other possibilities such as designating a less-lethal cover officer in the event the Subject was uncooperative.

Assessment – While en route to the location of the original radio call, Officers A and B were provided with updated information which indicated the Subject and the Victim had left the convenience store where the radio call was generated. Officers evaluated the new information and relied upon their observational skills to identify the Victim and the location she directed them to. After contacting Witness B, Officers A and B assessed the information provided, and searched the last known area the Subject was observed. Officers located the Subject and assessed that he did not appear to be armed and was initially compliant with their commands. Officers made the determination to initiate physical contact and handcuff the Subject, at which time he became aggressive and physically resisted the officers. Officers utilized non-lethal force to overcome the Subject's resistance and requested additional resources to assist due to the Subject's continued aggression.

Officers assessed the information that was provided to them through CD, the individuals at scene, and the Subject's initial compliance with their direction. This incident was not a rapidly unfolding event and officers had time to obtain additional information from the Victim and Witness B to further assess and gather additional personnel to create a more detailed tactical plan. The officers would have benefitted from additional assessment of the incident by a more comprehensive interaction with the Victim and Witness B.

Time – As Officers A and B approached the vicinity of their radio call location, Officer A directed Officer B to place them Code-Six, which allowed officers the additional time to react to any potential threats they may encounter. When officers located the Subject in the small confined storage room, Officer A immediately proceeded to execute the plan he/she had discussed with Officer B, which was to immediately take the Subject into custody, considering the Subject was initially cooperative. By doing so, Officer A intended to reduce the time the Subject had to decide to flee or arm himself, which could have presented a safety concern for the officers and community members.

Officers did not fully utilize the time while en route to the radio call to develop and communicate a detailed plan or designate role assignments. However, Officers A and B acted expeditiously in accordance with their prior communicated plan to detain the Subject as soon as practicable. The officers were afforded time to update their Code-Six location, garner additional information about the Subject from the Victim and Witness B, as well as request additional resources prior to the initiation of a search. However, they did not fully use that time which was available to them.

Redeployment and/or Containment – Officers A and B located the Subject lying on the ground in a small confined storage room. Officers initially maintained their cover and line of sight of the Subject as he may have had the ability to arm himself with a weapon from the storage room and gain a tactical advantage, even though

officers observed that the Subject did not have a weapon in his hands. Officers decided to initiate physical contact with the Subject, who was complying with their directions, and remove him from the storage room which they had not cleared. Officers did not fully utilize the cover at their disposal, nor have additional resources at scene to ensure containment was in place prior to engaging the Subject, as the Subject was already contained in his position which would have allowed the response of additional units to provide assistance to Officers A and B.

Other Resources – Officers A and B made the decision to initiate physical contact with the Subject, who was initially compliant, which resulted in a Non-Lethal Use of Force. Officers A and B were not able to quickly overcome the Subject's physical resistance, resulting in Officer A requesting additional resources to their location to assist with controlling the Subject. Even though the Subject did not initially demonstrate any physical resistance, the officers' lack of request for additional resources prior to their search resulted in no additional resources on scene and available to assist when needed.

Lines of Communication – While en route to the scene of the radio call, Officer A established a basic plan with Officer B which was to detain the Subject for an investigation as soon as they located him. Upon direction from Officer A, Officer B placed the officers Code-Six, in order to communicate their location to both CD and additional resources. Officer A maintained communication with Officer B when he/she informed Officer B of his/her observation of the Victim attempting to gain their attention and directed them to the area the Subject had fled. Officer A continued to communicate with Officer B when he/she directed Officer B to holster his/her service pistol after observing the Subject's hands to be free of weapons, and prior to initiating physical contact with the Subject. Officer A established communication with the Subject by providing him commands to get on the ground. Officer A established communication with Officer B, advising him/her to be mindful of the Subject's attempt to conceal his hands in the area of his waistband. Additionally, Officer A maintained communication with CD and requested additional resources to assist with the Subject, who was physically resisting the officers.

- During its review of this incident, the BOPC noted the following tactical considerations:

1. Contact and Cover Roles

Prior to this incident, Officers A and B had worked together for approximately four weeks. The officers routinely discussed tactical situations which included their designated roles and assignments. During this incident officers switched between the roles of contact and cover. The FID investigation revealed that both officers believed they were the designated lethal officer during the incident.

Operational success is based on the ability of officers to effectively establish designated roles and communicate during critical incidents. Officers improve

overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, Officers A and B conducted an open-air search, wherein officers identified a closed door that needed to be cleared. Officer A was initially the contact officer, and Officer B was the cover officer based on their previous discussions. During the open-air search, officers switched contact and cover roles, placing Officer B in the front contact position during their search. As officers approached a closed storage room door in the area where the Subject was possibly hiding, Officer A directed Officer B to check behind the door. Officer B opened the door to discover the Subject. As Officers were giving commands, Officer A holstered his/her service pistol and stepped from behind Officer B, who was providing cover, thereby exposing him/herself to unknown threats by placing him/herself in front of a doorway leading to an un-cleared room with a suspect in the threshold. According to Officer A he/she wanted to take the Subject into custody quickly and did not want the Subject having access to any possible weapons in the storage room.

The officers acted quickly upon contact with the Subject, but the BOPC would have preferred for officers to have taken more time to direct the Subject out and away from the doorway to a safer area before leaving cover to detain him. Even though the comments of the radio call indicated that there was only one suspect, and the Subject matched the description of the single suspect, the BOPC would have also preferred that Officers A and B took more time to direct the Subject into a safer location giving Officers A and B a much-needed tactical advantage, due to Officer B's limited tenure as a police officer. Additionally, the BOPC would have preferred that Officers A and B maintained their pre-designated roles due to the limited experience of Officer B.

Based on the totality of the circumstances, the BOPC determined that in this circumstance, the officers' actions were not a deviation from approved Department tactical training.

2. Tactical Communication/Tactical Planning

Prior to this incident, Officers A and B had worked together for approximately four weeks. Officers discussed tactical situations which included contact and cover roles as well as less-lethal force options in response to radio calls. While en route to the radio call, Officers A and B did not discuss a tactical plan with regards to the battery suspect. Additionally, throughout the course of the radio call, officers exercised minimal aspects of the Department's "PATROL" de-escalation training.

Operational success is based on the ability of the officers to effectively communicate during critical incidents. The 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, Officers A and B minimally developed and communicated a clear tactical plan for the radio call they were responding to. Officers A and B relied upon their prior shifts worked together, and their prior discussions regarding contact and cover roles, as a foundation for this radio call.

The BOPC noted that Officer A was remiss in his/her responsibility as an FTO due to having a unique responsibility to influence Officer B and was responsible for providing good basic training, as well as, leading by example. Officer A was also partnered with an officer who was still reliant on his/her guidance, due to having only approximately four weeks of field experience. While en route to the radio call, Officer A did not discuss the comments of the call, nor did they discuss potential tactical scenarios associated with such call, leaving Officer B with minimal direction on how to handle this radio call properly and safely. The only direction provided to Officer B was to detain the Subject if they saw him. Officer A's actions lacked leadership, direction, and detail which subsequently left Officer B, who was reliant upon Officer A as his/her FTO, without direction or clarity.

Both officers proceeded without any specificity or further information from the Victim and responded to the information offered by the Victim without soliciting any further details. Had it been acquired, the additional information would have benefitted the tactical planning and tactical communication between the officers and not placed the officers at a tactical disadvantage. Additional information obtained from the Victim would have allowed officers to establish the nature of the relationship between the Victim and the Subject, as well as to identify the mental health concerns of the Subject along with his aggressive behavior, which would have better prepared the officers to engage the Subject and/or request additional resources.

Acquiring additional information was pivotal to this incident due to the Subject being extremely aggressive and not having taken his mental illness medications. This information would have better prepared the officers to engage the Subject and/or request additional resources. Furthermore, by gathering basic information, the officers could have established who the victim was and learned that she was safe. This would have given the officers time to get resources and conduct the search with additional units. In this case, Officers A and B had time to slow the incident down and gather additional information regarding the Subject from the Victim and a description of the area where the Subject had fled. There was no exigency at the time of occurrence. Due to the overall lack of de-escalation techniques by Officers A and B, which included tactical planning and tactical communication, the BOPC determined that Officer A substantially deviated without justification from established Department procedures and training.

The BOPC would have preferred that Officers A and B developed and communicated a more detailed plan, which established roles and assignments including contact and cover, as well as lethal and less-lethal designations, as they were en route to the radio call in order to maintain a tactical advantage and ensure they properly functioned as a team. The BOPC additionally would have preferred the officers to have communicated more with each other throughout the entirety of the incident to ensure a successful resolution.

Based on the totality of the circumstances, the BOPC that Officer B's tactical communication and tactical planning lacked detail and clarity; however, Officer B had limited experience and was being guided by Officer A during the incident. Officer B's actions were a not an unjustified and substantial deviation from approved Department tactical training

3. Additional Unit Request

Officers A and B did not request an additional unit or supervisor while they actively searched for the Subject whom they believed could be armed, and who was ultimately located behind a closed storage room door. Officers bypassed the Victim and Witness B who could have provided information regarding the Subject's level of intoxication, possession of weapons, and possible mental illness status. Officers initiated physical contact with the Subject prior to requesting additional resources, having knowledge that the Subject was the suspect in an assault investigation.

Although officers are given discretion regarding the appropriate time to broadcast a request for an additional unit, it would have been tactically advantageous to do so, based on the officers' limited knowledge of the Subject and the crime he committed. Additional personnel would have been advantageous in clearing the location, opening the door and clearing the storage room in which the Subject was discovered, as well as maintaining cover on the unsearched storage room and remainder of the location as Officers A and B were engaged in the use of force. Additional personnel would also have provided assistance in combating the Subject's resistance and effecting the eventual detention of the Subject.

In this case, it was noted that the officers had the time and opportunity to wait for an additional unit to respond and assist them with gathering information at scene, assist in the search, and open the door to the storage room.

Based on the totality of the circumstances, the BOPC determined that while identified as an area for needed improvement, the officers' actions were not a deviation from approved Department tactical training.

4. Updating Status

Officers A and B did not update their status or generate a new Code-Six location after being directed by the Victim to the area where the Subject had fled, which was located approximately 400 feet from their initial Code-Six location.

The purpose of going Code-Six and updating the unit's location is to advise CD and officers in the area of the unit's location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel. Officer safety is of paramount concern and officers should always strive to maintain the tactical advantage during field duties.

In this case, as officers neared the location of the radio call, Officer B advised CD that they were Code-Six at the location of radio call. Following Officer B's Code-Six broadcast, Officers A and B observed the Victim directing them towards the tire shop. Officers proceeded to the new location in order to locate the Subject; however, they did not notify CD of their updated location. It would have been preferred that the officers update their location in order to keep additional resources apprised of their current location, the officers parked their vehicle approximately 400 feet from their Code-Six location and it was clearly visible. Based on the officers' vehicle being within the general area of their broadcasted Code-Six location and in line of sight, the officers satisfied the requirements of updating their status.

The BOPC would have preferred that Officers A and B notify CD of their new updated location in order to maintain a tactical advantage and keep additional resources aware of their most current location should additional resources be required.

Based on the totality of the circumstances, the BOPC determined that in this circumstance, the officers' actions were not a deviation from approved Department tactical training.

5. Hobble Restraint Device

In this case, Officer A responded to the radio call of an in-progress battery, and upon arrival the battery had ceased. The Subject had fled into hiding, wherein time was afforded to Officer A to ensure he/she was properly equipped. Officer A did not take advantage of the time afforded to him/her and initiated a search without his/her side-handle baton and his/her Hobble Restraint Device (HRD).

Based on the totality of the circumstances, the BOPC determined that in this circumstance it would have preferred that Officer A taken the time to properly equip him/herself with all his/her required equipment before commencing with the search due to the lack of exigent circumstances. Additionally, Officer A as a Training Officer has the responsibility to teach when and how to properly utilize

equipment. The use of the HRD in this application would have provided additional assistance to the officers and aided the overall control of the Subject.

- The BOPC also considered the following:

Required Equipment – The investigation revealed that Officer A was not equipped with his/her side-handle baton or his/her Hobble Restraint Device (HRD) at the time of the incident. Officer A was reminded of the importance of having his/her required field equipment on his/her person to allow for additional use of force options and to de-escalate an incident.

Basic Firearm Safety Rules – Body Worn Video revealed that Officer B drew his/her service pistol while in the parking lot, as he/she searched for the Subject. While holding his/her service pistol in his/her right hand, Officer B used his/her left hand to push open the storage room door. In the process of this motion, Officer B momentarily covered his/her left hand with the muzzle of his/her service pistol. Officer B was reminded to adhere to the Department's four basic firearm safety rules at all times.

Simultaneous Commands (Conflicting) – Officer A and B issued simultaneous conflicting commands when they first discovered the Subject and attempted to get him to voluntarily comply with their orders. Officer B ordered the Subject to stand up and face away from him/her, while Officer A directed the Subject to come out of the storage room and stay down. Officer A and B were reminded to adhere to their pre-designated roles of contact and cover and to provide consistent commands so as not to introduce confusion to a suspect which could escalate a situation.

Cover and Concealment – After opening the door to the storage room, Officer A placed him/herself in front of the open entryway. Officer A left the cover that was provided by his/her partner and the wall and moved into the open space wherein he/she subsequently became involved in a use of force in front of an unsearched room. Officer A was reminded that distance and cover allow the officer time to better manage a situation.

Use of Profanity – The investigation revealed that Officer A utilized profanity on three separate occasions during the use of force. The use of profanity can demonstrate a lack of professionalism.

Non-Categorical Use of Force Investigation Protocols – The investigation revealed the use of non-lethal force continued as Sergeant A was on scene. Sergeant A did not realize his/her direction and oversight to officers with regard to carrying the Subject to the police vehicle would deem him/her involved in the non-lethal use of force. Sergeant A believed the use of force had ended prior to his/her arrival at scene. Sergeant A was reminded that when providing guidance and direction in relation to a use of force he/she shall follow Non-Categorical Use of Force protocols for future investigations.

Command and Control

- The investigation revealed that Sergeant A was the first supervisor to arrive at the location. Sergeant A assumed the role of Incident Commander; however the incident was believed to be a Non-Categorical Use of Force at the time. Sergeant A directed officers to pick up the Subject and place him into a police vehicle and request an RA. The investigation revealed that Sergeant A initially believed he/she was a witnessing supervisor to the Non-Lethal Use of Force, and requested an additional supervisor to the location to conduct the Non-Categorical Use of Force investigation. Sergeant B responded and took over investigative responsibility for the Non-Lethal Use of Force investigation. After further investigation by Sergeant A, he/she determined he/she had arrived after the Non-Lethal Use of Force concluded and overtook investigative responsibility once again for the Non-Categorical Use of Force investigation. The following afternoon, based on the Subject's medical status, the incident was re-classified as a Categorical Use of Force and FID assumed investigative responsibility. The BOPC noted that in the future should Sergeant A happen across a similar circumstance, he/she should contact either the Watch Commander or another, more experienced supervisor to obtain advice on determining the circumstances of a use of force incident.

The BOPC noted that at the time the supervisors arrived, as well as, throughout their investigation at scene, the incident was considered a Non-Categorical Use of Force. The BOPC noted that the Non-Lethal Use of Force occurred during the morning hours on the day of the incident, however, the incident was not re-classified as a Categorical Use of Force until the following day in the late afternoon.

The actions of Sergeants A and B were consistent with Department supervisory training and the BOPC's expectations of a field supervisor during a critical incident.

The above 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 are intended to be flexible and incident specific, which requires that each incident be looked at objectively and that 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. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

In conducting an objective assessment of this case, the BOPC determined that the tactical communications utilized by Officer A substantially, and without justification,

deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

In conducting an objective assessment of this case, the BOPC determined that Sergeant A, and Officers B, C, and E's tactics did not represent a deviation from approved Department tactical training.

Therefore, the BOPC found Officer A's tactics to warrant a finding of Administrative Disapproval. The BOPC found Sergeant A, along with Officers, B, C, and E's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- According to Officer A, the Subject had already assaulted the Victim, and he/she believed the Subject was possibly armed and posed the threat of danger. As Officer A exited his/her police vehicle, he/she drew his/her service pistol as he/she searched for the Subject.

According to Officer A, he/she and Officer B located the Subject in a contained storage room. Officers gave the Subject commands, and as the Subject, who appeared unarmed, began to exit the room, Officer A holstered his/her service pistol prior to initiating physical contact. Officer A communicated with his/her partner, Officer B, to holster his/her service pistol as well in anticipation of his/her plan to initiate physical contact with the Subject.

- According to Officer B, he/she believed the Subject could be armed with a weapon and he/she had been designated as the lethal cover officer. Based on the information from the radio call, the Subject had already assaulted the Victim.

While searching for the Subject, Officer A asked Officer B if he/she could see anyone, to which Officer B shook his/her head no and holstered his/her service pistol. Officer B drew his/her service pistol for the second-time mere seconds after holstering, as he/she continued to be involved in a tactical situation where he/she had previously drawn his/her service pistol due to the belief the Subject could be armed with a weapon and had already assaulted the Victim.

Officer B did not provide a statement documenting the second drawing of his/her service pistol.

Officer B holstered his/her service pistol at the direction of Officer A and prior to making physical contact with the Subject, because the officers did not observe any weapons in the Subject's hands.

In this case, the BOPC conducted a thorough evaluation of the reasonableness of Officers A and B's drawing and exhibiting of a firearm. The BOPC noted that the officers responded to a radio call of an assault, where the Subject was hiding and

whose whereabouts were unknown to officers who believed the Subject could be armed with a weapon.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, while faced with similar circumstances, would reasonably believe that there was a substantial risk 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 grip, Body Weight, Physical Force, Strike)**

According to Officer A, he/she approached the Subject to take him into custody. As Officer A attempted to place the Subject in position to be handcuffed, the Subject's body became extremely rigid and the Subject began to resist the officer's actions. To combat the Subject's resistance and effect a detention, Officer A utilized firm grips to maintain control of the Subject's arms, body weight to prevent the Subject from standing up and preventing escape, physical force to position the Subject at a position of disadvantage, and a distraction strike to make the Subject stop his resistance and submit to officer's force applications and demands.

According to Officer A, he/she observed the Subject seated on the ground in a storage closet attempting to hide from officers. After being given direction, the Subject laid in the threshold of the doorway on his back with his legs outstretched inside of the room while his head, torso, and arms, extended outside of the room. Officer A used both of his/her hands to grab the Subject's left wrist. Officers then pulled the Subject until his legs were entirely out of the storage area. Surveillance video depicted that once the Subject was moved from the doorway, Officer A used both of his/her hands on the Subject's left wrist and first attempted to roll the Subject toward his left side to place the Subject on his stomach.

Surveillance video depicted that officers positioned the Subject facedown. As Officer A gripped the Subject's right arm, near the wrist, he/she positioned him/herself on the Subject's right side as the Subject appeared to bend his arm toward his head.

Surveillance video depicted Officer A place his/her left knee on the center of the Subject's back, as he/she applied his/her body weight while attempting to hold onto the Subject's right wrist with both hands. The Subject continued to resist, which resulted in Officer A's losing his/her grip of the Subject's wrist.

Surveillance video depicted that during the struggle, the Subject rolled over, wherein, Officer A applied body weight with the left side of his/her upper torso and laid across the Subject's upper chest. Officer A broadcast a request for a backup.

Surveillance video depicted Officer A, while lying across the Subject, momentarily place his/her radio down onto the ground, switched his/her hand position to re-grip the Subject's right wrist with his/her left hand, pinning it in a bent position near the Subject's head.

Surveillance video depicted that Officer A placed his/her left knee on the Subject's upper back area and applied body weight. Officer A then straightened the Subject's right arm, using both his/her hands on the Subject's right wrist as he/she began to pull it toward the Subject's back.

Surveillance video depicted that Officer A placed his/her right hand on the back of the Subject's right triceps and simultaneously placed his/her right knee on the back of the Subject's right shoulder, applying body weight and causing the Subject to lay face down on the ground.

According to Officer A, the Subject was not complying with commands and was actively resisting. Officer A, in an effort to gain control of the Subject's right arm and release the Subject's rigid tension, used his/her closed right fist and struck the Subject once in his upper back.

Surveillance video depicted Officer A place his/her right forearm between the Subject's shoulder blades and neck, while using body weight to control the Subject.

As additional units arrived on scene, Officer A released his/her application of body weight and momentarily walked away from the Subject. Soon after, Officer A observed Officers B and C lift and attempt to carry the Subject to a police vehicle. Officer A assisted Officers B and C and applied physical force to place the Subject into an upright position and firm grips to the Subject's right arms to carry him to the police vehicle.

Surveillance video depicted Officer A use his/her right hand to push the Subject's upper chest back into an upright position and place his/her left hand under the Subject's right armpit to assist in carrying the Subject to the police vehicle.

The BOPC reviewed each application of non-lethal force by Officer A in this case and determined that the force used was reasonable based on the Subject's physical resistance. The Subject did not comply with officers' lawful orders to submit to detention and escalated the incident further when he physically resisted officers as they attempted to effect his arrest. Throughout the incident, Officer A issued multiple commands to de-escalate the situation. Officer A used non-lethal force to take the Subject into custody and bring the incident to a successful resolution.

- **Officer B** – (Firm Grip, Body Weight, Physical Force, Wrist Lock)

According to Officer B, he/she approached the Subject to take him into custody. As Officer B attempted to roll the Subject over to initiate handcuffing, the Subject tensed his body and physically resisted his detention. Officer B utilized firm grips to control the Subject's arms and legs, body weight as he/she maintained the Subject's body on the ground as the Subject attempted to stand, physical force as he/she pulled the Subject's arms behind his back and turned the Subject from his back to his stomach and, and a wrist lock as he/she gained control of the Subject's hands for handcuffing.

Surveillance video depicted that Officer B moved to the Subject's right side, used his/her left hand to grip the Subject's right wrist, and his/her right hand to hold onto the Subject's right elbow, then pulled the Subject until his legs were entirely out of the storage area.

According to Officer B, after the Subject was out of the room he/she wanted to take the Subject into custody. Officer B grabbed the Subject's left bicep/triceps to roll the Subject over onto his stomach and the Subject tensed up.

Surveillance video depicted the officers positioning the Subject face down. The Subject bent his left arm and placed it close into his upper body. Officer B attempted to pull the Subject's left arm out as he/she placed his/her right knee on the Subject's back and applied body weight. Additionally, Officer B placed his/her right hand on the Subject's left triceps and used his/her left hand to grab the Subject's left wrist.

Surveillance video depicted that while Officer A applied body weight with the left side of his/her upper torso laid across the Subject's upper chest and broadcast for a backup, Officer B continued to hold on to the Subject's left wrist with his/her left hand and was able to pin the Subject's arm down across the Subject's chest.

Surveillance video depicted that Officer B repositioned him/herself to the right side of the Subject. Officer B released the Subject's wrist and used his/her right hand on the Subject's left elbow to begin pushing the elbow across the Subject's body, and grabbed the Subject's jeans near his left knee, to roll the Subject onto his stomach.

Surveillance video depicted that Officer B then placed his/her right hand on the back of the Subject's left shoulder and completed rolling the Subject face down on to his stomach. Once the Subject was face down, Officer B placed his/her left knee on the Subject's lower back and applied body weight. Officer B struggled to control the Subject's left arm. The Subject was able to momentarily roll onto his right side, bending his left arm, pulling it in near his torso.

Surveillance video depicted that Officer B was able to reacquire his/her grip on the Subject's left wrist and forearm and pull it behind his back. Simultaneously, Officer B placed his/her right knee on the Subject's upper back, applying body weight.

Surveillance video depicted that Officer B applied a wrist lock to the Subject's left wrist, while removing his/her handcuffs with his/her right hand. Officer B then placed one handcuff on the Subject's left wrist.

Surveillance video depicted that the Subject kicked his legs and was able to lift his chest partially off the ground. As the Subject was lifting his torso off the ground, Officer B used his/her right hand to put body weight on the Subject's left shoulder. The Subject was still able to lift his head and torso slightly off the ground. As the Subject turned his head to the right toward Officer A, Officer B placed his/her right hand on the back of the Subject's head and applied body weight.

Surveillance video depicted that Officer B then began to assist Officer A in placing the Subject's right arm behind his back. Officer B used his/her right hand on the Subject's right forearm to assist with this motion. The Subject became rigid and tensed up his body as he tucked his right hand under his torso area.

Surveillance video depicted that Officer B then handcuffed the Subject's right wrist and placed his/her right knee on the Subject's middle back. Officers maintained body weight on the Subject until back-up units arrived.

Surveillance video depicted Officer B conduct a pat down search of the Subject and assist the Subject into the seated position. Officer B requested the Subject stand utilizing his own power; however, the Subject provided no response. Officer B applied firm grips to the Subject's left arm and left hand and utilized physical force to lift the Subject into the standing position. He/she then along with Officers A and C overcame the Subject's resistance and carried him to an awaiting police vehicle.

The BOPC reviewed each application of non-lethal force by Officer B in this case and determined that the force used was reasonable based on the Subject's physical resistance. The Subject did not comply with officers' lawful orders to submit to detention and escalated the incident further when he physically resisted officers as they attempted to effect his detention. Throughout the incident, Office B issued commands to de-escalate the situation. Officer B used non-lethal force to take the Subject into custody and bring the incident to a successful resolution.

- **Officer C – (Firm Grip and Physical Force)**

According to Officer C, he/she observed the Subject was controlled on his upper body, so he/she applied a firm grip with both hands to the Subject's legs to overcome his resistance to kick other officers.

According to C, he/she was directed to pick up the Subject off the ground and carry him to the police vehicle, as he was non-complaint. Officer C used both of his/her hands to apply firm grips on the Subject's right arm and utilized physical force to raise the Subject into an upright position. He/she and Officer B began to drag the

Subject to the police vehicle when Officer A took hold of the Subject's right arm and Officer C was directed by Sergeant A to carry the Subject's legs. Officer C released his/her grip on the Subject's arms and applied a firm grip to the Subject's legs. Officer C assisted in carrying the Subject to the police vehicle where the Subject was placed in a seated position, outside of the vehicle, so officers could reacquire their grip and place a non-complaint the Subject into the vehicle.

The BOPC reviewed each application of non-lethal force by Officer C in this case and determined that the force used was reasonable based on the Subject's continued physical resistance. The Subject continued to not comply with officers' lawful orders and refused to assist officers under his own accord. Officers attempted to have the Subject cooperate through commands in an effort to de-escalate the situation. Officer C used non-lethal force to carry the Subject to the police vehicle and bring the incident to a successful resolution.

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

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