

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

On August 12, 2019, in the late morning, Los Angeles Police Department (LAPD) Communications Division (CD) Emergency Board Operator (EBO) received an emergency call for service from Witness A. According to Witness A, "A violent homeless guy was throwing ladders and metal pipes at her contractors and he was trying to start a fight." Witness A described the Subject as a male, wearing a white T-shirt, brown vest, blue shorts with sunglasses on his head. CD broadcast the call for Wilshire units, described the nature of the call and provided officers with a description of the Subject.

CD assigned the Assault with a Deadly Weapon (ADW) call to Police Officers A, B, and C. Officers A and B were primary partners and had been working together for approximately one deployment period. Officer C's primary partner was scheduled to work but had called in sick. This was Officer C's first time working with Officers A and B.

According to Officer A (a Training Officer), he/she discussed tactics with Officers B and C at the start of their watch. Officer A explained to Officers B and C that they (Officers B and C) would be working together as partners, as if they were working a two-person car. Officer A advised that he/she would merely observe and intervene if needed. Officer A also advised Officer B that he/she would be contact officer when they arrived on scene, as he/she wanted him/her to gain more experience interacting with community members.

Officer B indicated that the officers had arrived at the scene (Code Six) via the Mobile Digital Computer (MDC). As the three officers exited their police vehicle, Officers A and B activated their Body-Worn Video (BWV) cameras.

Officers B and C approached Witness A as she stood in front of her business. As captured on Officer B's BWV, Witness A reported the Subject was harassing the construction workers under her employ. According to Witness A, the Subject was threatening them, had challenged them to fight, and had thrown pieces of drywall at them, although she did not believe anyone had been struck by the thrown items. Witness A directed the officers to the Subject's current location and asked that they inform him (the Subject) to stay away. All three officers got back into their police vehicle and drove toward the Subject.

Officers B and C exited their police vehicle and approached the Subject with Officer A trailing behind. The Subject was standing on the sidewalk, adjacent to a shopping cart containing his personal property. As captured on Officer C's Body Worn Video, (BWV),

a metal post was resting in plain view on top of his property. The officers did not see the metal post until the Subject armed himself with it.

Officer B's BWV depicted the Subject as being immediately agitated and stating, "I don't want to talk to you all about nothing, bro" and, "I don't want you all to come around me at all." Officer B advised the Subject they would keep their distance and they just wanted to talk. As Officers B and C engaged the Subject in conversation, Officer A made the decision to tactically position himself/herself on the opposite side of the Subject. According to Officer A, he/she did not see the metal post resting on top of the Subject's shopping cart. Officer A said his/her intention was to walk past the Subject and get behind him so he/she could better monitor the interaction between the Subject and his/her partners. In addition, Officer A believed that would put him/her in a better position to contain the Subject if needed.

The Subject and his shopping cart were positioned in the middle of the sidewalk that measured 15 feet wide. Therefore, as Officer A attempted to walk past him, he/she had to pass through the space between the Subject, his shopping cart and the building that bordered the of the sidewalk. This resulted in Officer A being approximately five feet away from the Subject and his cart.

The Subject immediately responded to Officer A's approach by stepping back behind his shopping cart and stating, "Don't walk up on me." As stated by the officers and as captured on BWV, it was at this point that the Subject armed himself with the metal post and held it with his right hand down by his side. Officer A immediately unholstered his/her TASER, transitioned it to his/her right hand, pointed it at the Subject from an approximate distance of five feet and stated, "Boy, you better put that stick down."

According to Officer A, he/she unholstered his/her TASER because the Subject had armed himself with the metal post. Having had a prior contact with the Subject, Officer A thought he/she could convince him to comply with his/her orders and drop the metal post. Officer A believed that the Subject's actions could have justified the use of deadly force but was convinced such an escalation was not necessary as he/she thought he/she could resolve the incident by utilizing his/her TASER if necessary.

The Subject did not comply with Officer A's order to drop the metal post. Instead, as depicted in Officer C's BWV, the Subject opted to obtain a two-handed grip on the metal post and swing it at Officer A. In doing so, the Subject struck Officer A. The post first contacted Officer A's left shoulder and then the left side of his/her head. Simultaneously, as Officer A attempted to move to avoid being struck, he/she fired his/her TASER darts at the Subject.

The darts did not appear to contact the Subject as, after cycling for five seconds, they appeared to have no effect on the Subject.

After striking Officer A, the Subject attempted to strike Officer A again with a backhanded swing. Officer A avoided being struck by ducking and redeploying back toward his/her partners. Officer A transitioned the TASER to his/her left hand and unholstered his/her pistol with his/her right hand. Officer A repeatedly ordered the Subject to "drop the stick." In response to Officer A being struck by the metal post, Officer B armed himself/herself with his/her side handle baton while Officer C unholstered his/her pistol.

The Subject held onto the metal post and quickly advanced at Officer A, holding the metal post cocked behind him in the same two-handed grip. As the incident had clearly escalated, Officer A stepped back, dropped his/her TASER onto the ground, and acquired a two-handed grip on his/her pistol. Officer A directed Officers B and C to request a backup. Although Officer C did not discuss this in his/her interview, his/her BWV depicts that he/she holstered his/her pistol at this time and drew his/her ASP baton in his/her right hand. A few moments later, Officer B was captured on his/her BWV returning his/her side-handle baton to the ring on his/her equipment belt.

Officer C broadcast his/her unit designation and requested a backup at his/her location. CD immediately responded with, "Any unit in the vicinity, officers requesting a backup, airship and supervisor" and gave the location. CD requested that the Air Unit come in on the police radio. As Officer C was broadcasting, Officer A bent down and picked up his/her TASER with his/her left hand. Officer A ejected the TASER cartridge onto the ground and holstered the TASER.

At the direction of Officer A, Officer B unholstered his/her TASER. As captured on his/her BWV, Officer A directed Officer B to step forward and repeatedly directed him/her to tase the Subject. Officer B acquired a two-handed grip on his/her TASER, moved forward and yelled, "Sir, put that shit down." The Subject took an aggressive stance with the metal post cocked back in a striking position in his right hand. Officer B fired his/her TASER from an approximate distance of nine feet. The TASER darts appeared to contact the Subject's clothing, but after a five second cycle it was apparent that the TASER had no effect.

Officer A immediately directed Officer B to Tase the Subject again. According to Officer B, and as captured on his/her BWV, Officer B activated his/her TASER an additional three times. The activations cycled five seconds each and none of them affected the Subject. According to Officer B, he/she did not warn the Subject prior to firing his/her TASER because he was not listening to their prior commands and the Subject had already hit his/her partner with the metal post.

Officer C unholstered his/her TASER and stepped forward with a two-handed grip on his/her TASER. Officer C came up on target but did not fire the TASER. At that time, Officer A holstered his/her pistol and advised Officers B and C to "hold him off." Officer A then asked, "Do we have a bean bag?" Officer A ran to his/her police vehicle and retrieved the Beanbag Shotgun from the trunk. Meanwhile, Officers B and C stood approximately 24 feet away from the Subject armed with their TASERs.

Officer A chambered a round into the Beanbag Shotgun as he/she ran back to the Subject. Officer A stepped in front of his/her partners, shouldered the weapon and aimed for the Subject's naval/midsection. As captured on the officers' BWV, the Subject took an aggressive stance with the metal post in his right hand and stated, "Shoot me!" According to Officer A, the Subject had already hit him/her, and Officer A believed the Subject was willing and intent on harming Officer A and his/her partners; therefore, he/she immediately fired four rounds at the Subject from an approximate distance of 18 feet, striking him in the upper body. According to Officer A, he/she assessed between each round and after seeing that the Subject had not dropped the weapon or gotten on the ground as he/she had ordered, he/she continued firing until the Beanbag Shotgun was out of rounds.

After firing the fourth round, Officer A cycled the action of the shotgun to chamber an additional round. As the magazine was empty after he/she fired his/her fourth round, no new round was loaded into the firing chamber. As such, when Officer A pulled the trigger nothing happened. Simultaneously, the Subject aggressively moved toward Officer A with the metal post held up at shoulder height in a striking position. Officer A retreated, and the Subject stopped his advance. Officer A began reloading the two additional beanbag rounds from the Side Saddle on the shotgun. At that point, the Subject, still armed with his metal post, ran across the street to the sidewalk.

According to Officer A, he/she was concerned the Subject could have access to pedestrians or motorists on the street; therefore, he/she followed the Subject with the intent of containing him and preventing him from injuring others. Officers B and C joined their partner and followed the Subject across the street to the east sidewalk. Officer A was still armed with the Beanbag Shotgun loaded with his/her last two rounds. Meanwhile, Officers B and C had holstered their TASERS and were now both armed with their respective batons.

Officer A repeatedly ordered the Subject to get on the ground. The Subject refused to comply and took cover behind a tree as he/she repeatedly said, "No motherfucker." With the tree between them, Officer A maneuvered into position and aimed the beanbag shotgun at the Subject's naval area and fired a fifth beanbag round. That round was fired from an approximate distance of 14 feet and, according to Officer A, struck the Subject in the upper abdomen area.

Police Officers D (pilot), and E, Tactical Flight Officer (TFO), arrived and began circling overhead. Officer E began broadcasting what he/she could see developing below him/her on the street. Included in his/her broadcast was the fact that the Subject was armed with a stick and a request for a unit to respond with a Beanbag Shotgun or a 40-millimeter (MM) less-lethal launcher.

The Subject continued to pace back and forth on the sidewalk holding and manipulating the metal post in an aggressive manner. As officers continued to order him to get down onto the ground and to drop the metal post, the Subject would

occasionally acquire a two-handed grip of the metal post and take a few quick steps toward them. Officer C unholstered his/her TASER and held it in his/her left hand as he/she held his/her ASP baton in his/her right hand. The Subject walked on the sidewalk, and Officer C fired the TASER at the Subject from an approximate distance of ten feet. The TASER cycled for five seconds but was ineffective.

According to Officer A and as captured on his/her BWV, he/she could see civilians running around in the background behind the Subject. Officer A knew he/she was down to his/her last beanbag round and was well aware that the five prior rounds and the multiple TASER activations were ineffective on the Subject. Officer A thought he/she was running out of options. Officer A believed he/she was in a situation that warranted lethal force and considered using his/her pistol but was concerned he/she might miss and injure one of the civilians on the street. Taking those factors into consideration, he/she felt it would be safer to fire the Beanbag Shotgun in this scenario. Therefore, when the Subject made a move to cross the street, thereby escaping the officer's containment and having access to the surrounding pedestrians and motorists, Officer A aimed the Beanbag Shotgun at the Subject's left cheek and fired the last beanbag round. This was fired from an approximate distance of 12 feet.

The Subject was struck on the left cheek by the beanbag round; however, it too was ineffective and failed to stop him or cause him to drop the metal post. Realizing the Beanbag Shotgun was out of rounds, Officer A dropped it on the sidewalk and unholstered his/her pistol. Officer A acquired a two-handed grip, pointed it at the Subject, and stated, "Drop it! Drop the fucking stick. Now!"

Officer E broadcast, "... he gonna be crossing the street now towards pedestrians with a large metal stick in his hand. He's chasing a ped now!" The Subject had ignored the commands from Officer A and ran across the street with the metal post in his left hand. In doing so, the Subject crossed the northbound lanes of traffic and then ran through the two southbound lanes of traffic, which contained numerous stopped vehicles and an unknown citizen at the west curb, who was forced to run away from the Subject. Once on the west sidewalk, the Subject ran. Officer A, armed with his/her pistol, followed by Officers B and C, pursued the Subject on foot.

As the involved officers chased the Subject south on the west sidewalk, Sergeant A arrived at scene and parked his/her vehicle in the number two lane of southbound traffic. Sergeant A exited his/her vehicle, rung his/her side-handle baton, and unholstered his/her pistol. As the Subject ran toward Sergeant A, he/she initially positioned himself/herself on the sidewalk near the curb. Sergeant A yelled, "Hey, Police! Hey, Police!" as he/she redeployed into the street as the Subject, still holding the metal post in his right hand, closed the gap between he and Sergeant A. The Subject failed to stop and ran past Sergeant A.

Officer E broadcast, "Officer needs help," and provided further details for responding officers. Officer F arrived on scene and positioned his/her motorcycle in the number one lane of westbound traffic. Officer F saw the Subject on the north sidewalk, armed

with the metal post and from the seat of his/her motorcycle, repeatedly yelling, "Put it down." The Subject ignored Officer F and ran across the street toward the south sidewalk as Officer A pursued behind him.

Police Officers G and H arrived as the Subject was crossing to the south side of the street. Officer G armed himself/herself with a 40mm less-lethal launcher and he/she and Officer H joined the foot pursuit. According to Officer H, he/she saw that the Subject was armed with a metal post and saw that he was running toward stopped vehicular traffic in the eastbound lanes of traffic. Officer H feared the Subject might assault one of the motorists; therefore, he/she unholstered his/her pistol, held it at the low-ready position, and followed the Subject through the stopped traffic.

Officer F drove westbound and positioned himself/herself on the south side of the street, west of the Subject. Officer F dismounted his/her motorcycle and unholstered his/her Taser. As the Subject walked directly at Officer F with the metal post in his right hand, Officer F ordered, "Put it down or I'm going to tase you, put it down!" The Subject didn't comply and stepped off the curb to avoid Officer F and started to run west.

Officer F fired his/her TASER at the Subject from an approximate distance of five feet. The investigation was unable to determine if the TASER darts contacted the Subject; however, the TASER cycled for the full five seconds and was ineffective as the Subject continued to run, toward an open business.

Still armed with the 40mm launcher, Officer G moved to the front of the group of pursuing officers. Believing the Subject was heading to the business, Officer G aimed the 40mm at the Subject's legs and fired one round. The round appeared to strike the Subject on his right leg, but he continued to hold on to the metal post and run west in the direction of the business.

Officer A saw the customers inside of the business scattering for cover. Officer A closed the distance and placed himself/herself approximately five feet away from the Subject with his/her pistol pointed at the Subject and yelled commands for him to drop the metal post. According to Officer A, he/she was attempting to scare the Subject and therefore gain his compliance.

According to Officer G, he/she continued to give the Subject commands to drop the metal post. As the Subject neared the business, Officer G once again aimed the 40mm at the Subject's legs and fired a second 40mm round striking the Subject; however, it was ineffective.

The Subject ran across the street with the metal post in his right hand, ignoring the officers' commands. The Subject was being pursued by Officers A, B, C, F, G, H and Sergeant A. Officer F had loaded a fresh cartridge into his/her TASER. As the Subject neared the south curb, Officer F fired the TASER at him from an approximate distance of 10 feet. According to Officer F, he/she aimed the TASER at Subject's buttocks.

Since the Subject's shorts were falling, Officer F believed the device would be most effective if the darts were to make contact with the Subject's skin. The TASER cycled for five seconds and appeared to have no effect on the Subject. The Subject continued his attempted escape and moved onto the southwest corner of the street.

Officers positioned themselves on the sidewalk to contain the Subject on the southwest corner. According to Officer G, he/she wanted to verbalize with the Subject to deescalate the situation. However, the Subject continued to ignore the officers' commands and paced back and forth with the metal post in his right hand. Officer G fired a third and last available round from the 40mm, striking the Subject on the inside of his left thigh. This had no effect on the Subject as he continued to pace back and forth with the metal post in his hand. According to Officer G, he/she believed he/she fired the third 40mm round after the Subject had raised the metal post. Although the Subject was very active with his/her positioning of the metal post, a review of the BWV did not capture it in a "raised" position at the time Officer G fired the last 40mm. According to Officer G, each 40mm round was fired from an approximate distance of 30 feet.

Officers I and J arrived on scene. Officer J, armed with his/her Beanbag Shotgun, approached the group of officers attempting to contain the Subject and loudly announced, "Beanbag Ready."

Simultaneously, Sergeant A was delegating lethal and less-lethal responsibilities to officers at scene. Sergeant A designated Officer A to a lethal use of force role and Officers F and J as the less-lethal role, armed with a Beanbag Shotgun and TASER, respectively. Additionally, others were designated to put on gloves and assigned to the arrest team. Sergeant A began to communicate with the Subject and asked him to drop the metal post. The Subject refused to drop the metal post; therefore, Sergeant A made the decision to utilize the Beanbag Shotgun and stated, "Get the beanbag up."

Officer J announced, "Beanbag up." Officer J immediately announced, "Beanbag Ready" and fired one round from an approximate distance of 15 feet. The Subject continued to hold the metal post in his right hand while several officers continued to verbalize with him. After several more commands to drop the post, the Subject complied.

Sergeant A ordered the Subject to get on the ground, but he wouldn't comply. Eventually, Officer A holstered his/her pistol, approached the Subject, and gave him commands to get on the ground. Officer A was joined by Officers B, C, and H, whom were assigned to the arrest team. Due to the Subject's failure to comply, Officers B, C, and H placed their hands on the Subject's upper body and guided him down to the ground. Officer B utilized body weight on the Subject's lower legs, while Officer C placed a knee on his back. Officer C grabbed the Subject's right arm while Officer H grabbed the left arm. Both arms were moved toward the small of the Subject's back and Officer C applied the handcuffs without further incident.

Officer C conducted a search of the Subject before placing him into a seated position. Sergeant A broadcast that the Subject was in custody and that the incident had been resolved (Code Four). Sergeant A and Sergeant B discussed a request for a Rescue Ambulance (RA). Sergeant B broadcast a request for the RA; however, it was not captured by CD. Sergeant B broadcast a second request for the RA and verified that CD received the request.

After the Subject was placed in a seated position, Sergeant A directed Officer H to put a Hobble Restraint Device (HRD) on the Subject's legs. According to Officer H, he/she lifted the Subject's ankles and placed one over the other. Officer H then applied the HRD around the Subject's ankles and secured it in place.

The Los Angeles Fire Department (LAFD) arrived at scene and treated the Subject. The Subject was treated for the facial injury caused by the beanbag round and injuries from the various less-lethal weapons used during his arrest. The Subject was ultimately transported to a nearby hospital and was accompanied in the RA by Detective A. The Subject was admitted to the hospital, where he received medical treatment for his injuries.

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 Officers A and F's tactics to warrant a finding of Administrative Disapproval. The BOPC found Sergeants A and B, along with Officers B, C, G, H, I and J's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Sergeant A, along with Officer A, C, and H's drawing and exhibiting of a firearm to be In Policy.

C. Non-Lethal Use of Force

The BOPC found Officers A, B, C, G, H, and I's non-lethal use of force to be In Policy.

D. Less-Lethal Use of Force

The BOPC found Officers A, B, C, F, G, and J's less-lethal use of force to be In Policy.

E. 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 does not require that an officer compromise his/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

- *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 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 – Officer A discussed tactics with Officers B and C at the start of watch and explained that they would be working together as partners and that Officer A would observe their performance and intervene if necessary. Officer A stated that the officers planned to approach the Subject, obtain his personal information, and advise him to leave the area. Officer A also designated Officer B as contact officer and Officer C as cover officer. After Officer A was struck with the metal post, he/she initiated and directed the use of less-lethal force options. Sergeant A requested a 40mm LLL prior to his/her arrival at scene. While responding to the backup request, Officer G advised his/her partner, Officer H, he/she would be deploying the 40mm LLL upon their arrival. While responding to the backup request, Officer I instructed Officer J to deploy their Beanbag Shotgun.

The BOPC noted that Officer A had a difficult task in being assigned two Police Officer Phase II probationary officers. However, a more effective plan should have been established considering the limited field experience of his/her partners. In addition, the officers' planning should have accounted for the Subject possibly being armed based on the comments of the radio call, witness statements, and their own observations. The radio call stated the Subject had been throwing ladders and metal pipes. The contractor at Witness A's worksite stated the Subject had been in possession of a pipe, however Officers A did not hear the contractor's statement.

Officer B stated he/she was unsure if he/she heard the statement regarding the Subject possessing the pipe but should have relayed that information to his/her partners. As Officers A, B, and C approached the Subject, they observed he was agitated and advised the officers not to approach him. Officer A stated he/she did not speak with his/her partners about a tactical plan other than to inform them to talk to the Subject. Officer A did not take the opportunity to designate any roles such as lethal or less-lethal responsibilities.

Assessment – Officers A, B, and C assessed that the Subject was upset and agitated when they first made contact with him. Officer B stopped his/her approach and attempted to hear his concerns. The situation quickly escalated when Officer A attempted to walk past the Subject. Officer A believed he/she had a prior contact with Subject, in which he was a victim. Based on that contact, Officer A thought he/she could convince the Subject to comply with his/her orders and drop the metal post. After the Subject struck Officer A with the metal post, the officers assessed that the Subject was deliberately resisting arrest.

The BOPC noted Officer A did not assess that the Subject did not want to be approached by the officers. The situation escalated as Officer A attempted to redeploy to the south of the Subject. The BOPC noted that had Officer A crossed

to the south of Subject, it would have placed Officer A in a crossfire situation with his/her partners.

The BOPC additionally noted that Officer F placed his/her police motorcycle in a position that created a disadvantage and unnecessary risk both to himself/herself and nearby community members. Officer F rode his/her police motorcycle parallel to the Subject who was armed and had already shown his willingness to attack officers. Officer F rode his/her motorcycle on the sidewalk, and later placed himself/herself in a potential crossfire position after he/she redeployed close to the Subject's location in a deliberate attempt to contain him.

Time – The situation rapidly escalated for Officers A, B, and C as Officer A attempted to redeploy to the side of the Subject. The Subject armed himself with a metal post and struck Officer A in the head. Once the Subject was contained outside of the business, Sergeant A was able to slow down the pace of the incident. Sergeant A stopped the simultaneous commands directed at the Subject by multiple officers. Sergeant A assigned officers to lethal, less-lethal, and designated arrest team. Sergeant A's actions allowed time for him/her to communicate with the Subject and give him clear commands.

Redeployment and/or Containment – Officer A attempted to redeploy to the south side of the Subject during the initial contact with him, in an effort to improve his/her vantage point. At that point the Subject ran across the street, Officers A, B, and C attempted to contain the Subject along the east sidewalk. Officers A, B, C, F, G, H, I, and J, along with Sergeants A and B contained the Subject at the termination of the foot pursuit by positioning themselves and blocking off avenues of escape.

The BOPC noted that Officer F rode his/her police motorcycle parallel to the Subject who was armed and had already shown his willingness to attack officers. Officer F later placed himself/herself in a potential crossfire position after he/she redeployed west of the Subject's location in a deliberate attempt to contain him, while the pursuing officers were behind the Subject. The BOPC additionally noted that the broadcasts by the Air Unit's TFO did not direct responding units in the setting up of a perimeter or containment, but rather focused on weapons systems which were already on scene, deployed and repeatedly deployed. Containment can afford officers the added benefit of time while continuing to maintain control of the situation, in which the safety of citizens is not compromised. This was notable as the Subject crossed multiple lanes of traffic and led the officers on a meandering foot pursuit.

Other Resources – Officer C broadcast a request for a backup, at the direction of Officer A. During the foot pursuit of the Subject, Officer A broadcast a request for a Beanbag Shotgun. Sergeant A broadcast a request for a 40mm LLL prior to his/her arrival to the scene. The Air Unit, which was positioned over the incident, additionally requested a unit with the Beanbag Shotgun or a 40mm LLL to respond.

The BOPC noted that Officers A, B, and C did not wait for additional resources after requesting a backup. Officers were reminded that operational success is based on the ability of the officers to effectively plan and approach each incident in a safe manner.

Lines of Communication – Officers B and C initially attempted to open lines of communication with the Subject. As the Subject became more agitated, the officers attempted to continue to communicate with the Subject.

Officer A communicated with Officers B and C in directing them to broadcast a backup request and additionally directed Officer B to discharge his/her TASER at the Subject. After Officer A was struck with the metal post by the Subject, Officer A advised Officers B and C to hold off the Subject until he/she retrieved the Beanbag Shotgun from their police vehicle.

The BOPC noted that prior to Officer A retrieving the Beanbag Shotgun, he/she did not communicate how he/she wanted them to hold off the Subject. Officers B and C held off the Subject by deploying their TASERs, which had been ineffective to that point. When Officer A returned with the Beanbag Shotgun, he/she did not communicate any specific plan with Officers B or C, including, but not limited to assigning lethal or less-lethal force options prior to the deployment of the Beanbag Shotgun.

Officer F responded to the incident, separate from the other responding officers. While enroute, Officer F did not plug his/her police radio into the port on his/her motorcycle, thus preventing him/her from communicating with CD and other officers. Officer F deployed onto the incident without coordinating with the other officers who were already at scene and engaged with the Subject.

The BOPC determined that while Sergeants A and B along with Officers A, B, C, F, G, H, I, and J implemented elements of tactical de-escalation, the unprovoked, unpredictable, and immediate actions of the Subject limited the officers' ability to fully implement further de-escalation techniques.

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

1. Tactical Planning (Substantial Deviation, without Justification – Officer A)

The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, establish designated roles, and communicate during critical incidents, thus ensuring a coordinated effort and successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

Officer A discussed tactics with Officers B and C at the start of watch and explained that they would be working together as partners and that Officer A would observe their performance and intervene if necessary. Officer A also designated Officer B as the contact officer and Officer C as the cover officer. After meeting with Witness A, Officer A stated they only intended to approach the Subject to obtain his/her personal information and advise him/her to leave the area.

The BOPC noted that although Officer A had a difficult task in being assigned two Phase II probationary officers, a more specific and effective plan should have been established considering the limited field experience of his/her partners. In addition, the officers' planning should have accounted for the Subject possibly being armed, based on the comments of the radio call, witness statements, and their own observations. The comments of the radio call stated the Subject had been throwing ladders and metal pipes and the contractor of Witness A stated the Subject had been in possession of a pipe. Officer A stated he/she did not speak with his/her partners about a tactical plan other than to inform them to talk to the Subject. Officer A did not take the opportunity to designate any roles such as lethal or less-lethal responsibilities. This incident would have benefitted from Officer A establishing a specific tactical plan with Officers B and C.

Based on the totality of the circumstances, the BOPC determined that Officer A's actions were a substantial deviation, without justification, from approved Department tactical training.

2. Tactical Communication (Substantial Deviation, without Justification – Officer A and Officer F)

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.

Officers B and C approached and contacted the Subject, who appeared to be agitated. As they were attempting to build a rapport with the Subject, Officer A, without alerting his/her partners, began to approach the Subject in attempt to pass by him on the sidewalk and place himself/herself in a better tactical position. This led to the Subject becoming further agitated, arming himself/herself with a metal post, and striking Officer A.

After being struck by the metal post, Officer A instructed Officers B and C to hold off the Subject while he/she retrieved the Beanbag Shotgun from the vehicle, without communicating how he/she wanted them to hold off the Subject.

Officers B and C held off the Subject by deploying their TASERs, which had been ineffective up to that point. The BOPC would have preferred that Officer A, despite having just been struck on the head, remained with the Subject and sent one of the probationary officers to the police vehicle to retrieve the Beanbag Shotgun. Upon retrieval of the Beanbag Shotgun, a plan should have been communicated with assignments and further details on the roles of less-lethal force options and a Designated Cover Officer.

Based on the totality of the circumstances, the BOPC determined that Officer A's actions were a substantial deviation without justification from approved Department tactical training.

Officer F was on a traffic stop when he/she responded to the backup request, which later turned into a CUOF incident. Officer F did not plug in his/her communication line to his/her motorcycle for his/her police radio. Officer F was unable to communicate his/her Code-Six location to CD or to any of the other officers at scene upon his/her arrival. Officer F deployed at the incident and did not communicate with the other officers who were already at scene.

Based on the totality of the circumstances, the BOPC determined that Officer F, despite having the time and opportunity, failed to place himself/herself in an opportunity to communicate with CD and other officers, resulting in a substantial deviation, without justification, from approved Department tactical training.

3. Utilization of Cover

The utilization of cover, coupled with distance, enables an officer to confront an armed Subject while simultaneously minimizing their own exposure. As a result, the overall effectiveness of a tactical incident can be enhanced, while also increasing an officer's tactical options by using available cover.

Officers A, B, and C assessed that the Subject was upset and agitated when they first made contact with him. Officers B and C stopped their approach and attempted to hear the Subject's concerns. The situation quickly escalated when Officer A attempted to walk past the Subject, in an effort to be in a better position to observe and contain the Subject, as well as observe Officers B and C. As Officer A came within five feet him, the Subject quickly armed himself with a metal post. Based on a prior contact with Subject as a victim, Officer A thought he/she could convince Subject to comply with his/her orders and drop the metal post. Officer A remained in close proximity to Subject as he/she deployed his/her TASER.

The BOPC noted Officer A did not assess that the Subject did not want to be approached by the officers. The situation escalated as Officer A attempted to redeploy to the south of the Subject. The BOPC noted that had Officer A crossed to the south of Subject, it would have placed Officer A in a crossfire

situation with his/her partners. Officer A remained in close proximity to the Subject, instead of creating distance and utilizing the parked vehicles as cover.

Based upon the unavailability of cover due to vehicle traffic along the parked vehicles, the BOPC determined that Officer A's actions were not a deviation from Department policy or approved tactical training.

4. Use of Force Warning

Officer A did not provide a complete Use of Force Verbal Warning prior to the deployment of his/her TASER. Officer A stated it was not feasible to issue a verbal warning due to the Subject swinging the metal post at Officer A as he/she deployed the TASER.

Officers shall, when feasible, give a verbal warning prior to using less-lethal force to control an individual. In this case, a verbal warning was not required due to Subject's actions of attacking Officer A with a metal post.

The BOPC determined that although Officer A did not provide a Use of Force Warning, the incident did not require a warning. Officer A's TASER discharge was a response to the Subject's assault on him/her.

Based on the totality of the circumstances, the BOPC determined that Officer A's actions were not a deviation from Department policy or approved tactical training.

5. Tactical Vehicle Deployment (Substantial Deviation, without Justification – Officer F)

In this case, on several occasions during this incident, Officer F placed his/her police motorcycle in a position that created a disadvantage and unnecessary risk both to him/herself and citizens of the community. The positioning of a police vehicle is critical in order to provide officers a tactical advantage.

Officer F rode his/her police motorcycle parallel to the Subject, who was armed and had already shown his/her willingness to attack officers. In addition, Officer F rode his/her motorcycle on the sidewalk located within a busy mid-city business district during the lunch hour, and later placed him/herself in a potential crossfire position after he/she redeployed west of the Subject's location in a deliberate attempt to contain him.

Based on the totality of the circumstances, the BOPC determined that Officer F's vehicle deployment was a substantial deviation, without justification, from approved Department tactical training.

6. Approaching an Armed Subject (Substantial Deviation, without Justification – Officer A)

During the foot pursuit, Officer A approached the Subject, who was still armed with a metal post.

When officers encounter a suspect they believe is armed with a weapon, they are trained to place the suspect into a high-risk prone position to facilitate a safe approach and take the suspect into custody. This provides the officers a tactical advantage and allows them to plan, communicate, redeploy, utilize cover, give commands, and approach the suspect from a position of advantage.

In this case, Officer A placed himself/herself at a tactical disadvantage by initiating physical contact with a Subject who was armed, without the benefit of an immediate cover officer. The BOPC considered Officer A's general concern for public safety concerning the Subject gaining access to a person in the area while armed with a metal post, but determined that there were no specific facts articulated that would indicate such a significant danger to public safety that it outweighed the risk to himself/herself. By taking unilateral action, Officer A took an unnecessary risk, and the BOPC would have preferred for Officer A to wait for his/her partners behind cover and utilize the additional resources so that they could communicate, assign contact and cover roles, and devise a coordinated plan to take the Subject into custody.

Based on the totality of the circumstances, the BOPC determined that Officer A's actions were a substantial deviation, without justification, from approved Department tactical training.

7. Designated Cover Officer

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, as Officer A approached the Subject and fired multiple sock rounds at the Subject, Officers B and C both had their batons deployed. Officer A did not assign a Designated Cover Officer (DCO), which resulted in all three officers deploying a less-lethal force option. Officer A was reminded that a sound tactical plan, including the assignment of a specific DCO, should be implemented to ensure a successful resolution while keeping in mind officer safety concerns.

Officer A was assigned as the DCO when the Subject was contained near the business by multiple officers. When the Subject dropped his weapon, Officer A

holstered his/her service pistol and approached the Subject and grabbed his arm. Officer A approached the Subject without the benefit of a DCO.

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

- The BOPC also considered the following:
 - **Updating Status** – Officers A, B, and C did not update their follow up location with CD when they drove from the radio call location to the Subject's location. Although there were several additional officers in the area to assist them, the officers were reminded of the importance of updating their status in the event additional resources were necessary.
 - **Required Equipment** – The investigation revealed that Officer C was not equipped with his/her HRD. Officer C left his/her HRD in his/her police vehicle during the incident. Officer C had separated from the Department, not related to this incident, before any corrective action could be taken.
 - **Profanity** – The investigation revealed that Officers A and B utilized profanity during the incident toward the Subject in their attempt to take him/her into custody. Officer A additionally used profanity when he/she advised a citizen to step back from the area where the Subject was being contained and not in custody. The officers were reminded that profanity may unnecessarily escalate the situation.
 - **Waiting for Additional Resources** – Officer A, B, and C did not wait for additional resources after requesting a backup. These additional resources may have provided additional tactical options for the officers. Officers were reminded that operational success is based on the ability of the officers to effectively plan and approach each incident in a safe manner. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.
 - **Beanbag Shotgun Manipulations** – The investigation revealed that Officer A did not load a tactical fifth sock round into the Beanbag Shotgun magazine after chambering a beanbag sock round. Additionally, after firing four beanbag sock rounds, Officer A did not verify the condition of the Beanbag Shotgun, resulting in Officer A inadvertently attempting to fire the Beanbag Shotgun which did not have a sock round in the chamber. Officer A was reminded to utilize the full capacity of the Beanbag Shotgun by loading a fifth sock round into the Beanbag Shotgun magazine after chambering a beanbag sock round.
 - **Holding Baton in One Hand and TASER in the Other** – The investigation revealed that officer C drew and discharged his/her TASER while simultaneously holding his/her collapsible baton in his/her primary hand. Officer

C was reminded that having both hands simultaneously occupied with tools or devices can prevent the effective manipulation of those tools.

- **Maintaining Control of Equipment** – The investigation revealed that Officer A dropped his/her Beanbag Shotgun on the sidewalk after discharging all of the beanbag sock rounds. Officer A continued to follow the Subject on foot, leaving the Beanbag Shotgun unattended. The Beanbag Shotgun was later recovered by officers. While this incident involved a physical altercation with the Subject, Officer A was reminded of the importance of securing his/her equipment to prevent the Subject from gaining access to it and potentially using it against him/her, other officers, or citizens.
- **Foot Pursuit Broadcast** – Officers A, B, and C did not broadcast information of their foot pursuit of the Subject. Although the Air Unit arrived and assisted with broadcasting the foot pursuit, the primary unit is responsible for broadcasting foot pursuit information.
- **Simultaneous Commands (Non-Conflicting)** – The investigation revealed that Officers A, F, and G gave the Subject simultaneous commands, prior to him being taken into custody. Officers were reminded that simultaneous commands can lead to confusion and Subject non-compliance.
- **Basic Firearms Safety Rules** – The investigation revealed that Officer A momentarily utilized the muzzle of his/her service pistol to direct the citizen away from the area where the Subject was being contained. Officer A was reminded to remain mindful of the Department's Basic Firearm Safety Rules at all times.
- **Tactical Communication** – The investigation revealed that while Sergeant A assumed the duties of an Incident Commander (IC), however he/she did not declare him/herself as such. The declaration of the IC can reduce confusion during the incident.
- **Preservation of Evidence** – Officer I picked up the Subject's metal bar after the Subject was taken into custody, prior to the incident being identified as a CUOF incident. The metal post was placed into a police vehicle by Officer B. After Sergeant A identified the incident as a CUOF, LAFD requested to view the weapon used to strike Officer A. Officer J used gloves to retrieve the metal post from the police vehicle, however, an LAFD employee was allowed to touch and inspect Subject's metal post without using gloves.

Officer F recovered his/her expended TASER dart after the Subject was taken into custody, but prior to the incident being identified as a CUOF incident.

- **Protocols Subsequent to a Categorical Use of Force** – The investigation revealed that Sergeant A directed Officer B to accompany Officer A in the RA unit to the hospital. Just prior to the RA leaving the scene, Sergeant A

discovered the incident was a CUOF incident. Sergeant A did not separate or monitor Officers A or B, nor did he/she assign a supervisor to respond with them to the hospital. A supervisor was later directed to respond to the hospital. Sergeant A was reminded of the importance of the separation and monitoring of personnel who are involved in a CUOF incident.

These topics were to be discussed at the Tactical Debrief.

- **Command and Control**

The senior officer, or any officer on-scene who has gained sufficient situational awareness, shall establish Command and Control and begin the process to develop a plan of action consistent with Department supervisory and tactical training. Sergeant A responded to the backup request and assumed the active leadership role of IC. While enroute, Sergeant A heard the Air Unit broadcast that the Subject was armed with a metal post, which prompted Sergeant A to request a 40mm LLL equipped unit to respond to the scene. Upon arrival, Sergeant A observed the Subject armed with a large metal post being pursued on foot by the officers. Sergeant A assessed the situation and felt the Subject posed an imminent threat to the people in the area and wanted to limit the Subject's ability to harm any citizens or officers. Sergeant A took active command of the incident by assigning lethal and less-lethal force option roles, as well as forming an arrest team. Sergeant A supervised the incident while officers took the Subject into custody.

Upon determining the incident involved a CUOF, Sergeant A proceeded to implement some procedures subsequent to a CUOF incident. Sergeant A implemented crime scene management and ensured that the required Department notifications were made. Sergeant A became aware that this incident was a CUOF, due to an intentional targeting of the head by Officer A during the discharge of a beanbag sock round. Sergeant A allowed Officers A and B to leave the area in the RA together without separating and monitoring them or ordering them to not discuss the incident.

The actions of Sergeant A during the tactical incident were consistent with Department supervisory training and the BOPC's expectations of a field supervisor during a critical incident. Sergeant A's supervisory actions post-tactical incident, after becoming aware that the incident involved a CUOF was not consistent with Department supervisory training and the BOPC's expectations of a field supervisor. In addition, Sergeant B responded to the incident and assisted Sergeant A. After the Subject was contained, Sergeant B directed officers to put on gloves and assisted in assigning an arrest team. Sergeant B broadcasted RA requests, made notifications to the watch commander, and ensured crime scene management protocols were in place.

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

Lieutenant A arrived at the location and relieved Sergeant A as the Incident Commander.

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

- 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.

In conducting an objective assessment of this case, the BOPC determined that Sergeants A and B, along with Officers B, C, G, H, I, and J's tactics did not deviate from approved Department policy and tactical training.

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

Therefore, the BOPC found Officers A and F's tactics to warrant a finding of Administrative Disapproval. The BOPC found Sergeants A and B, along with Officers B, C, G, H, I and J's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- **Officer A**

First Occurrence

According to Officer A, he/she had discharged his/her TASER at the Subject, and it was ineffective. The Subject had swung and hit Officer A in the head with the metal post. Officer A believed that the Subject posed an immediate threat to his/her life. At that point, he/she drew his/her service pistol.

Second Occurrence

According to Officer A, after he/she dropped the Beanbag Shotgun, he/she drew his/her service pistol because the Subject was still armed and close to him/her. Officer A believed that he/she was going to have to shoot the Subject.

- **Officer C**

First Occurrence

According to the FID investigation, Officer C drew his/her service pistol after the Subject had swung and hit Officer A in the head with the metal bar.

Second Occurrence

According to Officer C, the Subject was still in possession of the metal post while the officers were in foot pursuit of him. At one point, Officer C perceived the Subject was close enough to Officer A, that if the Subject should decide to close the distance, Officer C would have no option but to use deadly force. Officer C drew his/her service pistol.

- **Officer H**

According to Officer H, he/she observed that the Subject was armed with a stick running across stopped vehicle traffic. In fear that the Subject would strike some of the people in the vehicles, he/she drew his/her service pistol.

- **Sergeant A**

According to Sergeant A, he/she observed the Subject running with a stick. Sergeant A heard the Air Unit advise that the Subject had been swinging the stick at people. Sergeant A felt that the Subject could be a danger to himself and the situation could escalate to the point of deadly force.

In this case, the BOPC conducted a thorough review and evaluation of the reasonableness of Sergeant A's, along with Officers A, C, and H's drawing and exhibiting. The BOPC noted that the officers had observed the Subject was armed with a large metal post and believed it was reasonable for them to draw their service pistols.

As such, based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Sergeant A, along with Officers A, C, and H, 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 Sergeant A's, along with Officers A, C, and H's drawing and exhibiting of a firearm to be In Policy.

C. Non-Lethal Use of Force

- **Officer A – (Firm Grip)**

According to Officer A, once the Subject dropped the weapon, Officer A holstered his/her service pistol, approached the Subject, and grabbed his arm. Additional officers came in and grabbed the Subject.

- **Officer B** – (Firm Grip and Bodyweight)

According to Officer B, he/she was part of the arrest team. Officer B grabbed the Subject's legs once he/she was already on the ground, in a face up position. The Subject was rotated to a facedown position. Officer B continued to hold onto his legs.

- **Officer C** – (Firm Grip and Bodyweight)

According to Officer C, he/she was part of the arrest team. Officer C used a firm grip to grab both of the Subject's shoulders and assisted him to a sitting position, laid him down, and rolled the Subject onto his stomach. Officer C then handcuffed the Subject. Officer C additionally used his/her bodyweight, placing his/her knee on the Subject's back, during the handcuffing.

- **Officer G** – (Firm Grip and wrist lock)

According to Officer G, he/she assisted the arrest team by grabbing the Subject's right hand and applying a wrist lock, which assisted in getting the Subject's right arm behind his back to get handcuffed.

- **Officer H** – (Firm Grip and Bodyweight)

According to Officer H, once the Subject went down to the ground, he/she assisted in turning the Subject over. Officer H took the Subject's left arm and put it behind his back. Another officer handcuffed the Subject. Officer H additionally assisted Officer I by applying bodyweight to the Subject's back to hold him while the Subject was searched.

- **Officer I** – (Firm Grip and Bodyweight)

According to Officer I, after the Subject was handcuffed and placed in a sitting position, he/she held the Subject on the ground, applying a firm grip and bodyweight to the base area of the back of the Subject's neck.

The BOPC reviewed each application of non-lethal force utilized by Officers A, B, C, G, H, and I. The Subject escalated the incident by fleeing on foot from the officers and refusing to submit to arrest. Throughout the incident, the officers verbalized with the Subject, who subsequently physically resisted the officers' attempts to detain him. The officers worked in coordination to secure the Subject while he was being handcuffed and taken into custody. All officers used a minimum level of force to overcome the Subject's physical resistance and handcuff him.

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

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

D. Less-Lethal Use of Force

- **Officer A** – (TASER, one five-second activation in probe-mode)

According to Officer A, he/she unholstered his/her TASER because the Subject had armed himself with the metal post and swung at him/her, striking his/her head area. Officer A did not recall if he/she discharged his/her TASER at the Subject and then was hit, or if the Subject had hit him/her and Officer A discharged the TASER at the Subject. Officer A did not want to resort to lethal force.

- **Officer B** – (TASER)

First Activation, One five-second activation in probe-mode, from an approximate distance of nine feet.

According to Officer B, he/she discharged his/her TASER at the Subject because he had armed himself with a metal post and struck Officer A in the back of the head. Officer B gave the Subject commands to drop the metal post, which he did not follow. The Subject was still combative and aggressive, which led to him/her discharging his/her TASER at him.

Second, Third, and Fourth Activation, five-second re-activations in probe-mode, from an approximate distance of nine feet.

According to Officer B, after he/she tased the Subject, it made contact and he/she tased the Subject an additional three times. None of the total four activations were working. As Officer A retrieved the Beanbag Shotgun, he/she remained standing there trying to hold off the Subject to make sure he didn't go anywhere.

- **Officer A** – (Beanbag Shotgun)

First, Second, Third, and Fourth Discharges, from an approximate distance of 18 feet.

According to Officer A, after being struck in the head with a metal post, he/she advised his/her partners he/she was retrieving the Beanbag Shotgun from their police vehicle. Officer A obtained the Beanbag Shotgun and ran back. Officer A

stated the Subject had already hit him/her in the head and had shown that he was willing to harm the officers. The Subject was very aggressive, still holding the metal post and pacing back and forth. Officer A stated that as he/she ran back, he/she racked a beanbag sock round and shot the Subject in the center mass of his body. Officer A shot a total of four beanbag sock rounds at the Subject's chest area, which were ineffective. Officer A shot the Subject that first time and kept going. Officer A stated that he/she assessed between each beanbag sock round fired, observed the Subject was still standing, and he was not dropping the weapon.

Fifth Discharge, from an approximate distance of 14 feet.

According to Officer A, he/she repeatedly ordered the Subject to get on the ground. The Subject refused to comply and took cover behind a tree as he repeatedly refused to comply with the commands. Officer A believed that the Subject had the potential to attack again. With a tree between them, Officer A maneuvered into position and aimed the Beanbag Shotgun at the Subject's midsection and fired a fifth beanbag sock round.

- **Officer C** – (TASER, one five-second activation in probe-mode)

According to Officer C, he/she fired his/her TASER due to the Subject's violent demeanor. The Subject had already struck Officer A with the metal post. Officer C stated the Subject was threatening them and was swinging the metal post. The Subject was an immediate threat. Officer C stated that he/she was approximately 10 to 15 feet away from the Subject when he/she discharged the TASER.

Officer C stated that he/she did not issue a verbal warning to the Subject. Officer C stated that he/she issued commands, but that the Subject refused to comply. In addition, the Subject had already struck Officer A with the pipe.

- **Officer F** – (TASER)

First Activation, One five-second activation in probe-mode, from an approximate distance of 5 feet.

According to Officer F, he/she discharged his/her TASER because he/she observed the Subject armed with a metal post that he waved around in his hand. Officer F observed Officer A with his/her service pistol drawn, leading Officer F to believe it was a deadly force situation. Officer F observed that the Subject was bleeding from his face, leading him/her to believe that a use of force incident had already occurred. Officer F let everyone know that he/she had a TASER, at which point in time, Officer F discharged his/her TASER at the Subject. The TASER was ineffective.

Second Activation, One five-second activation in probe-mode, from an approximate distance of 10 feet.

According to Officer F, he/she attempted another TASER discharge, again aiming for Subject's buttocks area, due to the Subject's pants sagging. Officer F was trying to aim on the upper part of his/her gluteus maximus. Officer F discharged the TASER again. It still appeared to be ineffective.

- **Officer G** – (40mm Less-Lethal Launcher, Sponge Round)

First Discharge, from an approximate distance of 30 feet.

According to Officer G, he/she observed that officers were in foot pursuit of the Subject, who was armed with a weapon resembling a bat and waving it around. Officer G deployed the 40mm LLL and joined the foot pursuit. Believing that the Subject was a danger to the citizens in the area, as well as to the officers, Officer G discharged his/her 40mm LLL at the Subject, striking him on his right leg.

Second Discharge, from an approximate distance of 30 feet.

According to Officer G, his/her first 40mm round was ineffective. Officer G became more concerned for the citizens in the area as the Subject continued to run in the direction of a busy business. Officer G did not want the Subject to enter the business, leading him/her to discharge his/her 40mm LLL.

Third Discharge, from an approximate distance of 30 feet.

According to Officer G, he/she observed the Subject run onto the sidewalk and feared the Subject was going to enter the adjacent restaurant. Officer G realized the Subject's stick was not a bat, but a metal post. Officer G observed the Subject raise the metal post, leading him/her to discharge his/her 40mm LLL for the third time.

- **Officer J** – (Beanbag Shotgun from an approximate distance of 15 feet)

According to Officer J, he/she exited the police vehicle and observed approximately eight police officers and the Subject near the business. Officer J observed officers giving commands to the Subject, who was holding an approximate three-foot pole or metal pipe in his hand. The Subject was walking back and forth in an aggressive manner. Officer J advised that the Beanbag Shotgun was ready and discharged one beanbag sock round at the Subject.

The BOPC reviewed each application of less-lethal force utilized by Officers A, B, C, F, G, and J. The Subject, who was armed with a metal post, escalated the incident by fleeing on foot from the officers, and refused to submit to arrest. The Subject waved the pole during the incident and refused to disarm himself. The Subject posed a threat of violence and injury to the officers and the public. Throughout the incident, the officers verbalized with the Subject who subsequently

physically resisted the officers' attempts to detain him. All officers used a minimum level of force to overcome the Subject's physical resistance and take him into custody.

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

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

E. Lethal Use of Force

- **Officer A** – (Beanbag Shotgun, one beanbag sock round)

According to Officer A, he/she felt he/she had exhausted all of his/her less-lethal force options up to that point. Officer A had fired his/her TASER and discharged five beanbag sock rounds at the Subject, with no effect. The Subject was still armed with the metal post, pacing back and forth on the sidewalk. Officer A feared for the safety of the citizens in the area. Officer A observed many people running around, hiding and dodging behind buildings and cars. Officer A stated he/she was down to one beanbag sock round and was scared that he/she might have to utilize his/her service pistol to stop the Subject, which he/she did not want to do. Officer A continued to give the Subject commands to drop the metal post in an attempt to de-escalate the situation and prevent him/her from having to use lethal force. Officer A observed the Subject heading back toward the street and believed that once the Subject got back to the street, he would no longer be contained and would have access to citizens in the area. Officer A assessed the background and observed many people on the sidewalk and vehicles on the street. Officer A did not want to shoot at the Subject and hit somebody in the background. Officer A believed that the Subject's actions needed to be stopped and felt more comfortable utilizing the Beanbag Shotgun in a lethal capacity. Fearing that the Subject was going to harm one of the many nearby citizens with the metal post, Officer A aimed for the Subject's face area and fired his/her last beanbag sock round.

The BOPC determined that the less-lethal force option, in the form of a deliberate discharging of a Beanbag Shotgun aimed at Subject's head, had a substantial risk of causing death or serious bodily injury, which constituted an application of lethal force. The BOPC determined that the beanbag sock round being fired at the Subject's head was not an approved technique. Department policy directs officers not to target the head because it may cause serious or fatal injuries.

The BOPC noted that at the time of the application of lethal force, the Subject's actions did not pose an imminent threat of serious bodily injury or death to either the officers or nearby people, and thus the utilization of lethal force was not

justified. The Subject was fleeing from the officers from a safe distance and no people were in the immediate area. The BOPC also noted that Officer A closed the distance between the Subject and himself/herself prior to the Beanbag Shotgun sock round being fired and felt that Officer A's lack of tactical de-escalation during the incident was a factor which led to the escalation of force during the encounter.

Based on the totality of the circumstances and the available evidence, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would find that while the Subject's actions were combative and he was violently resisting at times during the encounter, the actions did not present an imminent threat of death or serious bodily injury at the time that the lethal force was used. As a result, the BOPC determined that the Use of Lethal Force would not be objectively reasonable.

Therefore, the BOPC found Officer A's lethal use of force to be Out of Policy.