

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

**LAW ENFORCEMENT RELATED INJURY – 044-09**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No( )</b>
Southwest	07/08/2009		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	2 years, 4 months
Officer B	3 years, 2 months

**Reason for Police Contact**

Sergeant A, a Department-certified Drug Recognition Expert (DRE), responded to a “Violent Male Mental” radio call at an apartment, where a use of force occurred involving Subject 1, who was under the influence of PCP.

<b>Subject</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
Subject 1: Male, 34 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 suspect 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 BOPC; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on May 25, 2010.

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

**Incident Summary**

Sergeant A, a Department-certified Drug Recognition Expert (DRE), responded to a “Violent Male Mental” radio call at an apartment. The caller, Witness A, indicated that Subject 1 was her boyfriend and that he had ingested PCP (phencyclidine) and that

Subject 1 was standing outside Witness A's apartment door in an incoherent state and scraping at the front door with his hands.

Sergeant A arrived at scene and parked in front of the apartment building. Sergeant A requested the exact apartment number from Communications Division (CD), as the initial location did not appear to be the correct identified location.

As Sergeant A approached the apartment identified by CD, he saw Subject 1 standing on the common landing at the top of the stairs between the upper apartments. Subject 1 was dressed only in sweat pants. Sergeant A ordered Subject 1 to place his hands on his head, but he did not comply. Sergeant A observed that Subject 1 was sweating profusely, foaming at the mouth, and had rigid muscle tone. Due to these observations, Sergeant A formed the opinion that Subject 1 was under the influence of PCP. Sergeant A requested back-up for a PCP subject via CD.

As officers were responding to the back-up call, Sergeant A ordered Subject 1 to come down from the landing. However, Subject 1 continued his non-compliance. Sergeant A requested a TASER, and Officers A and B responded to the request.

Lieutenant A and Sergeant B also arrived on scene and saw Subject 1 on the second-floor stairwell landing. Lieutenant A determined that Subject 1 was a PCP subject based upon his demeanor, non-responsiveness, frothing at the mouth, thousand-yard stare, discarding of the clothes, and stiff behavior.

Lieutenant A believed that Subject 1 held a position of advantage due to the fact that he was at the top of a narrow stairway. Lieutenant A formulated a plan to confront this risk. Lieutenant A assigned Sergeant B to form an arrest team. Sergeant B designated Officers C, D, E, and F as arrest team members; Officers A and B as designated TASER officers; Officer G as the designated bean-bag officer; and Officer H as the lethal-force officer.

During the time that Sergeant B was assembling the arrest team, Sergeant A continued to talk to Subject 1 in an attempt to take him into custody. Subject 1 shuffled around on the stairwell landing and, when ordered by Sergeant A, Subject 1 would put his hands up but then immediately drop them back down. Sergeant A gave Subject 1 verbal commands for approximately ten minutes, but Subject 1 did not comply with any of the commands. Lieutenant A formed the opinion that Subject 1 was not going to respond to verbal commands and ordered the arrest team to move forward into their respective positions at the bottom of the stairwell.

While Sergeant A continued to verbalize, Officer B moved into position at the bottom of the stairwell. At the direction of Lieutenant A, Sergeant A issued a TASER warning and told Subject 1 that if he did not come downstairs, he would be Tased.

When Subject 1 did not descend the stairs, Lieutenant A ordered Officer B to discharge his TASER at Subject 1. Officer B discharged the TASER at Subject 1 from a distance

of approximately nine feet. One of the darts struck Subject 1's chest, but the second dart missed and struck the staircase railing.

Officer A then moved into position at the bottom of the staircase. Sergeant A again issued a TASER warning to Subject 1, but he did not descend the stairs. At a distance of approximately seven feet, Officer A discharged a TASER at Subject 1, striking Subject 1 just below the neck and in the leg. Upon activation of the TASER, Subject 1 immediately went stiff, fell forward onto his right side, and struck his head on a wood stair.

As Subject 1 lay apparently unconscious on the staircase, Officers C, D, E, and F made their way up the staircase at Lieutenant A's direction. A handcuff ratchet from a separate set of handcuffs was attached to each of Subject 1's wrists as he lay on the ground. A third set of handcuffs was used to connect the handcuffs already attached to Subject 1's wrists. Officers C, D, E, and F lifted Subject 1 by his elbows and legs and carried him in a prone position to the nearby Rescue Ambulance.

As Subject 1 was being medically treated, a firefighter recovered a small glass vial containing a clear liquid from Subject 1's pants pocket. Believing the vial to possibly contain PCP, the firefighter gave it to Officer D.

Subject 1 was transported to a nearby hospital. Upon his arrival, Subject 1 was in respiratory distress. He was intubated and admitted to intensive care. Subject 1 was treated for PCP intoxication, a left occipital hematoma, and abrasions to his upper back and right shoulder area.

### **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 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 Lieutenant A's, Sergeants A and B's, and Officers A and B's tactics to warrant a Tactical Debrief.

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

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

### **Basis for Findings**

#### **A. Tactics**

In adjudicating this incident, the BOPC considered that:

1. Sergeant A arrived at the radio call location and parked in front of the residence. A more advantageous location would have been positioning the police vehicle at a greater distance from the source of the radio call, thereby denying any potential subject inside the location, or in close proximity to it.
2. Sergeant A approached the residence broadcast by CD, noted it appeared vacant, and then discovered a two-story building comprised of four apartments. It would have been advantageous to advise CD of the updated location, especially if this incident had warranted an emergency response and additional assistance to be required.
3. Sergeant A directed Subject 1 to place his hands up and walk down the steps. Cognizant that people under the influence of PCP have a propensity for violence, Sergeant A's decision to direct Subject 1 nearer without additional resources at scene was a concern. When a subject is contained and there is no evidence to indicate that immediate action is necessary, time should be utilized to maintain a line of communication with the subject, devise a tactical plan, and await the response of additional officers.

The BOPC found Lieutenant A's, Sergeants A and B's, along with Officers A and B's tactics to warrant a Tactical Debrief.

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

Sergeant A continuously verbalized with Subject 1 to descend the steps and walk to the officers' location; however, Subject 1 ignored the sergeant's commands. Fearing for the safety of the apartment residents and cognizant of the inherent danger of a physical altercation ensuing on a second-story landing with an individual under the influence of PCP, a team comprised of officers with less-lethal force tools was assembled to approach and apprehend Subject 1.

**Note:** Regarding the decision to utilize the TASER as the first force tool to engage Subject 1, Lieutenant A said he wanted to close the distance and effect an arrest with the least possible damage to the officers.

The team positioned themselves at the bottom of the staircase and, as all attempts to bring the situation to a peaceful resolution and have Subject 1 descend the steps of his own accord failed, Officer B fired one TASER cartridge at Subject 1.

The TASER activation appeared to have no effect on Subject 1 as one probe made contact with his chest and the second probe made contact with the banister of the staircase. Subsequently, Lieutenant A directed Officer A to fire a TASER cartridge at Subject 1.

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