

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

**IN-CUSTODY DEATH – 028-14**

**Division**                      **Date**                                      **Duty-On (X) Off ()**      **Uniform-Yes (X) No ()**

Central                              5/24/14

**Officer(s) Involved in Use of Force**                                      **Length of Service**

Officer I    25 years

**Reason for Police Contact**

Officers responded to a radio call of a man on the rooftop of a market. As the officers attempted to take the Subject into custody, he fell and was fatally injured.

**Suspect**                                      **Deceased (X)**                      **Wounded ()**                      **Non-Hit ()**

Subject: Male, 55 years old.

**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 May 19, 2015.

## **Incident Summary**

On May 24, 2014, a witness called 911 Communications Division (CD) regarding a male Subject who was on the rooftop of a market. Uniformed Officers A and B were assigned the call and responded. Officers A and B arrived at the market and made contact with the caller, who then directed the officers to the rear parking lot of the market.

Officers A and B walked to the rear parking lot of the market and observed the Subject on the rooftop. As Officers A and B called out to the Subject, he began to climb up a billboard using the ladder system attached to it. The Subject scaled the billboard to the top, above the roof, and sat down with his feet hanging over the billboard's front edge. The Subject continued maneuvering around the backside of the billboard while officers stood in the rear parking lot of the market. Officers A and B requested an airship, additional units and a supervisor. Uniformed Officers C, D, E, F, and uniformed Sergeant A responded to the market.

While at the scene in the rear parking lot of the market, Officer C called out to the Subject, who "poked" his head out from on top of the roof, looked at them, but ignored his request for him to come down. Officers A, B, C and D observed a ladder nearby and used it to access the rooftop in an effort to make contact with the Subject. Officers attempted to talk the Subject down from the billboard; however, he refused to come down. According to Officer C, the officers discussed a plan to take the Subject into custody if he came down from the billboard and had a Thomas A. Swift Electronic Rifle (TASER) available in case the Subject fought with them.

Air Support Officers G and H arrived on scene, where they observed the Subject on top of the billboard and subsequently requested the assistance of the Los Angeles Fire Department (LAFD). Officers G and H also requested a Rescue Ambulance (RA) and an airbag from LAFD. Officers continued giving commands for the Subject to come down from the billboard, which he ignored.

Sergeant A arrived and assumed the role of Incident Commander. Sergeant A observed the Subject sitting on top of the billboard, rocking back and forth. According to Sergeant A, the Subject appeared to be under the influence of narcotics or possibly suffering from mental illness. The Subject had removed a detachable ladder from the top of the billboard and waived it around. Sergeant A directed officers on the rooftop to move back to prevent being struck by the ladder if the Subject threw it. Sergeant A established a Command Post (CP).

Sergeant A notified Real-Time Analysis & Critical Response (RACR) Division regarding the incident. After notifying RACR, Sergeant A notified Mental Evaluation Unit Detective A as well. According to Sergeant A, Detective A directed him to notify Metropolitan Division for crisis negotiations.

LAFD personnel arrived and deployed two airbags for this incident. One airbag was placed on the rooftop, alongside the billboard. The rooftop of the market was enclosed by a parapet wall, approximately 3-4 feet tall and eight inches wide, extending upward from the roof. The rooftop was divided down the middle by the same 3-4 foot tall parapet wall, separating it into both a north and south rooftop. Due to debris and the parapet wall dividing the two rooftops, Fire Department personnel placed the airbag on the southern portion of the rooftop as close as they could to the center point of the roof underneath the billboard. Fire Department personnel placed a second airbag in the rear parking lot of the market, along the east wall. The airbag was unable to be placed flush against the east wall due to the offset walls of the building and the post, which supported the billboard. Fire Department personnel inflated the bags, and remained near them to insure they were properly functioning.

Uniformed Sergeant B arrived at the scene and met with Sergeant A. Sergeant B was directed to the rooftop by Sergeant A to join the officers already on the roof to form a contact/arrest team, in the event the Subject came down from the billboard. Sergeant B climbed onto the roof and discussed a tactical plan to take the Subject into custody. The plan was to grab onto the Subject if he came down within reach of the officers and, if he resisted, deploy the TASER and take him into custody.

Officers C and E attempted to talk the Subject down off of the billboard; however, the Subject ignored them and refused to come down. While on the top edge of the billboard, the Subject laid down and placed a blanket under his head with his right leg crossed over his left leg. According to Officer C, the Subject was known to climb and had been involved in an incident in the past where he climbed a tree and wouldn't come down.

Sergeant A called the Metropolitan Division desk and requested assistance from the Crisis Negotiations Team. Sergeant A advised Lieutenant A that they had a male individual, who was possibly suffering from mental illness or was under the influence of narcotics, on top of a billboard, and he was not responding to officers' commands to come down. After speaking with Sergeant A, Lieutenant A advised him that SWAT personnel would respond. All on-call SWAT personnel began responding to this incident. Lieutenant A telephonically contacted RACR Division and advised RACR Division to notify the on-call Behavioral Science Section (BSS) doctor and have that individual respond.

**Note:** According to the crime scene logs, the on-call BSS doctor did not make it to the scene prior to the Subject falling from the rooftop.

Lieutenant B arrived and was briefed by Sergeant A. Lieutenant B assumed the role of Incident Commander.

While en route to the scene, Lieutenant A telephonically spoke with Sergeant C and Officer I, individually, regarding the incident. Lieutenant A informed them that the Subject was on top of a billboard; officers had containment set up around the building; and informed them of the location of the CP.

According to Sergeant B, he was directed by Lieutenant B to cease conversation with the Subject due to his unwillingness to follow officers' commands. Sergeant B indicated that at one point the Subject appeared to be making a joke of things. Sergeant B was also advised that SWAT was responding to the incident and to have his personnel on the rooftop stand-by and await their arrival.

Detective A and System-wide Management Assessment Response Team (SMART) Officer J arrived at scene. Upon observing the Subject on top of the billboard, Officer J informed the CP that he believed the person on top of the billboard to be someone he had contact with in the past. In that past incident, he fell from a tree into a Fire Department airbag.

Shortly thereafter, additional SWAT personnel arrived. Officer I arrived on scene and made contact with Lieutenant B and Officer K. Officer K advised Officer I and additional SWAT personnel that earlier, the Subject had come down from the billboard, grabbed a bottle of orange juice and climbed back up onto the billboard. After donning their equipment, Officers I, K and other SWAT personnel walked around the location to assess the area and resources at scene. According to Officer I, he did not see any gaps between the airbag on the ground and the wall of the market.

SWAT personnel began replacing patrol personnel from their positions around the market. SWAT personnel accessed the roof top via a Fire Department ladder which was placed along the north wall of the building. Upon climbing onto the roof, Officer I assessed the rooftop and made contact with Officer C, who told him that he had prior contacts with the Subject, who was known for being a climber and fighting with officers. Officer I began replacing patrol personnel from the rooftop with SWAT personnel once he had sufficient resources to do so. According to Officer K, he was told by patrol officers that they had brought cigarettes and a lighter, which were on top of an air conditioning unit, on the roof to use as a ploy to get the Subject down from the billboard.

As SWAT personnel arrived and donned their tactical gear, Officer I assigned them to less-lethal and containment positions on both the rooftop and ground positions. Officer I also repositioned the Fire Department personnel, who were responsible for the rooftop airbag, into positions along the south wall of the rooftop for their own safety.

Officer I positioned Officers K, L, M and N on the northwest portion of the rooftop to act as the negotiators and rescue team. Officer I insured that Officers L and M were tied to Fire Department truck ladders to prevent them from going over the edge of the building in the event they had to perform a rescue on the Subject. Also on the rooftop were Officers O and P.

Officer I positioned SWAT Officers Q, R, S and T on the southeast portion of the rooftop next to the inflated airbag as a containment/arrest team. Officer B advised his team that they would handle the arrest of the Subject if he came down in their direction and Officer I's team would handle the Subject if he came down in their direction. Officer B contacted Officer I over the radio and told him the same thing.

Officer I positioned a containment/arrest team on the ground in the rear parking lot, which consisted of Officers U, V, W and X.

Meanwhile, after being tied off to the Fire Department truck ladder, Officer L attempted to communicate with the Subject. According to Officer L, the Subject was not verbally responding to him. Officer K began speaking to the Subject in Spanish and still received no verbal response. Both Officers K and L repeatedly pleaded with the Subject to come down from the billboard, to which the Subject ignored their pleas and remained on top of the billboard.

According to Officer L, the Subject continued maneuvering around on top of the billboard placing himself in danger on the top edge of the billboard, which was approximately 24 feet above the rooftop and 39.6 feet above the ground. The Subject would balance himself on top of the billboard in a seated position with his legs on the printed side of the billboard hanging down and leaning back toward the non-printed side of the billboard. According to SWAT personnel, the Subject appeared to be under the influence of narcotics and at times appeared to be falling asleep.

As Officer L attempted to talk the Subject down from the billboard, Detective B and Officer Z, who was the secondary CNT officer, met with Detective A, Officer C and Lieutenant B at the CP to obtain information regarding the Subject. According to Officer Z, Detective A told him that MEU had a prior contact with the Subject where he climbed a tree and appeared to be comfortable with heights. Officer Z also learned from Officer C that he had prior contacts with the Subject where he fought with officers and, on one occasion, escaped from the back seat of a police vehicle. After receiving this information, Officer Z attempted to send Officer L a Blackberry message regarding the information he had received. Officer Z did not receive a response from Officer L and used his police radio. Officer I broadcast that Officer L was communicating with the Subject and advised Officer Z to wait. Officer Z then advised Officer I that he had information regarding the Subject that he needed to give Officer L. Officer I advised Officer Z to put his tactical gear on and respond to the rooftop. Officer Z donned his equipment and walked to the ladder on the north side of the building when he observed the Subject descending the billboard. Prior to climbing up the ladder, Officer Z asked Officer I, over the police radio, if he wanted him to approach at that moment. Officer I advised Officer Z to stand down due to the fact that the Subject was descending the billboard and did not want to interfere with the progress that was being made with the Subject. Officer Z then took up a position near the northeast corner of the building and stood by.

Sergeant C arrived on scene and quickly donned his equipment in order to get to the rooftop and provide oversight for this incident.

While seated on top of the billboard, the Subject requested a cigarette. Due to the ambient noise in and around the scene, Officer L had difficulty hearing him. Officer L asked the Subject to come down closer so he could hear what he was saying. According to Officer K, he told Officer L to offer the Subject a cigarette; however,

withhold the lighter for a secondary ploy to get him down to the rooftop. The Subject again asked for a cigarette and Officer L offered him one, which seemed to peak the Subject's interest. The Subject stated he would give himself up to officers once he smoked a cigarette. According to Officer L, the Subject began climbing, from the top of the billboard, down the backside of the billboard. Officer L momentarily lost sight of the Subject, who was now behind the billboard, and verbally communicated accordingly to other officers on the roof. When the Subject reappeared, he moved from behind the billboard to the front and had removed his shirt. Officer L continued talking to the Subject in an attempt to get him to come down; however, the Subject seemed hesitant to do so.

Sergeant C climbed onto the rooftop and made contact with Officer I. Officer I briefed him regarding the personnel that were in place on the roof top. Sergeant C then walked around the rooftop to survey personnel and their positions along with Officers L and M's positions, who were tied in as the rescue/arrest team. He also observed an inflated airbag on the south portion of the rooftop, directly under the billboard. Sergeant C walked to the east parapet wall, looked over the edge toward the parking lot, and observed an inflated airbag positioned under the billboard. According to Sergeant C, he looked over the edge and did not see a gap between the wall and airbag.

Sergeant C took a position by Officers L, M, O, P and K and was joined by Officer I. Officer I was aware that the Subject had agreed to come down from the billboard earlier and give himself up if he was provided something to drink; however, after grabbing a bottle of orange juice he quickly climbed back up on top of the billboard.

According to Officer I, the Subject appeared to be "nodding off" on top of the billboard. He also believed that the Subject was possibly contemplating jumping off the billboard and committing suicide.

Due to the Subject being a danger to himself, Officer I discussed a plan with Officers L, N, M, O, P, K and Sergeant C that if the Subject came down from the billboard, for his own safety, he would not be allowed to climb back up. According to Officer N, Sergeant C also indicated that if the Subject was coming down, the officers were going to try to take him into custody. The plan was to have Officers L and M, who were tied in with ropes, move forward and grab onto the Subject if the opportunity presented itself.

Officer P was armed with the less-lethal munitions, Officer I was armed with the TASER and Officer O was assigned to lethal coverage. Due to the fact that the Subject appeared to be under the influence of narcotics and appeared to be falling asleep on top of the billboard, Officer I believed this to be the best plan to prevent him from going back up the billboard and falling off. After discussing the plan with Officers M, L and K, Officers I and P walked around the roof top and positioned themselves along the east parapet wall.

**Note:** According to Officer P, Officer I communicated with the other officers that if the subject attempted to climb back, he had the TASER and would deploy it as long as the subject's feet and legs were on the inner

portion of the roof. According to Officer O, Officer I told the team to be ready for less-lethal if the subject attempted to climb back up the billboard.

Officers K and L continued to offer the Subject a cigarette as the Subject descended the ladder from the billboard toward the rooftop. The Subject was half way down the ladder when he lowered his shirt and told Officer L to place the cigarette into the sweatshirt. According to Officer K, he told Officer L to place the cigarette on top of the pallets that were resting against the wall, just under the billboard ladder. Officer L moved toward the roof ledge and placed a cigarette down on top of one of the pallets. Officer L then backed away, giving the Subject room to come down and retrieve it.

The Subject descended the ladder to the parapet wall ledge, squatted down and picked the cigarette up with his right hand. The Subject then sat on the inner edge of the parapet wall, with his legs down toward the roof top and his feet resting on pallets that were leaning against the parapet wall. According to Officer K, Officer L handed off the primary role of negotiator to him to conduct in Spanish.

As Officer K prepared to offer the Subject a lighter for his cigarette, the Subject reached into his left front pants pocket, with his left hand, and pulled out a green colored lighter and lit his cigarette. After lighting his cigarette, the Subject placed his green lighter down on the parapet wall ledge. According to Officer I, he unholstered his TASER with his right hand and held it down near his right leg, ensuring that the Subject did not see it. After lighting his cigarette, the Subject continued talking to Officer K. According to Officer K, the Subject told him that it was his job to clean the roof, but somebody was mad at him and there was a dispute over money. Officer K had difficulty understanding what the Subject said due to his "mumbled Spanish."

According to Officer V, who was on the ground in the rear parking lot of the market, Fire Department personnel monitored the Subject's movements and adjusted the airbag based on the Subject's position on the roof.

**Note:** Both Officers V and W reported observing a gap between the airbag and the wall. There is no evidence that either officer attempted to communicate that information to the officers on the roof, however.

The Subject continued to smoke his cigarette while seated on the parapet wall ledge. Believing the Subject was going to surrender, Officer I was prepared to deploy the TASER if the Subject attempted to fight with officers. Before finishing his cigarette, the Subject, without provocation, turned his body to his left, reached up with his left hand and grabbed onto the billboard ladder rung. Suddenly, the Subject looked over his right shoulder in the direction of Officer I and pulled his body toward the ladder, exposing his back to Officer I. According to Officer I, the Subject's body was completely off the wall with his buttocks off the ledge, positioned toward the inner portion of the roof, and his legs extended down toward the rooftop. Officer I made a split second decision to deploy the TASER without giving a warning, indicating that he was trying to incapacitate the Subject while he was turned away from Officer I. When the Subject grabbed the rung

he turned facing south and did not see Officer I, who felt it was the best time to initiate an element of surprise and try to take him into custody.

Officer I pointed the TASER at the Subject's back and activated it in an attempt to incapacitate him and prevent him from climbing back up the billboard. According to Officer I, as he deployed the TASER, the Subject's body was instantly back on top of the parapet ledge with his left leg on top of the ledge attempting to climb up the ladder.

Simultaneously, Officers M and L moved toward the Subject to take him into custody. Officer I moved toward the Subject along the east wall and attempted to place the safety on the TASER to prevent Officers L and M from being affected by the TASER's current as they placed hands on the Subject.

As officers moved in toward the Subject, his body leaned backward, in an easterly direction, toward the east parking lot while continuing to hold onto the ladder rung. Approximately 2 ½ to 3 seconds into the five second phase of the TASER, the Subject let go of the ladder rung. As the Subject released his grip from the ladder, Officer M immediately grabbed onto the Subject's right leg above the knee, with both hands, in an attempt to keep him from going over the edge of the roof. Due to the Subject's body weight and momentum leaning backwards toward the parking lot, Officer M was unable to maintain his grasp on him. The Subject's body fell parallel with the east wall of the building, between the airbag and wall, onto the parking lot below.

According to Officer I, the TASER did not have the effect he believed it would. He believed that based on the Subject's body position on the ledge, the TASER would cause the Subject's body to fall inward toward the rooftop and incapacitate him long enough for officers to take him into custody without a fight ensuing.

After the Subject fell from the roof, SWAT personnel, along with LAFD personnel on the ground, moved in to attend to him. Officer Z approached the Subject and observed that he had sustained major head trauma, and he was not moving. Officer Z opined that it was not necessary to handcuff the Subject and allowed Fire Department personnel to attend to him. Prior to medical treatment, Officer Z placed latex gloves on and checked the Subject's pockets for any weapons but did not find any. The Subject was then attended to by LAFD paramedics and placed into the RA, which was standing by, and transported to the hospital. The Subject succumbed to his injuries and was subsequently pronounced dead by medical personnel.

### **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 weapon 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 Officers I's tactics to warrant an Administrative Disapproval. The BOPC found Lieutenants A and B, and Sergeants C's tactics warrant a Tactical Debrief.

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

The BOPC found Officer I's less-lethal use of force to be out of policy.

## **Basis for Findings**

### **A. Tactics**

- In its analysis of this incident, the BOPC identified the following tactical considerations:
  1. Tactical Plan

Lieutenant A, Sergeant C, Officer I and the officers assigned to the roof had developed and discussed a tactical plan to ensure that the Subject would not ascend the billboard, if possible.

Officers must continue to act collectively and as a team to ensure the success of any tactical incident. The failure to communicate and coordinate their tactical options can hinder their effectiveness. Although there appears to be some variations regarding the actual nature of the incident, the involved personnel believed that the Subject posed a viable threat to himself if he were allowed to ascend the billboard.

According to Officer I, a conversation took place on the rooftop among Sergeant C, Officers K, L, M, O, P and himself regarding the aforementioned tactical plan.

Officer I recalled that the officers wanted to get the Subject to a position where the officers thought they could take the Subject into custody and put hands on him. If he came down off the ladder, the officers were not going to let him go back up again because they knew he had been up and down numerous times. The officers also knew that the Subject had displayed violent tendencies in the past, and might start fighting once the officers put hands on him.

Officer M recalled the plan being made that if the Subject came down to the rooftop level that the officers were going to go hands-on.

According to Lieutenant A, the general plan that Lieutenant A approved and that he communicated to Sergeant A and Lieutenant B was that if they saw an opportunity to arrest the Subject, that they would go ahead and seize the moment. And if they had to use less-lethal that's what they would do. According to Lieutenant A this part of the overall plan was approved by both Sergeant A and Lieutenant B.

According to Lieutenant B, *"And we had many conversations, me and Lieutenant A, many short ones, and a couple of long ones, and the same information was initially conveyed to him as I conveyed to the SWAT sergeant about less-than-lethal knocking the guy off the roof or having one of our officers get pulled over the roof and jeopardize the officers safety during the incident. And so I did not get into what Lieutenant A should do or should not do as he's the tactical expert in that area, and I'm not going to restrict his ability to perform his job."*

The plan to prevent the Subject from ascending the ladder was effectively communicated between the various operational levels of control and supervision. Accordingly, the BOPC assessed the overall decision to approve the tactical plan by Lieutenants A and B, and Sergeant C. In this circumstance, Lieutenant A discussed the overall plan in spirit while leaving the specifics associated with the implementation to the personnel assigned on the roof.

Lieutenant A stated, *"You see the opportunity to effect an arrest or seize a moment, you miss that opportunity, you'll never have it again. And part of the training and direction is if the moment arise that's what we're there for. Use those tools that we have trained on and provided to you to effect the arrest."*

This general plan was deemed reasonable by the BOPC with regard to the involvement by Lieutenants A and B, and Sergeant C.

The BOPC conducted an assessment of Officer I's actions and noted that appropriate resources were allocated to effectively handle the situation. However, Officer I's decision to utilize the TASER was not adequately communicated to the tactical team. As a result, Officer I unnecessarily deviated from the approved tactical plan, which left the tactical team at a distinct tactical disadvantage. The deviation from the plan was without sufficient articulated facts to support that deviation was reasonable under the circumstances.

- 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 assessing this, the BOPC understood and appreciated the dynamic and rapidly evolving nature of the incident. SWAT personnel are selected in part for their abilities to function collectively during such critical incidents and conduct extensive

training to ensure operational readiness. It is the BOPC's expectation that officers assigned to SWAT conduct themselves in these critical incidents with greater capabilities than a typical patrol officer thrust into a spontaneous event. Given these added expectations, the BOPC found Officer I substantially and unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval, when he did not communicate with his fellow tactical team members that he would use the TASER *prior* to the arrest team attempting to seize control of the individual.

- The BOPC also conducted an assessment and review of the tactics used by Lieutenants A and B along with Sergeant C throughout this incident and determined that the identified areas for improvement neither individually nor collectively substantially deviated from approved Department tactical training.

In conclusion, the BOPC found Officers I's tactics to warrant a finding of Administrative Disapproval. The BOPC found Lieutenants A and B, and Sergeants C's tactics to warrant a Tactical Debrief.

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

- In this incident, Officer I was advised by Lieutenant A that they were dealing with a violent subject that was perched upon a billboard that appeared to be under the influence of a controlled substance and was nodding off.

Officer I believed that an air rescue cushion was positioned directly below the Subject and that the most advantageous position to effect an arrest of the Subject was on the rooftop directly below the billboard. Moreover, Officer I believed that either option was safer than allowing the Subject to ascend the billboard and possibly falling and/or injuring himself or officers positioned on the rooftop.

Soon thereafter, the Subject descended the ladder and sat upon the parapet wall. Within moments, the Subject reached for the ladder rung. Officer I discharged the TASER to prevent the Subject from ascending the ladder and render him incapacitated to effect an arrest. Officer I believed there were no gaps between the air rescue cushion and the wall.

Officer I recalled that he made a decision from prior experience in using the TASER with suicide subjects and on rooftops, given that the Subject's body was on the inside of the parapet wall. At first, he thought the Subject was going to surrender, and then all of a sudden he turned to go back up. At that time Officer I thought there was a small window of opportunity to actually deploy the TASER. And Officer I thought he would fall onto the roof on the inside of the parapet wall.

After a review all of the evidence gathered in the investigation, the BOPC had concerns regarding Officer I's decision to discharge the TASER at the Subject as he grabbed onto the ladder rung. The BOPC determined that a reasonable officer with similar training and experience, while faced with the same or similar circumstances,

would not have discharged the TASER at the Subject at the time Officer I decided to do so. Personnel assigned to SWAT are selected for their maturity, critical thinking skills, tactical expertise and proven ability to perform at the highest level during critical incidents. Accordingly, SWAT personnel are afforded the opportunity to conduct ongoing and extensive training to maintain and ensure the highest degree of operational effectiveness. To that end, it is the BOPC's expectation that officers assigned to SWAT conduct themselves in these critical incidents with greater capabilities than a typical patrol officer thrust into a spontaneous event.

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