

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

OFFICER-INVOLVED SHOOTING – 018-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Central	03/01/15		
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Officer(s) Involved in Use of Force	Length of Service
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Sergeant A	8 years, 3 months
Sergeant B	2 months
Officer A	12 years
Officer B	1 year, 3 months
Officer C	9 years, 8 months
Officer D	6 years, 5 months

Reason for Police Contact

Officers responded to a call of a possible attempt robbery. Officers contacted the possible suspect (Subject 1), who was uncooperative. Subject 1 resisted being detained and grabbed one of the officer's service pistol, resulting in an officer-involved shooting (OIS).

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
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Subject 1: Male, 39 years of age.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on February 2, 2016.

Incident Summary

The Victim and Subject 1 got into an argument. Both the Victim and Subject 1 were homeless and were living in tents on the sidewalk. According to the Victim, the argument was over the use of his cellphone. The Victim had rented the cellphone to Subject 1 before so he could call his sister, but on this occasion, Subject 1 wanted to use Victim's cellphone without paying.

The Victim entered his tent and zipped up the outer flap. Subject 1 stood outside his tent approximately five feet away. A few minutes later, Subject 1 approached Victim's tent and started kicking and punching the tent, eventually driving it out into the street and collapsing it. The Victim was trapped in the tent for almost two minutes before he emerged and was chased by Subject 1, who was threatening him with an approximate two-foot long baseball bat.

The Victim walked away and used his cellphone to call the emergency 911 operator and requested that the paramedics and police respond to the location.

Communications Division (CD) broadcast, "Any Central Unit, possible attempt 211 [robbery] suspect there now," and gave Subject 1's physical description.

Uniformed Police Officers A and B, advised CD that they would handle the radio call.

Sergeant A was monitoring the Central frequency of the police radio when he heard the broadcast and started driving in that direction, which he knew was within the area patrolled by officers under his command.

Upon arrival, Sergeant A broadcast that he was being flagged down at the location and CD acknowledged him as having arrived (Code Six) at the location. According to Sergeant A, he observed a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) already at the scene. Sergeant A exited his vehicle and talked to the paramedic who pointed out the Victim and told him, "That's your victim. He's been hit upside the head with a baseball bat. His back's hurt. The suspect's in the tent. He's probably got a bat, be careful. He wants the guy arrested." The paramedic asked Sergeant A for his unit information and then said he had to leave for his next call, as the Victim had refused medical treatment and transport.

The paramedics were driving from the scene when they saw the police officers first making contact with Subject 1 but did not witness any of the subsequent uses of force.

Sergeant A activated his Body Worn Video (BWV) system after arriving at the scene. The camera continued to record the event until officers were asked to provide their Public Safety Statements (PSS), after the Officer-Involved Shooting (OIS). At that time the BWV was deactivated.

When Officers A and B arrived at scene, Sergeant A told pointed to the Victim sitting on the curb, and indicated that the suspect was located in the blue tent, a few feet away on the sidewalk.

As Officers A and B contacted the Victim, Subject 1 started to rise up out of the blue tent. The officers noted he matched the suspect description broadcast by CD. Sergeant A told the Victim to relay to the officers what he had told the paramedics, so they could hear first-hand. Sergeant A walked around Officers A and B and around Subject 1, taking up a guarding position, keeping Subject 1 between himself and the other officers.

Officer A was also wearing a BWV system, which he activated several minutes after arriving at scene. The camera continued to record until after the OIS.

After the Victim told Officer A that Subject 1 had thrown his tent and belongings in the street and had threatened him with a baseball bat, he further stated he wanted the officers to arrest Subject 1. At that point, Officer A began talking to Subject 1 and asked him to step away from the tent and move up against the east wall of the adjacent building because the officers needed to talk to him. According to Officer A, Subject 1 began clenching his hands into fists and his voice rose in volume. Subject 1 became angry and indicated to the officers that that there was going to be a problem if they allowed the victim to stay there. He said that he didn't want the victim near him.

Note: Officer A recalled, "He was angry. Now I remember what he said. He indicated that there was going to be a problem if the victim stayed there and that he didn't want him near him. He kept rambling and repeating, and he wasn't complying with our commands."

Note: On the BWV from the officers, Subject 1 can be seen ignoring Officer A's commands and can be heard repeating, "Let me express myself."

Believing Subject 1 was becoming more agitated and potentially violent, Officer A asked Officer B for his TASER and broadcast a request for an additional unit. Officer B handed his TASER to Officer A and then drew his side-handle baton.

Sergeant B responded to the request and parked behind Sergeant A's patrol vehicle. Sergeant B took his baton and exited the vehicle, joining the other officers on the sidewalk south of Subject 1.

Simultaneously, a female (Subject 2) approached the officers and began a verbal confrontation stating, "Take me to jail now. Take me to jail now." Officer B directed her to move back.

Note: In the BWV from both officers, Subject 2 can be seen climbing out of a collapsed tent that was behind and to the left of the tent used by

Subject 1. Officer B can be seen turning away from Subject 1 to deal with Subject 2, and can be seen pushing her back as he states "go away" at least six times to her.

Officers C and D also responded to the broadcast for an additional unit.

Officer A told Subject 1 to get against the wall and warned him that he was going to be tased. Sergeant A added, "If you don't comply and get against the wall you're going to get tased. You're going to get hurt." Sergeant A tried to de-escalate the situation. Sergeant A recalled, "At that point I told the suspect to relax. I might have even said "calm down". I used my hands in a gesture to like, as I'm moving my hands down, like, to try to get him to cool down, it's okay. I think I might have even said, "It's okay. Calm down. Relax."

Suddenly and without warning, Subject 1 jumped into his tent and tried to close the tent flaps. The tent had not been searched and Sergeant A was worried Subject 1 was trying to arm himself with the bat or some other weapon.

Note: All of the officers on scene were concerned that Subject 1 had jumped into his tent with the intent to arm himself.

Sergeant A stated, "He jumped into the tent. He grabbed -- he would start rifling around looking for something, shut the tent in my face as I'm trying to undo the tent. And I see his hands went kind of looking for something and he grabs onto something and I was thinking that he's armed himself, not with a bat, but some other weapon, and I ordered him in a very loud precise tone to, you know, drop it or show me your hands."

Officer A recalled, "When he went back in the tent, I [...] for sure thought he was going to grab the weapon."

Officer B stated, "Then the suspect went inside the tent. At that point when he went inside the tent I drew my firearm. I didn't know what the suspect was going for."

Sergeants A and B both grabbed opposite sides of the tent and attempted to open it up in order to expose Subject 1. Sergeant A saw Subject 1 appeared to be searching for something in the tent and then saw that he picked up a shiny black object. Because he was unable to identify what it was that Subject 1 had suddenly grabbed, Sergeant A unholstered his firearm and ordered Subject 1 to drop the object. Officer B also unholstered his firearm holding it in his right hand with his baton in his left hand.

Subject 1 stood up suddenly and began advancing toward Officer A. Officer A deployed the TASER from approximately eight to ten feet. Subject 1 dropped the object (later determined to be a cellular telephone) but the TASER did not appear to affect him.

Subject 1 charged at Officer A while swinging his arms, which pulled the TASER darts out of his sweater. Officer B quickly dropped his baton onto the pavement and attempted to holster his firearm. In defense of Officer A, Officer B punched Subject 1 in the face two to three times.

Note: Officer B struggled numerous times as he attempted to reholster his pistol prior to punching Subject 1. The preponderance of video and other evidence indicates that Officer B was not successful in securing the pistol by engaging the retention mechanisms of the holster, and that he induced a malfunction in his pistol during the repeated attempts to reholster.

Note: Sergeant B stated he directed Officers A and B to take Subject 1 to the ground.

Officers A and B then took Subject 1 down to the ground using firm grips, physical force and body weight. Sergeant A could see Subject 1 trying to gain leverage by pushing himself up with his feet, and Sergeant A grabbed hold of Subject 1's feet to hold him down using firm grips and body weight.

Officer A was giving Subject 1 commands to stop resisting while Officer B was on top of Subject 1, trying to gain control of him. Subject 1 was trying to punch Officer B in the face while at the same time grabbing ahold of his equipment belt and pulling himself into Officer B.

While still struggling with Subject 1, Officer B looked up and saw that Subject 2 had picked up his baton and was holding it like a baseball bat. She was standing over Sergeant B, whose back was turned toward her, as if she was going to swing and hit him with the baton. Officer B called out to alert the other officers.

Note: In review of the audio on Officer A's BWV, Officer B can be heard calling out, "Get my stick. Get my stick. Get my stick."

Sergeant B moved around the other officers and, along with Officer C, took Subject 2 down to the ground using firm grips and physical force, causing Subject 2 to drop the baton. Sergeant B heard an officer yelling, "He has my gun. He has my gun," and then heard four or five gunshots. After checking the officers for injuries, Sergeant B broadcast, "Officers need help, shots fired."

Officer C stated that he and Sergeant B had lifted Subject 2 up to a standing position and he was preparing to handcuff her when he heard, "He's got my gun. He's got my gun." Officer C said that he looked in the direction of the other officers and heard four or five gunshots.

According to Officer B, Subject 1 grabbed onto his pistol grip and began to rapidly tug so hard that his equipment belt was almost twisted off him and causing the pistol's magazine to be released. As his pistol began to come out of his holster, Officer B

capped Subject 1's hand by placing his own hand over Subject 1's hand and pushing down to keep the gun in the holster. Officer B told his partner, "He has my gun. He has my gun."

Note: There were multiple videos capturing portions of the incident. Video evidence shows Subject 1's hand grabbing Officer B's firearm. In BWV footage recorded as the officers struggled with Subject 1, Subject 1's hand can be seen on Officer B's gun. In another video, Subject 1's hand can be seen holding onto Officer B's weapon as the weapon appears to be substantially removed from Officer B's holster. As this partial removal of the weapon occurs, Officer B shouts that the subject has his gun.

An officer-involved shooting then occurred. During the subsequent investigation, it was determined that Officer A had fired one round from his duty pistol. Sergeant A had fired two rounds from his duty pistol, and Officer D had fired two rounds from his duty pistol.

The following is an account of each involved officer's actions immediately prior to and during the OIS. It does not conclusively reflect the precise order in which each officer fired during the OIS. However, based on their respective interviews and the video evidence, it appears that Officer A fired first, followed immediately afterwards and in rapid succession by Sergeant A (1st shot), Officer D (1st shot), Sergeant A (2nd shot), and Officer D (2nd shot). The time from the first shot to the last shot is approximately 2.5 seconds.

Officer A heard his partner, Officer B, screaming, "He's got a hold of my gun. He's got a hold of my gun." Officer A looked over and observed Officer B's gun coming out of his holster while Officer B was attempting to cap it. Officer A immediately unholstered his weapon and fired one shot at Subject 1. He then heard two additional shots fired. Officer A stated, "I shot to protect my partner's life and my life. If the suspect was to get a hold of that gun he was going to use it against us. I believed he was already pulling - was about to gain full access to my partner's gun."

Based upon a review of Officer A's body worn video and the observations of Officer B, Officer A was on both knees over Subject 1 to the left of Officer B. Officer A leaned back, unholstered his weapon into a two hand firing position and fired one contact shot directly to Subject 1's center mass.

Sergeant A was standing, leaning forward with both hands holding and pulling on Subject 1's right ankle in an attempt to gain control of Subject 1's leg, thereby allowing Officer D to use the contact feature of the TASER. He heard Officer B repeatedly screaming, "He's got my gun. My gun, he's got my gun." Sergeant A looked over and saw Subject 1 with his hand forcefully gripped on Officer B's gun and holster.

Officer B was in front of and to the right of Sergeant A. Officer A was standing on his left. Sergeant A saw Subject 1 pushing and tugging on Officer B's holstered weapon. He observed that Officer B looked very scared and was struggling to keep ahold of his

gun. Sergeant A heard a gunshot and believed Subject 1 had gained control of the weapon and had just shot Officer B in the torso. Sergeant A immediately let go of Subject 1's ankle, unholstered his firearm into a two handed firing position and fired two shots at Subject 1's center mass, hearing another shot between his two shots. Sergeant A saw Officer A fall over to the left and thought Subject 1 had also shot Officer A.

Officer D saw three officers on the ground fighting with Subject 1 and saw Subject 2, armed with a baton, standing behind them. Officer D ran to help the officers on the ground as Officer C ran past the officers on the ground to help the sergeant with Subject 2. Officer D observed a TASER lying on the ground with wires leading away from it. He had his own TASER and decided to try to use it by utilizing a drive stun directly to Subject 1. He took out the cartridge and looked for an open area of Subject 1's body. Officer D was attempting to apply the TASER to Subject 1's right leg. Officer D had activated the TASER for a single five-second application when he heard, "He's got my gun. He's got my gun. He's got my gun."

Officer D heard a single gunshot and believed Subject 1 had gained control of Officer B's weapon and had fired it. Officer A was slightly in front and to the left of Officer D and Officer B was slightly in front of and to the right of Officer D. As Officer D heard the gunshot, Officers A and B moved apart and backed away from Subject 1. Officer D had been on both knees applying the TASER directly to Subject 1's right thigh, when he quickly backed up, dropped the TASER, unholstered his pistol into a two-handed firing position and fired twice in rapid succession at Subject 1's torso as he backed away and stood up.

During the OIS and once Subject 1 released his firearm, Officer B backed away and unholstered his firearm to cover Subject 1. He then noticed that the slide was back and a live round was caught in the ejection port. Officer B showed the firearm to Sergeant A, who instructed him to holster it as it was without clearing the malfunction.

Officer A provided cover and Officers B and D handcuffed Subject 1.

Los Angeles Fire Department paramedics arrived on scene. The paramedics performed an advanced life support assessment and determined Subject 1 was deceased. Subject 1's body was transported directly to the Los Angeles County Forensic Science Center.

Subject 2 was also transported to a hospital for treatment for preexisting medical conditions unrelated to the use of force.

Several supervisors subsequently responded to the scene. The involved officers provided Public Safety Statements and were separated and transported from the scene.

Los Angeles Board of Police Commissioners' Findings

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

A. Tactics

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

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

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

E. Lethal Use of Force

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

Basis for Findings

The investigation and analysis of this incident benefitted greatly from the fact that there was significant video available for review. The video available included the Body Worn Video (BWV) from two involved officers, as well as two cell phone video recordings taken by witnesses, and the video from the security camera of the adjacent building. In order to assist in evaluating the tactics and actions of the officers, these video recordings were extensively reviewed and analyzed.

Video from the fixed security camera covered the entirety of the event, from the time Subject 1 assaulted the Victim, through the OIS and the aftermath. Although this video was not high definition and did not provide audio, it corroborated the Victim's initial complaint and showed the initial incident in which Subject 1 can clearly be seen assaulting the Victim by hitting, kicking and collapsing his tent, and shoving it into the street while the Victim was inside. The video also shows Subject 1 pulling the bat from his tent and chasing the Victim out into the street. This video also provided an overview of the entire area as the event occurred.

The other video recordings included audio, as well as multiple views of the initial contact and the resulting OIS.

A. Tactics

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

1. Searches of Arrestees

After the OIS, Officers B and D approached and handcuffed Subject 1 without ensuring that he was searched afterward.

Officers are trained to conduct a search of arrestees to ensure they are not armed with weapons and that they do not possess items of contraband on their person that needs to be preserved or disposed of. This practice is necessary for the safety of not only the officers, but also medical personnel and the public.

In this case, the officers knew that Subject 1 had been shot multiple times at close range and was non-resistant during the handcuffing process, leading the officers to reasonably believe that Subject 1 was incapacitated. The officers also had to contend with the hostile crowd that immediately began to form after the OIS.

Based on the circumstances, the BOPC determined that the officers' decision not to search Subject 1 after handcuffing was reasonable and did not represent a substantial deviation from approved Department tactical training.

- The BOPC additionally considered the following:

1. Drawing Service Pistol While Holding Baton/ Maintaining Control of Equipment

Officers A and D lost control of their TASERs, leaving them unsecured on the ground while attempting to control Subject 1. Officers are reminded of the importance of maintaining control of their equipment prior to transitioning to other force options.

Officer B was holding his baton in his right hand as his partner, Officer A, spoke with Subject 1. Without any warning, Subject 1 unexpectedly jumped into his tent. Officer B, in response to the threat of having the suspect possible arm himself while in the tent, immediately transferred the baton to his spare hand and with his right hand unholstered his duty pistol. Officer B did not secure his baton prior to drawing his duty pistol and found himself in a position where he was holding a weapon in each hand.

When the suspect subsequently sprang out of the tent, Officer A utilized his TASER on the suspect. The TASER was ineffective and the suspect began to spin around with his arms extended in an effort to dislodge the TASER darts. The suspect then began to attack the officers standing around him. Officer B now faced the suspect with a weapon in each hand and was unable to properly defend him or the other officers. Officer B dropped his baton to the pavement, without making any attempt to properly secure it in its ring. He then tried to re-holster his weapon as he stepped into the physical altercation with the suspect. The preponderance of the evidence indicates that Officer B did not properly secure his duty pistol in his holster.

2. Punches to Bony Areas

Officer B punched Subject 1 with a closed fist three times to the bony portion of his face. Fist strikes should be used primarily on soft tissue areas to prevent injury to an officer's hands. Officer B is reminded to consider other force options prior to using fist strikes to bony areas.

3. Effective Encounters with Mentally Ill Persons

Prior to the OIS, Subject 1's behavior was consistent with a person suffering from a mental illness, and/or being under the influence of drugs or alcohol. In an effort to bring further awareness to the personnel at scene, the BOPC directed these to be topics of discussion during the Tactical Debrief.

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

The BOPC found by a vote of 3-2 that Officer B's failure to maintain control of his baton and pistol represented an unjustified and substantial deviation from approved Department training, warranting a finding of Administrative Disapproval.

Furthermore, the BOPC found that the tactics utilized by Sergeants A and B along with Officers A, C, and D did not substantially deviate from approved Department tactical training, requiring a finding of Tactical Debrief.

B. Drawing/Exhibiting

- Officers A and B interviewed the Victim, who identified Subject 1 as the suspect who threatened him with a baseball bat. Subject 1 was standing in front of his tent when the officers approached him. Subject 1 ignored Officer A's orders to stand against the wall and unexpectedly jumped inside his tent. Fearing that Subject 1 may be arming himself with a weapon, Officer B drew his service pistol.

After the physical altercation with Subject 1 began, Officer A heard Officer B yell, "he's got my gun," and observed that Officer B's service pistol was "un-holstered and the gun was coming out." Fearing that Subject 1 was about to disarm Officer B, Officer A drew his service pistol.

Sergeant A and Officer D heard Officer B yell that Subject 1 had his gun and then heard a gunshot. Believing that Subject 1 had gained control of Officer B's service pistol and had shot him, they drew their service pistols.

Following the OIS, Officer B was able to break free from Subject 1's grasp, redeploy and draw his service pistol

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Sergeant A and Officers A, B, and D 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 and Officers A, B, and D's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

- **Officer B** – Punches, Takedown, Body Weight

Officer B observed Subject 1 aggressively charging at Officer A. Officer B holstered his service weapon and used his right hand to punch Subject 1 several times in the facial area. The punches along with Officer B's forward momentum caused Subject 1 to fall to the ground onto his back. Officer B straddled Subject 1 and utilized his body weight in an attempt to control him and take him into custody.

- **Sergeant A** – Firm grip

Sergeant A observed Subject 1's right leg flailing while resisting Officer B's efforts to him into custody. Sergeant A grabbed Subject 1's right ankle with both hands in an attempt to control his right leg.

- **Officer C** – Firm grip, Body Weight, Takedown

Officer B saw Subject 2 with the baton and yelled out to the other officers, “get my stick, get my stick.” Officer C then observed Subject 2 holding the baton with both hands in a power stroke position as if she was preparing to swing it. Officer C approached and then grabbed Subject 2 on her left arm and took her down to the ground with the assistance of Sergeant B.

- **Sergeant B** – Firm grip, Body Weight, Takedown

Sergeant B observed Subject 2 holding the baton and he moved forward to assist Officer C with taking her to the ground.

- Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Sergeants A and B along with Officers B and C, while faced with a similar set of circumstances, would believe that the application of non-lethal force by these officers would be reasonable to overcome both Subjects 1 and 2’s resistance, to prevent further injury, and to effect an arrest or prevent escape.

Therefore, the BOPC found that Sergeants A and B’s along with Officers B and C’s non-lethal use of force to be objectively reasonable and in policy.

D. Less-Lethal Use of Force

- **Officer A** – One TASER activation, for five seconds in probe mode from an approximate distance of eight feet.

Subject 1 refused to comply with Officer A’s repeated commands to stand against the wall and then unexpectedly jumped back into his tent. Officer A ordered Subject 1 to come out of the tent but he again refused to comply. Officer A observed Subject 1 suddenly spring up out of the tent and “clinch his hands into a fist.” As Subject 1 came toward Officer A, Officer A fired the TASER at Subject 1.

- **Officer D** – One TASER activation for five seconds in drive stun mode against Subject 1’s right leg.

Officer D arrived and observed the officers fighting with Subject 1. Officer D drew his TASER, removed the cartridge in order to avoid tasing the officers, and applied the TASER to Subject 1’s right leg.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and D, while faced with similar circumstances, would reasonably believe that Subject 1 created a situation wherein the use of the TASER was objectively reasonable.

Therefore, the BOPC found Officers A and D’s less-lethal use of force to be objectively reasonable and in policy.

E. Lethal Use of Force

- **Officer A** – (pistol, one round)

Officer A heard Officer B yell, “he’s got a hold of my gun,” and observed that Officer B’s service pistol was “un-holstered and the gun was coming out.” Fearing that Subject 1 was about to gain control of Officer B’s service pistol, Officer A drew his service pistol and fired one round at Subject 1 to stop his actions.

Officer A recalled, “My partner’s basically on top of the suspect. I’m trying to grab -- the suspect landed on his back. I’m trying to grab the suspect’s right arm to bend it back to put it back behind his shoulder. The suspect was very strong at which point I saw -- well, I didn’t saw, I heard my partner screaming, ‘He’s got a hold of my gun. He’s got a hold of my gun’ frantically...I looked over at my partner’s gun and I observed that it was un-holstered and the gun was coming out and my partner was capping it at which point I pulled out my gun and I shot once.”

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

Sergeant A heard Officer B yell, “He’s got my gun” and observed Subject 1 “pulling and tugging” on Officer B’s service pistol.” Sergeant A heard a gunshot and believed that Subject 1 had gained control of Officer B’s service pistol and had shot Officer B with it. In fear for Officer B’s life, Sergeant A drew his service pistol and fired two rounds at Subject 1 to stop his actions.

Sergeant A recalled, “He was pushing and pulling and tugging on Officer B’s duty weapon and Officer B had a very scared look on his face. I could see him trying to get access to his gun and hold it. And at that point I heard, you know, he had said, you know, “He’s got a gun. He’s got a gun.” And at that point I heard a gunshot and I heard -- I saw Officer B step backwards away from the suspect. I believed that the suspect had armed himself with Officer B’s weapon and that’s the gunshot. I thought Officer B had taken a bullet in the torso area because I saw him step away. I immediately let go of -- because I was in a kneeled position on the suspect’s foot, ankle area. I immediately withdrew my weapon and I fired two rounds in the suspect’s direction.”

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

Officer D heard Officer B yell, “He’s got my gun,” and then heard a gunshot. Believing that Subject 1 had obtained Officer B’s service pistol and had shot him with it, and in fear for Officer B’s life and the lives of the other officers, he dropped his TASER, drew his service pistol, and fired two rounds at Subject 1 to stop his actions.

Officer D recalled, “As I was tasing him I heard officer -- an officer saying, “He’s got my gun. He’s got my gun. He’s got my gun,” and it was -- he sounded in distress. And after once I heard that, I heard a gunshot and I -- we immediately -- I -- I immediately got up and -- and I -- I shot the -- suspect. I assumed or -- or I didn’t

assume, I -- I firmly believed that this suspect had shot an officer or it was very fast. It was very -- very quick.”

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Sergeant A and Officers A and D would reasonably believe Subject 1’s actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would be objectively reasonable.

Therefore, the BOPC found Sergeant A’s along with Officers A and D’s use of lethal force to be objectively reasonable and in policy.