

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

LAW ENFORCEMENT-RELATED INJURY – 069-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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77 th Street	8/10/15		
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Officer(s) Involved in Use of Force	Length of Service
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Officer B	11 months
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Reason for Police Contact

Officers responded to a radio call of a male armed with a handgun. The officers observed the Subject, who matched the suspect description, and attempted to conduct a pedestrian stop. The Subject fled and a foot pursuit ensued. When Officer B observed the Subject reach into his pocket area, he utilized a TASER, which resulted in a law enforcement-related injury.

Suspect	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 30 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 July 19, 2016.

Incident Summary

Witness A had just left her residence and was driving on her way to work. As she drove, she observed a male, wearing a red shirt, red pants and a red bandana covering the lower half of his face. The male was standing on the north side of the street and held a black pistol in his left hand as well as what she believed was a spray paint can in his right hand. Based upon her observations, Witness A called the police.

Communications Division (CD) broadcast a radio call of a "Man with a Gun." The comments of the call stated the suspect had a red bandana, a short sleeve red shirt, red pants, was armed with a small handgun, and appeared to be spray painting a gate. CD assigned the radio call to Officers A (driver) and B (passenger).

While traveling to the area identified in the radio broadcast, Officer A discussed with Officer B the possibility of a foot pursuit and the details of a homicide that occurred in the area between rival gang members the previous day. It was decided that Officer A would be the contact officer and Officer B, because he had possession of the TASER, would be the cover officer.

Officer B broadcast to CD that he and Officer A were at the location. The officers searched the area, but were unable to locate a suspect matching the description. The officers widened their search area. As the officers approached the intersection, they observed a male, later identified as the Subject. The Subject was wearing a red bandana around his neck, a red shirt and red pants, matching the description of the suspect in the radio call.

Officer B updated the officers' location with CD, but inadvertently provided a wrong intersection. Officer A parked the patrol vehicle in the middle of the crosswalk, facing in a southwesterly direction. Officer A's intention was to angle the officers' vehicle toward the Subject to keep the Subject in front of him and his partner. The Subject continued to walk however, and stopped a few feet past the right front bumper of the officers' vehicle.

Officer B exited the car and told the Subject to stop, turn around, and put his arms behind his back. The Subject looked in the officers' direction and put his arms out to his side. The officers did not observe anything in his hands. According to Officer B, he noticed a bulge in the Subject's right front pocket.

Note: Officer B did not alert Officer A of his observation because he believed his partner also saw the bulge. Officer A observed that the Subject's hands were empty but did not observe the bulge.

Officer B continued to give the Subject commands. The Subject did not comply with Officer B's commands, saying, "No man." Due to the Subject's refusal and because he observed nothing in the Subject's hands, Officer B decided to approach the Subject and attempt to take him into custody pending further investigation of a vandalism. As Officer B moved from his position behind the passenger side door and began to approach, he

could see Officer A approach the suspect. The Subject suddenly turned to his left and began to run north.

Note: According to Officer A, he exited the vehicle and was walking around the rear of the police vehicle toward the passenger side as Officer B approached the Subject.

Officer B immediately followed the Subject and yelled at him to stop. The Subject reached ran in a northwest direction to the sidewalk, and Officer B was approximately 15 feet behind the Subject. Initially, as the Subject ran, both of his arms were swinging back and forth. As the foot pursuit continued, the officers observed that while the Subject's left arm continued to swing naturally, his right arm stopped swinging and moved down. The Subject's hand grabbed his right front pants pocket. As he ran, Officer B considered his options and indicated: "It was Monday in the morning. There were kids that were walking to school. There's a school on the corner. There were families. I remember seeing kids walking to school...I saw the bulge on his right front pocket and based upon the circumstances we had...I knew I couldn't go and go hands on with him because I didn't want to struggle with someone with a gun. And I felt like I had enough time to be able to use non-lethal force before he reached into his pocket and pulled out a possible gun. So my plan was to pull out my TASER and discharge my TASER. If that did not work, within a second or two, I was going to dump that and use lethal force if I saw him brandish a firearm from his front right pocket."

Officer B unholstered his TASER with his left hand, transferred it to his right hand, yelled "TASER, TASER," aimed at the Subject's back and discharged the TASER. The TASER darts struck the Subject on the lower back as he was running and activated for one, five second cycle. The Subject's body stiffened, his arms dropped straight down to his sides and he fell face forward to the ground.

Meanwhile, Officer A ran down the street paralleling Officer B, who ran approximately 15 feet to Officer A's right side. Officer A used his hand-held radio and broadcast that the officers were in foot pursuit of a possible "Man with a Gun." After the broadcast, Officer A holstered his radio, released the safety mechanisms on his holster and prepared to unholster his pistol. Officer A heard Officer B yell, "TASER," observed the Subject fall to the ground face first, and immediately engaged the safety mechanisms on his holster.

Officer A grabbed the Subject's left arm, while Officer B grabbed the Subject's right arm and handcuffed him without further incident. Officer B searched the Subject and recovered a seven-inch black hairbrush with a brown wooden handle from the Subject's front right pocket. The Subject was then placed in a seated position. Officers A and B attempted to talk to the Subject, but he did not respond to their questions and only mumbled incoherently. The officers observed that the Subject's only injury was a small contusion on the left side of his head.

Officer A broadcast that the Subject was in custody. Officer A also requested an additional unit and a supervisor. Officer A also broadcast a request for a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA).

Sergeant A was the first supervisor to arrive at the scene. As Sergeant A approached, he observed the Subject in a seated position, mumbling incoherently and with no visible injuries. He was informed by an officer that a TASER had been utilized. Sergeant A immediately began a use of force investigation, photographed the location of the use of force, and began a canvass of the area.

Sergeant B arrived at the scene and observed the Subject in a seated position, leaning against an officer's leg. Sergeant B assisted Sergeant A with the initial investigation and attempted to identify witnesses to the use of force.

Sergeant C arrived at scene and observed the Subject on a gurney and being loaded into the RA. She advised both Sergeants A and B that she would handle the Non-Categorical Use of Force (NCUOF) investigation.

According to Sergeant C, while at the scene, she was approached by a woman, later identified as Witness B, the Subject's mother. Witness B stated that when the incident occurred, she was at the Police Station attempting to get help for the Subject who she believed was mentally ill due to his erratic behavior. Witness B explained that the Subject had been talking to himself, hiding in bushes, and stated that he wanted to kill himself. Sergeant C advised Witness B that the Subject was going to be transported to the hospital for medical treatment.

The RA arrived at the scene. The LAFD personnel conducted an initial medical assessment of the Subject's condition and transported him to the hospital. The Subject was uncooperative and combative as he was placed in the RA and during the transport.

Sergeant B directed Officers B and C to ride in the RA as the Subject was transported. According to Officer B, the Subject made no statements regarding the incident.

Note: Although Officer B had tased the suspect, the incident was being investigated as a NCUOF and no separation or monitoring was required.

Sergeant C responded to the hospital to continue the NCUOF investigation. Sergeant C took a photograph of the Subject and met with a doctor. The doctor stated they would evaluate the Subject for the contusion on his head.

Note: According to Sergeant C, at the time of the Subject's hospitalization, he was not in custody for any crime, and the medical staff was monitoring him for the contusion to his head and further mental evaluation. For these reasons, no 77th Area personnel remained at the hospital to monitor him. Sergeant C notified the 77th Area Watch Commander of the Subject's condition and the medical staff's actions.

Note: Witness B indicated that she went to the hospital and was advised by a doctor that the Subject had to be transferred to a trauma hospital because of a concussion and bleeding on both sides of his brain. Witness B indicated that the police officers were no longer at the hospital when the doctor spoke with her.

Three days later, on August 13, 2015, Sergeant C was notified by the 77th Street Watch Commander that Witness B was at the front desk looking for the Subject's property. During their conversation, Witness B advised Sergeant C that the Subject had been admitted to the hospital, due to a skull fracture sustained during the use of force. Sergeant C immediately responded to the hospital to check on the Subject's status. Real-Time Analysis and Critical Response (RACR) Division was subsequently notified of the Categorical Use of Force.

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 made the following findings.

A. Tactics

The BOPC found Officers A's tactics to warrant a Tactical Debrief. The BOPC found Officer B's tactics to warrant Administrative Disapproval.

B. Less-Lethal Use of Force

The BOPC found Officers B'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. Tactical Communication

Officer B observed a bulge in the Subject's right front pocket that he believed could have been a weapon, but he did not communicate his observations to his

partner. Operational success is based on the ability of officers to effectively communicate during critical incidents. 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. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this case, Officer B believed his partner had also observed the bulge in the Subject's pocket. In an attempt to prevent the situation from escalating, Officer B began giving verbal commands to the Subject. In this instance, Officer B believed that the bulge was possibly a weapon and therefore should have communicated his observations to his partner to ensure that he was aware of the potential threat.

Officer B is reminded of the importance of communicating his observations to ensure that all personnel are aware of the potential dangers that may exist.

2. Utilization of Cover

Officer B moved from the cover of his police vehicle's ballistic door in an attempt to detain the Subject. The utilization of cover enables officers to confront a possible armed suspect while simultaneously minimizing their exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options. In this case, Officer B observed that the Subject did not have anything in his hands, felt that he had the element of surprise and could resolve the situation quickly by controlling the Subject. Officer B was reminded of the importance of always striving to maintain the tactical advantage and consider utilizing verbal commands while remaining behind the cover of his ballistic door when dealing with a potentially armed suspect.

3. Apprehension Versus Containment Mode

Officers A and B attempted to apprehend a vandalism suspect who was reported to be armed after observing that he did not have anything in his hands.

Generally, officers are discouraged from pursuing armed suspects on foot. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their decision to engage in a foot pursuit of an armed suspect.

In this case, both officers observed the Subject run past a school with children playing outside and believed that they needed to apprehend the Subject as soon as possible to ensure the safety of those children and other citizens in the area.

- 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.

The BOPC noted that as Officers A and B were responding to the radio call, they had discussed that Officer A would be the contact officer and Officer B would be the cover officer. When the pedestrian stop was initiated, their roles were reversed due to the positioning of the police vehicle. Officer B exited the passenger side door and began issuing verbal commands to the Subject. Officer B observed a bulge in the Subject's pocket which he believed was a gun. Without the benefit of having Officer A covering him, Officer B decided to approach the Subject, who was a potentially armed suspect. Officer A indicated he was still in the process of moving around the trunk of his police vehicle when the foot pursuit began. Both officers had their weapons holstered throughout the incident.

Additionally, when Officer B was considering his options during the foot pursuit, he stated, "Based on the circumstances that we had, in my head I thought of the options that were available to me. Then I felt that I knew I couldn't go and go hands on with him because I didn't want to struggle with someone with a gun. It's against our policy."

While acknowledging that Officer B was a Police Officer I with approximately five months of field experience at the time of this incident, the BOPC noted that based on his statement above, Officer B was aware of training related to not going "hands on" with an armed suspect. As such, the BOPC found Officer B's decision to leave cover with the intention of grabbing the Subject, his lack of communicating his observation of a bulge in the Subject's pocket, and his lack of communicating his intention to approach the Subject without Officer A assuming the role of cover officer, substantially and unjustifiably deviated from approved Department tactical training.

The BOPC found that Officer A had to react to Officer B's actions, thus making him less culpable of the tactical deficiencies identified in this incident.

In conclusion, the BOPC found Officer A's tactics to warrant a Tactical Debrief and Officer B's tactics to warrant an Administrative Disapproval.

B. Less-Lethal Use of Force

- **Officer B** – One (5 second) TASER activation in probe mode from approximately 15 feet.

According to Officer B, he observed the Subject grabbing his front right pocket from the outside as he continued to run. He observed kids who were walking to school and was also aware that the radio call had indicated that the Subject had a gun. Believing he had a tactical advantage and that the Subject was unsafe to approach, Officer B deployed his TASER at the Subject's back. The BOPC found Officer B's actions to be objectively reasonable.

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