

**ABRIDGED SUMMARY OF A HEAD STRIKE WITH AN IMPACT WEAPON AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

**HEAD STRIKE WITH AN IMPACT WEAPON – 009-08**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On(X ) Off()</u></b>	<b><u>Uniform-Yes(X) No()</u></b>
Mission	02/04/08		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	6 years, 4 months

**Reason for Police Contact**

Officers responded to a male mental radio call where a subject was shouting and had refused to leave business. After a few moments, an altercation between the subject and the officers occurred.

<b><u>Subject (s)</u></b>	<b><u>Deceased ( )</u></b>	<b><u>Wounded (X)</u></b>	<b><u>Non-Hit ( )</u></b>
Subject: Male, 23 years			

**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 suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) 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 November 25, 2009.

**Incident Summary**

Witness A was working at his place of business when the Subject entered the front lobby. Shortly thereafter, the Subject stood in a military stance and began to shout. Several employees asked the Subject to leave the premises, but he refused to leave. Shortly thereafter, an employee telephoned 911.

Uniformed Officers A and B were on patrol in a marked police vehicle and responded to the location. While en route, the radio call was upgraded by Communications Division (CD) to a "male with mental illness." Prior to arriving at the location, Officers A and B discussed their tactical options. Officer A told Officer B that since he had the TASER, he [Officer A] would make contact with the Subject and give him commands, while Officer B acted as cover officer. Officer A was equipped with a TASER that he carried in a holster attached to his left leg.

Officer A placed himself and Officer B Code Six at the business location via the Mobile Data Computer (MDC). Officers A and B stated that as soon as he and Officer A parked their patrol vehicle, they could hear the Subject shouting military-style chants. Officer A removed the TASER from the holster and held it at the low-ready position.

As Officers A and B entered the lobby of the business, they observed that the Subject was standing at the west end of the front counter, looking northbound. Officer A positioned himself east of the Subject, along the front counter, and Officer B positioned himself south of the Subject, but near the front door. The officers were approximately 8 to 10 feet from the Subject. Officer A tried to get a look at the Subject's waistband to see if he had any weapons and then ordered him to put his hands on his head. However, the Subject was unresponsive and continued to look straight forward. Officer A again ordered the Subject to place his hands on top of his head. The Subject was still unresponsive, so Officer A told Officer B to request backup via CD. While waiting for the back-up unit to arrive, Officer A continued to talk to the Subject, but the Subject remained unresponsive. Shortly thereafter and without warning, the Subject clenched his fists and lunged at Officer A in a violent fashion. In response, Officer A utilized a front kick on the Subject to create space.

Officer B saw the Subject turn his head toward Officer A, shift his body weight and run at Officer A. Officer A and Officer B tried to wrestle the Subject to the ground. Officer B was able to force the Subject to the floor while Officer A remained standing. Officer A walked behind the Subject and moved to a kneeling or squatting position on the floor adjacent to the upper right side of the Subject. Officer B remained on the Subject's left side.

During the initial contact between the Subject and Officer A, Officer B saw the TASER cartridge come loose from the TASER and fly out the front door of the lobby. Officer A saw that the dart [cartridge] was no longer in the TASER so Officer A placed the TASER against the Subject's neck, and pressed the trigger for a full five seconds. However, the Subject was not affected by the TASER. Due to the struggle with the Subject, Officer B upgraded his original back-up request to an assistance request.

Officer A then struck the Subject's head five to ten times with the TASER, but the blows did not seem to have any effect on the Subject. After the strikes to the Subject's head proved ineffectual, Officer A placed the TASER against the skin of the Subject's right hand and activated it in the drive-stun mode for a period of approximately five seconds.

As Officer A put the TASER down, he saw the Subject's hands were now visible. Officer A immediately handcuffed the Subject. Officer B notified CD that the Subject was in custody.

### **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/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas while 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 that the tactics of Officers A and B warranted a Tactical Debrief.

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

The BOPC found that the Non-Lethal Use of Force by Officers A and B was in policy.

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

The BOPC found that the Less-Lethal Use of Force (TASER direct stun) by Officer A was in policy.

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

The BOPC found that the Lethal Use of Force (TASER head strikes) by Officer A was out of policy.

### **Basis for Findings**

In their analysis of this incident, the BOPC identified the following considerations:

#### **A. Tactics**

1. Officer A struck the subject in the head with the TASER, an improvised impact weapon, approximately eight to ten times.

Based on the circumstances of the incident, it was not reasonable for Officer A to strike the subject in the head numerous times utilizing the TASER. Officer A should

have tried other tactical techniques to subdue the suspect without using an impact device on the subject's head.

2. During the struggle with the Subject, Officer B broadcast a request for assistance instead of a request for help.

When an officer requests assistance, it is imperative that the responding units are aware of the seriousness of the threat facing the requesting unit. Too often, officers request back-up, when in fact the situation is one that actually requires assistance, or even help. This creates a major officer safety concern, not only to the requesting unit, but also to those officers who are responding. To increase the level of safety, officers must be thoroughly familiar with when to request back-up, assistance and help. The basic requirement for this system to be effective is for the officer to automatically advise CD that they have arrived at scene.

Based on the on-going physical confrontation with the subject, it would have been prudent for Officer B to request help instead of assistance. A help call would facilitate a quicker response from a patrol unit since they are authorized to respond Code Three.

3. Officers A and B did not have their hobble restraint device (HRD) during the incident and Officer A did not have his baton or ASP with him.

Officers A and B are reminded to have all of their required equipment with them while performing field duties. This would afford the officers with additional force and restraint options should they become necessary.

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

The BOPC evaluated the circumstances relevant to Officers A and B's non-lethal use of force and determined that the force was reasonable to overcome the Subject's aggressive actions.

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

The BOPC evaluated the circumstances relevant to Officer A's less-lethal use of force and determined that Officer A's application of the direct stun feature of the TASER to the Subject's neck and right hand was appropriate based on the Subject's actions.

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

The BOPC indicated that the Subject was resisting the officers' attempts to handcuff him at the time Officer A used the TASER as an improvised impact device to initiate the series of head strikes. However, the available evidence demonstrates that the degree of resistance was not such that the use of lethal force was authorized, and that no other circumstance that would have authorized such force was apparent. As such, the head strikes administered by Officer A were deemed out of policy.