

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

**OFFICER-INVOLVED SHOOTING – 057-15**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ()</b>	<b>Uniform-Yes (X) No ()</b>
-----------------	-------------	---------------------------	------------------------------

Wilshire	7/9/15		
----------	--------	--	--

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
--------------------------------------------	--------------------------

Officer A	8 years, 5 months
Officer B	1 year, 3 months

**Reason for Police Contact**

Officers responded to a call of a Vandalism Subject. Officers contacted the Subject who was uncooperative and fought with them. The Subject grabbed the officer's TASER and used it against him, resulting in an officer-involved shooting (OIS).

<b>Subject</b>	<b>Deceased (X)</b>	<b>Wounded ()</b>	<b>Non-Hit ()</b>
----------------	---------------------	-------------------	-------------------

Subject: Male, 38 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 June 14, 2016.

## **Incident Summary**

Officers A and B were deployed in a black and white police vehicle equipped with emergency equipment. The officers were assigned a radio call of a Vandalism Subject. The comments of the call indicated that the Subject was a male, breaking windows with a skateboard.

**Note:** Witness A was in the area and photographed the Subject with his cellular telephone as he broke a window of a business. Witness B was also driving in the same area and with his cellular telephone, captured video of the Subject breaking a window. Both witnesses drove away and neither witnessed the subsequent officer-involved shooting (OIS).

As Officer A drove along the street, he observed that a window from a vacant commercial building had been smashed. As Officers A and B continued along the street, they saw the male who matched the description given in the radio call. The Subject was swinging a skateboard at a store window.

Officer A drove past the Subject and stopped in front of him. According to Officer A, the Subject was using the skateboard to try to break another window. Officer B exited the police vehicle with his pistol unholstered because the Subject had a large bag strapped across his chest and his hands were now concealed inside of it. Officer B could not see what was inside the bag and held his service pistol at a low ready position.

At this point, Officer B estimated the Subject was approximately 15-20 feet away from him as he yelled at him to drop the bag and to get on the ground. The Subject did not reply to the officer's commands. The Subject stared at Officer B and then got back on his skateboard and proceeded away from the officers. Officer A told Officer B to broadcast a backup request.

As the Subject continued southbound riding his skateboard, he would periodically lose his balance and stumble off the skateboard. The officers stopped the police car and monitored the Subject each time he would fall or stumble. The Subject again stumbled off the skateboard, and Officer A believed the Subject was going to continue fleeing from them and was concerned that he may pick up the skateboard and use it as a weapon. Officer A believed they had an opportunity to seize the skateboard, so he told Officer B to go grab it. Officer A stopped the car and Officer B exited and ran to pick up the skateboard.

As Officer B exited the police vehicle and tried to pick up the skateboard, Officer A also exited the police vehicle. Officer A saw that the Subject had turned and was racing toward Officer B and the skateboard. Officer A believed that if the Subject got to the skateboard first, he would attack Officer B with it. Officer A believed that the Subject was charging at Officer B and felt he had to protect his partner.

The Subject got to the skateboard first. Officer B unholstered his service pistol, and held it at a low ready position. As the Subject was bending down to pick up the skateboard, Officer B ordered him to drop it.

Officer A ran at a full sprint to intercept the Subject. Officer A placed his arms around the Subject from behind in a bear hug before he could pick up the skateboard. Officer A's intention was to tackle the Subject so he could not pick up the skateboard or attack Officer B. As Officer A grabbed the Subject, the forward momentum caused them to land on the steps, leading up to a residential property. At this point Officer B holstered his service pistol.

The Subject landed on the steps face-down with his arms under his chest. Officer A could not see the Subject's hands at this time. Officer A transitioned from the bear hug to placing his knee and forearm on the Subject's back.

Officer B was now on Officer A's left side helping him get the Subject's arms out from under his chest. Officer A gave the Subject multiple commands to give him his hands, but the Subject did not comply and remained face-down with his arms under him. Officer B told Officer A that he could not see the Subject's hands and did not know if he was holding anything. Officer A delivered two right elbow strikes to the Subject's middle upper back while maintaining his knee on the Subject's lower back. The Subject had no reaction to Officer A's strikes.

Officer A did not know if the Subject was armed with any weapons. Officer A told Officer B to "Tase" the Subject. Officer B unholstered his TASER and gave the command for the Subject to give up or he would be tased. Officer A told Officer B to conduct a drive-stun. Officer B told the Subject that he was going to be tased if he did not comply. He removed the cartridge and conducted a spark check. Officer B believed that by conducting a five-second spark check, the Subject would "ease up." Officer B said that the Subject had no reaction to the spark check.

Officer B then placed his TASER against the left side of the Subject's stomach and conducted a drive-stun application. The Subject started to buck his upper body. At this time, Officer A remained on top of the Subject's back. Officer A had his knee on the Subject's lower back and his forearm was across the Subject's shoulders. The TASER appeared to have no effect on the Subject as he pushed up and rolled over to now face Officer A in an upward position.

The Subject continued to struggle flailing his arms around. Officer A grabbed the Subject's right arm, and with a closed right fist, punched his center body mass area four to five times while yelling at the Subject to stop moving and to give up. Officer A told Officer B to Tase the Subject again. Officer B conducted a drive-stun on the Subject's stomach area.

Officer A was unable to get any compliance from the Subject. The Subject had been tased twice at this point. Officer A had elbowed him, punched him, and nothing was

having any effect. Officer A broadcast a Help Call because nothing was working to subdue the Subject. Due to the struggle with the Subject, Officer A felt he was fatigued and exhausted.

According to Officer B, he could not holster the TASER because the holster was on his left side and his left side was against the steps. He wanted to holster the TASER so he could maintain control of the Subject's left arm. Officer B then released the Subject's left arm and grabbed his legs so he could not kick Officer A.

Officer B transitioned his legs around the Subject's legs to maintain control of them. He then tried to regain control of the Subject's left arm with his free hand. Officer B believed that his best option was to place the TASER far enough away from the Subject's grasp, but close enough for him to reach it if it became necessary to use it. He placed the TASER on the steps above and behind him.

The Subject rolled over and was again face down and struggling. Officer B believed that the Subject could not reach the TASER and that he would be the only person able to reach it. During the altercation, both Officer B and the Subject were lying across the stairs leading up to the front entrance of the residential property. Their legs were partially on the sidewalk and their torsos were across the first couple of steps.

Officer B had partial control of the Subject's left arm, but the Subject was able to reach up with his right arm and grab for the TASER. Officer B saw the Subject reach for the TASER, but was not quick enough to stop him. Officer B informed Officer A that the Subject now had possession of his TASER.

Officer A ordered the Subject, to give him his arms. Officer A then heard Officer B screaming that he was being tased by the Subject. According to Officer A, he observed Officer B shaking violently and saw Officer B trying to push the Subject away from him. Officer A observed Officer B with his hands up in the air and screaming as he was being tased.

The Subject was lying prone on the stairs partially covering Officer B. Officer A could not see the Subject's hands, but he could hear Officer B screaming and shaking. Officer A also heard the noise of the TASER sparking.

According to Officer A, he unholstered his firearm, believing that the Subject was causing serious bodily injury to his partner. Officer A also could not determine if the Subject was grabbing Officer B's weapon and could not see anything the Subject was doing, but could hear Officer B screaming that he was being tased. Officer A believed that his partner was unable to fight and believed he was on his own to deal with the Subject. Officer A then stood up and with his weapon in a close contact position, placed it towards the Subject's upper back. Officer A again told the Subject to drop it and because his partner continued to scream, Officer A believed that the Subject was going for Officer B's weapon.

Officer A shot the Subject one time on his upper back from close range. Because the Subject was partially on Officer B, Officer A believed that he was offset enough to ensure the round would not strike Officer B.

After the shot, the Subject stopped his attack on Officer B. Officer B stood up and Officer A maintained his service pistol at a low-ready position covering the Subject. A Resuce Ambulance (RA) was immediately requested for the Subject as responding officers arrived and handcuffed the Subject.

**Note:** The investigation determined that the TASER was activated a total of seven times, ranging in duration from one second to five seconds, during the struggle.

Sergeant A obtained a Public Safety Statement (PSS) from the officers and ensured proper separation and monitoring. Sergeant A also ensured that an RA was requested for the Subject, established a perimeter, assigned officers to canvass, and helped secure the crime scene.

Los Angeles Fire Department (LAFD) arrived at the scene and provided medical attention to the Subject. The Subject was transported to a local hospital where he succumbed to his injury.

### **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 othis 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 unanimously made the following findings.

#### **A. Tactics**

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

#### **B. Drawing/Exhibiting**

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

### **C. Non-Lethal Use of Force**

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

### **D. Less-Lethal Use of Force**

The BOPC found Officer B'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**

### **A. Tactics**

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

#### 1. Waiting for Additional Resources

Officers A and B did not wait for additional resources to arrive before making contact with the Subject.

Operational success is based on the ability of the officers to effectively plan and approach each incident in a safe manner, keeping officer safety in mind at all times. Officers, when faced with an ongoing tactical situation, must remain alert to improve their overall safety, by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, Officers A and B responded to a radio call of a Subject that was reported to be breaking windows with a skateboard. Upon their arrival, Officer A observed the Subject holding a skateboard in his hands and swinging it at a window. When the officers exited their vehicle and attempted to make contact with the Subject, he fled on his skateboard. The officers requested back-up, knew there were officers responding to assist them and planned to wait for the arrival of additional officers before making contact with the Subject.

Officer A changed the plan after observing the Subject falling off his skateboard several times and directed Officer B to get out the vehicle and retrieve the skateboard the next time they observed the Subject stumble and get separated from his skateboard. However, Officer B was unable to retrieve the skateboard before the Subject, and a struggle ensued between the officers and the Subject before the back-up officers could arrive to assist.

Based on the totality of the circumstances, the BOPC determined that Officer A's decision to abandon the tactical plan to wait for additional resources and direct

Officer B, to retrieve the skateboard, that he perceived to be a potential weapon, unnecessarily jeopardized the safety of his partner. This was a substantial deviation, without justification from approved Department tactical training.

## 2. Maintaining Control of a TASER

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. The ability to adjust to a tactical situation ensures minimal exposure to the officers.

In this instance, Officer B placed his TASER in a location where the Subject was able to grab it with his right hand and subsequently deliver drive stun activations to Officer B's left thigh, causing him to be temporarily paralyzed from the waist down.

The BOPC concluded that Officer B's failure to properly secure his TASER unnecessarily compromised the safety of the officers and was a substantial deviation, without justification, from approved Department tactical training.

- The BOPC additionally considered the following:
  1. Spark Test – The investigation revealed that Officer B drew his TASER, removed the cartridge and conducted a spark check while the officers were actively attempting to take the Subject into custody on the steps. Officer B is reminded that when physical contact has been made and an officer is unable to control a Subject, it may be tactically prudent to forgo a spark test.
  2. Optimal Target Areas of the TASER – Officer B conducted a drive stun activation to the Subject's ribcage and lower left back. Officer B is reminded that the optimal target areas in the drive stun mode are the Subject's forearm, outside thigh, or calf muscle.
  3. Required Equipment – The investigation revealed that when Officer A deployed from his vehicle and ran toward the Subject, he did so without his baton. Officer A also did not have a Hobble Restraint Device on his person at the time of the incident. Officer A is reminded to have all required equipment on his person while performing field patrol duties.

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 that the tactics be evaluated based on the totality of the circumstances.

The BOPC found that the tactics utilized by Officers A and B substantially and unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

## **B. Drawing/Exhibiting**

- According to Officer B, as he exited the vehicle, he was unable to see the Subject's hands because they were inside of a large bag that was slung across his chest. Officer B drew his service pistol and ordered the Subject to get on the ground. During the struggle to take the Subject into custody, Officer A heard Officer B screaming that he was being tased by the Subject. Unable to see the Subject's hands, Officer A didn't know if the Subject might be reaching for a gun and drew his service weapon.

Based on the totality of the circumstances and supporting evidence, the BOPC determined that an officer with similar training and experience as Officers A and B, while faced with similar circumstances, would reasonably believe there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Officers A and B's drawing and exhibiting a firearm to be in policy.

## **C. Non-Lethal Use of Force**

- **Officer A** – Takedown, Bodyweight, Elbow Strikes, Punches and Physical Force
- **Officer B** – Firm Grip, Bodyweight and Physical Force

Officer A observed the Subject running toward Officer B and believed that he was going to attack him. Officer A ran toward the Subject, wrapped both arms around his torso area and forced the Subject to the ground. The Subject landed in a prone position on the sidewalk and steps, with both arms under his chest and Officer A on top of him.

According to Officer A, Officer B assumed a position on the left side of the Subject and grabbed his left arm in an effort to try to assist Officer A with freeing his hand up. Officer A repeatedly ordered the Subject to give him his hands. The Subject did not comply and continued to struggle with the officers. Officer A was unable to see if the Subject had anything in his hands. Officer A placed a knee on the Subject's lower back and delivered two elbow strikes to his right shoulder in an effort to gain control of the Subject's arms.

As Officer B attempted to gain control of the Subject's left arm, the Subject started kicking. Officer B moved down and bear hugged his legs with both arms to minimize his movement. According to Officer B, he then scooted upward until his torso was aligned with the Subject and then wrapped his legs around the Subject's legs to

continue to try to minimize his movement. He then attempted to gain control of the Subject's left arm again, but was unable to do so.

According to Officer B, the Subject displayed no reaction to any of their non-lethal force efforts to stop his resistance and take him into custody. Officer B retrieved his TASER from its holster and applied three to four drive stun activations to the Subject. After the last drive stun, the Subject started to flip over and release his hands. Having gained access to the Subject's left arm, and believing that Officer A had access to his right arm, Officer B placed his TASER down on a step in preparation to handcuff the Subject.

According to Officer A, the Subject began to buck his upper body up in the air after the first drive stun. Officer A maintained a knee on the Subject's lower back and a forearm on his upper back in an attempt to hold the Subject down. The Subject then began turning his body toward Officer A, while swinging his arms. According to Officer A, he punched the Subject four to five times in the chest or stomach area in an attempt to stop him from swinging his arms.

Officer A observed Officer B seated on the steps. Officer B applied a second drive stun activation. The Subject continued to turn over and rolled on top of Officer B. According to Officer A, he was unable to see the Subject's hands and fatigued from his struggle with the Subject, so he applied all of his bodyweight on the Subject in an attempt to hold him down.

After a review of the incident and the non-lethal force used by these officers, the BOPC determined that an officer with similar training and experience as Officers A and B would believe this same application of force would be reasonable to overcome the Subject's resistance, prevent his escape and effect an arrest.

In conclusion, the BOPC found Officers A and B's non-lethal uses of force to be objectively reasonable and in policy.

#### **D. Less-Lethal Use of Force**

- **Officer B – TASER**

According to Officer B, the Subject continued to resist and did not show any change in his behavior as the officers continued their efforts to stop his resistance. Officer B administered three to four drive stun activations to the Subject's ribcage and lower back area in an attempt to stop his resistance.

Department policy states that the decision to use force must be judged through the perspective of a reasonable officer under similar circumstances. The BOPC determined, that an officer with similar training and experience as Officer B would reasonably believe that the application of less-lethal force to stop the Subject's actions was reasonable and would have acted in a similar manner.

In conclusion, the BOPC found Officers B's less-lethal use of force to be objectively reasonable and in policy.

#### **E. Lethal Use of Force**

- **Officer A** – (pistol, one round)

According to Officer A, he was unable to see the Subject's hands and believed that the Subject may be trying to grab Officer B's weapon. Officer A assumed a standing position and ordered the Subject to drop the TASER. Officer A did not observe any reaction from the Subject, but noted Officer B was still shaking profusely and appeared to be completely out of fight. Fearing that the Subject was going for his Officer B's weapon, Officer A fired one round at the Subject to stop the threat.

Based on the totality of the circumstance, the BOPC believed that an officer with similar training and experience as Officer A, while faced with the same or similar circumstances would not reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury at the time Officer A fired his service pistol at the Subject.

In conclusion, the BOPC found Officer A's use of lethal force to be out of policy.