

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

HEAD STRIKE WITH AN IMPACT WEAPON – 062-14

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

Hollenbeck 10/28/14

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

Officer A 19 year, 6 months
Officer B 1 year, 6 months

Reason for Police Contact

Officers A and B confronted the Subject in a residence regarding an Assault with a Deadly Weapon investigation. The Subject failed to comply with commands and a struggle ensued. During this incident, the Subject attempted to take the TASER from Officer A, resulting in a head strike.

Subject(s) Deceased () Wounded (X) Non-Hit ()

Subject: Female, 43 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 August 4, 2015.

Incident Summary

On the date of this incident, the Los Angeles Police Department (LAPD) Communications Division (CD) received a 911 emergency call for service from Victim A, who requested police officers to respond to his residence concerning an Assault with a Deadly Weapon, (ADW) committed by his cousin, the Subject. According to Victim A, the Subject had chased him and his girlfriend outside with a bat and shovel.

CD broadcast the call, which was assigned to uniformed Police Officers A and B. Officers arrived at scene and met with Victim A, who advised them that the Subject was acting irrational and crazy and had struck him with a shovel. Victim A was bleeding from scratches on his right forearm. Victim A stated that after he had been struck with the shovel, the Subject entered their residence.

Note: Officers checked the area for the shovel and bat but were unable to locate the weapon.

Victim A directed Officers A and B to the residence, which was at the bottom of a steep dirt embankment. As Officers A and B approached, they agreed that they would attempt to contact the Subject for the purpose of conducting a preliminary investigation, possibly detain her for ADW, and if necessary, they would request an additional unit.

The officers noted that the front door of the residence was locked when Victim A attempted to access the residence. Victim A yelled out to his stepfather, Witness A, who opened the door from inside. The officers heard footsteps inside and were advised by Victim A that it was probably his cousin who locked herself in the bathroom. Victim A directed Officers A and B inside the residence to the bathroom, which was adjacent to the living room.

Note: Officers instructed Victim A and Witness A to step outside before attempting to contact the Subject. Victim A partially complied by stepping into the kitchen area.

Officer A knocked on the closed bathroom door, identified himself as a police officer, and instructed the Subject to come out so that they could discuss the incident involving her cousin. The Subject responded by yelling expletives and stated that she was not coming out and that the officer had no right to be there. Officer A continued to instruct the Subject to cooperate and exit the bathroom so they could talk; however, she refused.

According to Victim A, he heard the officers giving the Subject commands to, "Put your hands up. Come out with your hands up, and she didn't." The Subject responded to the officers' commands, telling them, "No, I'm not going to come out." Victim A estimated that it took 10 minutes for the Subject to unlock the bathroom door.

Officer A formed the opinion that additional resources were necessary and broadcast via his hand-held radio that he needed a back-up for an ADW Subject who was barricaded in the bathroom.

Officers A and B moved away from the bathroom door approximately 6 feet and awaited the response of additional resources, creating distance considering the small confinement and close quarters of the living room. Officers A and B faced the door in a triangulated configuration. Officer B stood in front of a small loveseat, adjacent to a sofa at the southwest corner of the living room with Officer A on his left side.

As Officers A and B waited, the Subject opened the bathroom door approximately five seconds after Officer A made his back-up request. The Subject rapidly exited, moving toward Officer B in an aggressive manner, yelling and screaming words to the effect of, "Get out of here. I'm not going anywhere." The Subject's hands were open and her arms were at chest level. Officer A gave the Subject commands to stop, place her hands on top of her head; however, she ignored his orders. Officer B was unable to move further away from the Subject due to the limited confines of the living room.

Note: According to the Subject, when she exited the bathroom, both officers were pointing guns at her. Officers A and B both stated that they never unholstered their handguns during the incident. According to Victim A, as he stood in the kitchen area, he observed isolated portions of the use of force incident, which included when the Subject initially exited the bathroom and a struggle on the sofa. Victim A provided a detailed statement during his recorded interview which never included the officers removing their handguns.

According to the Subject, as she moved toward the sofa, the male officer gave her commands to stop and move toward the wall when she exited the bathroom; however, she ignored his orders. The Subject stated, "When I came out, I guess he wanted me to stand right there and I didn't stand and that's why they attacked me."

As the Subject approached Officer B in the aforementioned, aggressive manner, coming within a distance of approximately 2 to 3 feet, Officer A believed that she was going to strike, or tackle, his partner. Officer A reached for his TASER, located on the right side of his equipment belt, unholstered it, held it with his right hand, and pointed it at the Subject's chest area. Officer A was unable to give a verbal warning to the Subject prior to firing the TASER due to his perceived immediate threat to his partner. Officer A fired the TASER at the Subject from a distance of approximately 4 feet, striking the Subject in the right upper chest and below the left breast.

A five second activation was administered to the Subject from the TASER, which caused her to fall back into a seated position onto a sofa that was adjacent to the loveseat. As soon as the first cycle from the TASER ended, Officer A ordered the Subject to put her hands on top of her head, turn around, and lie on her stomach. The Subject ignored Officer A's commands and, according to Officer B, immediately leaned

forward off the sofa into a crouched position with her arms forward at her chest level, hands clenched. The Subject began to move toward Officer B who believed that the Subject may attempt to tackle her.

Officer A moved forward toward the Subject's location and administered a two second activation from his TASER from a distance of approximately 6 feet. The second burst appeared to have no effect as the Subject responded by removing a TASER probe from her right chest area with her right hand.

Officer B approached the Subject, who was now seated on the sofa, and placed his right hand on the Subject's left shoulder and used body weight with the sofa as a controlling agent, attempting to control the Subject's arms. Officer A approached the Subject's right side and transitioned the TASER from his right hand to his left hand so that he could use his right hand to control the Subject in order to not leave his handgun, on the left side of his equipment belt, exposed.

Note: According to the Subject, Officer B used an object the size of a rifle, possibly a baton, to hold her down on the sofa at her chest area. Officer B was equipped with a PR-24 side handle baton located on the left side of his equipment belt. Officer B stated his baton was never removed from the baton ring during the use of force incident. According to Officer B, he was wearing a long-sleeved uniform shirt and utilized his forearm to attempt to control the Subject on the sofa.

Officer A verbalized with the Subject to stop resisting, and if she did not stop her aggressive behavior, he would use the TASER as a drive stun against her body. The Subject continued to flail her arms and kick, and then reached up toward Officer A, and attempted to grab the TASER from his left hand. Officer A, fearing that the Subject was attempting to disarm him, held the TASER in a pistol grip, slightly canted to the right. Officer A delivered two strikes, in a jabbing-like motion, in rapid succession to the Subject's right jaw and cheek area, using the TASER as an impact device in an effort to stop her from disarming him.

According to Officer A, other force options were unavailable at the moment the Subject attempted to grab the TASER from his hand. Officer A did not want to separate and gain distance from the Subject to use OC spray or his collapsible baton due to the confined space in the living room. Officer A wanted to continue to use the sofa as a controlling agent and felt separation may have allowed the Subject to stand up, and he felt that she was very strong and may have been under the influence of narcotics, or had mental issues. Officer A did not want to drop the TASER and possibly allow the Subject or Witness A, who was in close proximity, access to it where it could be used as a weapon against himself or his partner.

Note: According to the Subject, she attempted to take the TASER from Officer A because he was hurting and burning her. The Subject stated

she was struck four times in the face with what appeared to be a metal gun, positioned backwards, that Officer A held in his hand.

Officer B did not observe the head strikes. Officer B explained that Officer A was to his left, and he was focused primarily on the Subject. The Subject continued to struggle as Officer B attempted to control her arms and hold her down.

The Subject continued to flail her arms and kick as Officers A and B verbalized with her the entire time to stop resisting, turn around, and put her hands behind her back.

Officer A administered a five second close contact drive stun from his TASER to the Subject's chest, which did not appear to stop her actions. This caused Officer A to administer a six second drive stun to her chest, for a total activation of 11 seconds.

At the end of the combined 11 second burst, Officer A continued to order the Subject to stop resisting; however, she still flailed her arms and kicked. Officer A administered a final five second drive stun burst from his TASER to the Subject's chest, which caused her to say, "Okay, Okay."

The Subject complied with the officers' commands and voluntarily turned onto her stomach, still on the sofa, as Officer B placed his left knee onto the Subject's mid back area and handcuffed her without further incident. The Subject was placed in a seated position on the living room floor. Officer A broadcast the Subject was in custody, requested a supervisor, and advised responding units that the location was down the hill. Officer A also requested a Rescue Ambulance (RA) for the Subject who had sustained a puncture wound from the TASER. The Subject was escorted from the residence, to the top of the hill to meet Los Angeles Fire Department (LAFD) personnel. The Subject was transported to a nearby hospital for treatment.

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 Officers A and B's tactics to warrant a Tactical Debrief.

B. Non-Lethal Use of Force

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

C. Less-Lethal Use of Force

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

Basis for Findings

A. Tactics

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

1. Updating Code-Six Location

Due to the rough terrain of the location of this call, which was a dirt road, Officers A and B elected to walk from the intersection in order to get to the location of the radio call and meet with the Person Reporting (PR), later identified as Victim A. The officers did not advise CD of their updated Code Six location.

The purpose of going Code-Six is to advise units in the area of your location and the nature of the field investigation should the incident escalate and thus necessitate the response of additional personnel. Domestic disputes can be one of the most dangerous duties a police officer ever encounters. Providing CD with an updated location increases a responding officer's ability to reach the location and provide assistance in a timely manner in the event of an emergency situation.

In an effort to improve future tactical performance during similar circumstances, this topic will be discussed during the Tactical Debrief.

2. Radio Communications

Officer A requested a back-up unit for a barricaded Subject; however, the circumstances did not meet the actual criteria for a barricaded subject.

In this circumstance, Officer A used the term barricaded subject during his broadcast request for back-up. The importance of effective communication is important. The exchange of information plays a critical role in the development and success of any tactical situation. It is the BOPC's expectation that all pertinent information obtained in a critical incident, when feasible, be shared with other involved officers. In this case, the term used by Officer A did not accurately reflect the actual circumstances the officers were facing with the Subject. The officers are reminded of the importance of using the proper terminology so that

personnel responding to a request for assistance can determine the most appropriate manner in which they will tactically respond.

Based on the totality of the circumstances, the BOPC determined Officer A's actions did not substantially deviate from approved Department tactical training. This topic will be discussed during the Tactical Debrief.

3. Back-Up versus Help Call

As Officers A and B waited for additional resources to respond, the Subject suddenly opened the door, exited the bathroom, and then charged in the direction of Officer B in an aggressive manner. Fearing that the Subject was going to strike or tackle Officer B, Officer A deployed his TASER.

A physical struggle then ensued with the officers. Following the initial back-up request, Officer A made two additional back-up requests during the use of force incident.

In its review of this incident, the BOPC considered that officers are afforded some discretion in determining the appropriate time to broadcast a Back-Up or Help request. While policy dictates that officers should request a Back-Up as soon as possible, officers are required to balance officer safety concerns with the evolving tactical situation presented to them.

Although Officer A broadcast a Back-Up request as the officers' physical altercation continued, a request for Help would have been tactically prudent to ensure that responding units were aware of the urgency of the request. When circumstances warrant an emergency response of additional personnel, a Help broadcast enhances the possibility of operational success.

In evaluating Officer A's decision to conduct two additional Back-Up requests rather than a Help Call, the BOPC concluded that improvements could be made.

Therefore, in an effort to enhance future tactical performance during similar situations, this topic will be discussed during the Tactical Debrief.

4. Optimal TASER Target Areas

Officer A was faced with a situation where the Subject had rapidly exited the bathroom and without provocation charged at Officer B. As a result, Officer A was left with a limited area in which to deploy the TASER probes. Consequently, the probes struck the Subject in the upper body, outside the optimal target areas for maximum effectiveness.

In conclusion, the BOPC found that Officer A's actions did not substantially deviate from the tactical plan or from approved Department tactical training. This topic will be discussed during the Tactical Debrief.

5. Use of a TASER as an Impact Device

Fearing that the Subject was attempting to disarm him, and if successful could use the TASER against him or his partner, Officer A held the TASER in a pistol grip and delivered two strikes, in a jabbing-like motion, in rapid succession to the right side of the Subject's face.

In this case, Officer A was holding the TASER in his left hand while pushing down on the Subject with his right hand in an attempt to assist his partner. Officer A articulated that he did not want to drop the TASER to the floor, out of concern that the Subject or someone else in the house could reach over and pick it up and possibly use it against him or Officer B.

Although the probe end of a TASER is generally not used as an impact device, in this case, Officer A's options were limited and did not substantially deviate from approved Department tactical training. This topic will be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:

1. Drive Stun Extended

Officer A administered a five-second, close contact drive stun from his TASER to the Subject's chest, which did not appear to stop her actions. This caused Officer A to continue the drive stun for an additional six seconds, for a total activation of 11 seconds. In this instance, Officer A utilized the drive stun option on the TASER for an extended period of time. Officer A will be reminded that the use of the drive stun should be administered in 5 second increments with a pause in between activations. Continuous use of the drive stun option increases the likelihood of injury and should be avoided if the situation permits.

2. Less-Lethal Warning

In this case, Officer A did not advise the Subject that the TASER was to be deployed prior to the first deployment. At the time, Officer A did not have time to advise the Subject of its impending usage, due to her aggressive actions against the officers. Officer A recalled that as he and his partner were waiting, the Subject burst out of the bathroom door. Officers A and B gave commands to place her hands on top of her head, but she did not comply. The Subject started yelling and walked towards Officer B in a fast paced manner. Officer A felt that the Subject was about to physically strike or attack Officer B, therefore he immediately deployed his TASER.

However, Officer A did provide a warning after his third activation. Officer A recalled advising the Subject that if she didn't stop her aggression, he would tase her and at this time did use the TASER as a drive stun against her body. In an

effort to enhance future performance under similar circumstances, this topic will be discussed during the Tactical Debrief.

3. Command and Control

Sergeant A arrived at scene and according to Officer A, he notified Sergeant A that that he utilized the TASER to intentionally punch the Subject in the face when the Subject tried to grab his TASER. Sergeant A confirmed that Officer A advised him that he struck the Subject twice in the face with the TASER and then indicated that he had responded to the station and discussed the incident with Lieutenant A.

According to Lieutenant A, he understood that the strikes to the face by Officer A were unintentional; however, he still contacted Force Investigation Division (FID). Lieutenant A conveyed that Officer A's strikes to the Subject's face occurred unintentionally and was advised by FID that a Level I Non-Categorical Use of Force (NCUOF) investigation be conducted.

Upon review of the arrest report on the following day by Lieutenant B, it was discovered that the strikes to the head by Officer A were, in fact, intentional. Once the incident was determined to be a Categorical Use of Force (CUOF), the protocols for a CUOF were initiated and adhered to.

The miscommunication between the aforementioned supervisory personnel resulted in a significant delay in the identification of this incident as a CUOF. The matter was brought to the attention of Captain A and Commander A, who advised they would address the communication and policy issues with their supervisors through training at the divisional level.

- 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.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident.

In conclusion, the BOPC found Sergeant A, along with Officers A and B's tactics to warrant a Tactical Debrief.

B. Non-Lethal Use of Force

- **Officer A** – Bodyweight, Physical Force

- **Officer B** –Bodyweight, Physical Force

After numerous attempts to take the Subject into custody and multiple TASER applications, Officers A and B utilized physical force and bodyweight to control the Subject's actions.

Officer B placed his right hand on the Subject's left shoulder and utilized his body weight in conjunction with the sofa as a controlling agent in an attempt to control the Subject's arms.

Officer B approached the Subject's right side and transitioned the TASER from his right hand to his left hand so that he could use his right hand to control the Subject. Officer A recalled that he transitioned his TASER into his right hand because he didn't want to leave his gun side exposed to the Subject since he is left handed. Officer A went ahead and used his right hand, placed it on the Subject's left shoulder and tried to use his bodyweight.

After a thorough review of the incident, the BOPC determined that an officer with similar training and experience as Officers A and B would believe the application of non-lethal force would be reasonable to overcome the Subject's resistance to prevent further injury and/or escape.

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

C. Less-Lethal Use of Force

- **Officer A** – Four TASER activations

The Subject suddenly opened the door, exited the bathroom and then charged in the direction of Officer B in an aggressive manner. Fearing that the Subject was going to strike or tackle Officer B, Officer A deployed his TASER.

Officer A indicated that he did not have the opportunity to give a verbal warning before deploying the TASER, due to the immediate threat towards his partner.

First Activation (Probe Mode)

Officer A recalled feeling that the Subject was about to either physically strike his partner or possibly attack him. Officer A immediately deployed his TASER and shot the Subject on the chest area without a verbal warning because he perceived an immediate threat towards his partner.

Second Activation (Probe Mode)

Upon completion of the first cycle, the Subject fell back into a seated position onto a sofa. Officer A ordered the Subject to put her hands on top of her head and lie on

her stomach. The Subject ignored his commands and then leaned forward off the sofa into a crouched position with her hands clenched and arms at chest level in the direction of Officer B. Fearing that the Subject was going to attack Officer B, Officer A administered a second TASER activation that appeared to have no effect.

Third Activation (Drive Stun)

With no effect noted, Officer A conducted a direct stun to the Subject's upper chest area. Officer A recalled that he administered a close contact drive stun on her chest area. The first five-second cycle didn't seem to work. The Subject continued to flail her arms and kick around so at that point Officer A made the decision to continue with a second burst.

Fourth Activation (Drive Stun)

According to Officer A, the Subject continued to resist the officers' efforts to take her into custody by flailing her arms and kicking her legs. As a result, Officer A initiated a final activation.

Officer A recalled that he asked the Subject to stop resisting and put her hands behind her back. The Subject continued to once again flail her arms and kick around, so he administered another five-second burst.

At the conclusion of the final activation, the Subject stopped resisting, complied with the officers' commands, and then voluntarily turned onto her stomach on the sofa, allowing Officer B to handcuff her without further incident.

- **Officer A – Head Strike with a TASER (Less-Lethal Force)**

The Subject reached with her right hand and attempted to grab the TASER out of Officer A's left hand. Fearing that the Subject was attempting to disarm him and if successful could use the TASER against him or his partner, Officer A held onto the TASER in a pistol grip and delivered two strikes, in a jabbing-like motion, in rapid succession to the right side of the Subject's face.

Note: The X26 TASER is constructed of hard plastic with a total weight of 7.2 ounces. As a result, the BOPC considered the manner in which the TASER was used by Officer A to strike the Subject in the head. The BOPC determined that the manner in which the TASER device was used would likely not result in serious bodily injury or death; therefore, this intentional head strike would be evaluated as an application of a less-lethal use of force. The BOPC noted that the injuries sustained by the Subject as a result of the head strikes did not result in serious bodily injury.

Officer A recalled, that he did not want to drop the TASER and was afraid that if he dropped it or placed it somewhere else that maybe the Subject or Witness A could reach over and grab it and then use it against him and/or his partner.

Officer A recalled that the Subject started flailing her arms and kicking her legs and reached over and tried to grab the TASER. According to Officer A, he had no other choice because he only had one free hand. Officer A recalled using the TASER to strike the Subject twice on the cheek area and then administered a close contact drive stun to her chest area.

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 A would reasonably believe that the application of less-lethal force to stop the Subject's aggressive actions was reasonable and would have acted in a similar manner.

Therefore, the BOPC found that Officer A's less-lethal use of force with the TASER and less-lethal use of force head strike with the TASER to be objectively reasonable and in policy.