

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

**OFFICER INVOLVED SHOOTING – 070-09**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off()</b>	<b>Uniform-Yes(X) No()</b>
Wilshire	10/15/09		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	6 years, 10 months
Officer B	8 months

**Reason for Police Contact**

Officers A and B were assigned a radio call to meet a mental health worker at a location regarding a male with mental illness. The officers came in contact with the male mental, which resulted in an officer involved shooting.

<b>Subject</b>	<b>Deceased ()</b>	<b>Wounded (X)</b>	<b>Non-Hit ()</b>
Subject: male, 27 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 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 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.

In accordance with state law, divulging the identity of police officers in public reports is prohibited, so the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on September 28, 2010.

**Incident Summary**

Uniformed Officers A and B were assigned a radio call meet a mental health worker at a location regarding a male with mental illness.

Officer B advised Communications Division (CD) that they were Code Six at the location, and Officer A parked their police vehicle two to three houses north of the call location.

Officer A and Officer B were met by Witness A, who was a mental health worker and a doctor employed with the county health department. Witness A advised the officers that a male inside the residence (later identified as the Subject), was suffering from mental illness, had not been taking his medication, was hallucinating, and fighting with an imaginary opponent. Witness A indicated that the Subject did not recognize his mother, who was also inside the residence. Officers A and B then walked to the front door of the residence, followed by Witness A. According to Officer A, they were met by two mental health employees upon their arrival who advised them that a hold for 5150 Welfare and Institutions Code was being placed on the Subject. Witness B (a registered nurse) was also at the location and was in his vehicle on his cellular phone making arrangements for a bed and transportation in a Rescue Ambulance (RA) for the Subject. Witness B observed Officers A and B arrived at the location and speak with Witness A.

The officers made their way inside the residence. Witness A, asked Officers A and B if they wanted to wait for the RA or if they wanted to go in and detain the Subject. Officer A indicated that they would detain the Subject. According to Officer B, Witness A advised them that it would be best if the Subject was placed in handcuffs based on his unpredictable and threatening actions.

Officer A broadcast their updated Code Six location with the correct apartment number. Officers A and B recalled that Officer A also made a back-up unit request after the Code Six broadcast, but it was not captured by CD.

Officer B knocked on the front door and was met by Witness C, who advised him that the Subject was in his bedroom. Witness C led the officers and Witness A through the living room area and down a narrow hallway, which was approximately three feet wide, and walked to the Subject's bedroom located toward the rear of the residence. Witness A stopped at the entrance of the hallway. Officer B stopped mid-way in the hallway in front of Officer A, who was behind him to his left. Witness C knocked on the Subject's bedroom door. The Subject opened the door and stepped out, approximately 10 to 12 feet away from the officers. According to Officer B, the Subject cursed and asked who they were. Officer B identified himself and advised the Subject that they were just there to talk to him. The Subject remained uncooperative, continued to curse and again told the officers he did not know who they were. Meanwhile, Witness B finished his cellular phone conversation and entered Witness C's residence and heard the conversation between the officers and the Subject. Witness B noted that the Subject was psychotic, belligerent and that his tone was aggressive. Witness B believed that the Subject could not identify Officers B and A as police officers.

Officer A broadcast a request for one additional unit to respond to the apartment. The Subject attempted to enter his bedroom, but Officer A directed Witness C not to let him do so. Witness C grabbed the door knob and closed the door shut. Officer B directed Witness C to go inside the bedroom while they would continue talking to the Subject, so Witness C entered the Subject's bedroom, but did not completely close the door.

The Subject turned and began to approach Officers B and A when the Subject closed the distance, Officer B used his left hand and pushed the Subject back "a couple of steps" to create distance. Officer B took a step backward and drew his TASER. The Subject then took a step back and according to the Subject, Officer B already had the TASER drawn when he first walked out into the hallway. Officer A ordered the Subject to turn around and place his hands behind his head. According to Officer B, the Subject did not comply and cursed. According to Witness B, the Subject appeared to reach for something. The Subject stated, "You ain't going to do anything even with your gun [referring to the TASER] pointed at me. I'm going to take that gun away from you and I'm going to whoop you." According to Witness A, the Subject made verbal threats toward the officers to the effect of "he was going to pound their face or beat their face." According to the Subject, he could not recall what he said to the officers, but he was angry that they were in his hallway.

The Subject began to walk toward Officers B and A. Officer B fired his TASER at the Subject from a distance of approximately six feet, hitting the Subject in the torso area. The Subject moved back and leaned against a closed door that was behind him as the TASER was discharging. The Subject then pulled one of the TASER darts out his chest and threw it toward Officers B and A and cursed. Officer B believed the TASER was still activated when the Subject pulled the TASER darts out of his chest. Officer A recalled the Subject pulling the TASER darts out after the five-second discharge cycle.

Witness B indicated he had been in many situations where a TASER had to be used on a patient, but he had never seen anyone pull the darts out of their chest. According to Witness B, the Subject laughed at the officers.

Witness A stated that he looked away right before the Subject was tased because he did not want to see someone getting tased. Witness A heard the Subject raise his voice and make "additional threats," and then heard the TASER discharging. Witness A heard scuffling and began to make his way toward the front door to call 911.

Officer B deactivated his TASER, removed its cartridge and holstered it while Officer A removed her Oleoresin Capsicum (OC) spray, stepped in front of Officer B, and sprayed the Subject from a distance of approximately ten feet. The Subject turned to his left toward his bedroom door and forced his way into the bedroom. Officers A and B ran toward the bedroom and, as they reached the door the Subject shut the door on them. Officers A and B pushed the door open and made their way inside the bedroom.

According to Witness B, it appeared the Subject was trying to break down his bedroom door to escape from the officers and to avoid being hit with the OC spray. Witness B observed the officers enter the bedroom after the Subject and then proceeded to walk outside to call 911. According to the Subject, Witness C tried to hold the door closed when he attempted to enter his bedroom. The Subject did not recall being OC sprayed. According to Witness C, after the Subject entered his bedroom, she and the Subject held the door closed, but the officers came, pushed the door open and repeatedly told the Subject to stop resisting. Witness C then stood by the doorway and observed the struggle.

According to Officers B and A, the room was dark with the curtains closed and the only source of light was coming from the hallway. Officer A observed the Subject run toward the side of his bed and believed that the Subject was reaching for something he had underneath his bed and could have been arming himself. Officer A approached the Subject, grabbed one of his arms and a struggle ensued. Officer A repeatedly told the Subject to stop resisting. Officer A delivered punches and knee strikes to the Subject which appeared to have no effect. Officer A could not recall where or how many times she struck the Subject.

Officer B entered the bedroom; he observed Witness C by the doorway and moved her behind him. Officer B observed the Subject punch Officer A one time and Officer A punched the Subject one time. Officer B approached the Subject grabbed him by the hair and pulled him off of Officer A, which caused the Subject and Officer B to land on the bed. The Subject punched Officer B one time. Officer B then felt the Subject's hand on his holster. Officer B capped his holster with his right hand to prevent the Subject from removing his pistol. The Subject then turned his attention toward Officer A. Officer B observed that the Subject was holding an ASP in his right hand. Officer B grabbed the Subject's right wrist with his left hand and grabbed the ASP with his right hand and pulled it out of the Subject's hand. The Subject turned around and punched Officer B on his left side, which caused Officer B to land sitting down on the bed. The investigation determined the ASP belonged to Officer A. Officer A was unaware how or when it was removed from her duty belt.

According to Witness C, the Subject was face-down on the bed when both officers "jumped on him" to try and restrain him. The Subject broke loose and began to fight with the officers and Officer B used a metal long black stick to hit the Subject's back.

The Subject recalled one of the officers remove a small black object and began hitting him with it. The Subject did not know where he was struck with the object.

The Subject pushed Officer A, which caused her to land on her back on top of a television that was near the foot of the Subject's bed. The Subject then got on top of Officer A, grabbed her neck with one hand and began choking her while he and punched her head with his other hand. Officer A had her hand on her holster, but she was unable to draw her pistol because of the Subject's bodyweight. Officer A recalled

repeatedly telling herself not to lose consciousness. Officer A could not remember how many times the Subject punched her head.

Officer B got up and observed the Subject's hands around Officer A' neck. Officer B considered drawing his pistol, but because of a potential for crossfire, he decided to apply a Carotid Restraint Control Hold (CRCH) on the Subject instead. Officer B wrapped his left arm around the Subject's neck and squeezed for approximately one second when he felt the Subject's right hand on his holster and then the Subject removing his pistol. Officer B grabbed the Subject's right wrist with his right hand and yelled to his partner that the Subject had his gun. Officer B released his hold on the Subject's neck and used both hands to attempt to take the pistol away from the Subject. The Subject's right arm was extended straight to his right; however the Subject twisted his wrist and attempted to point the muzzle of pistol in Officer A' direction. As Officer B grabbed and pulled the muzzle away from Officer A' direction, the Subject pulled the trigger and discharged one round toward the floor. Officer B grabbed the top of the slide with his right hand to prevent the Subject from firing additional rounds. Officer B then punched the Subject's left elbow with his left hand and turned the pistol to the right forcing the Subject to release his grip on the pistol. As Officer B removed the pistol from the Subject, he heard Officer A fire one round.

Officer A heard Officer B yell that the Subject had his gun and then heard one gunshot, but did not know who had the gun. The Subject no longer had his hands around Officer A' neck, but her leg was still making contact with the Subject. Officer A was able to draw her pistol and pointed the pistol at the Subject's center body mass and fired one round from a distance of approximately two feet, while still positioned on her back, on top of the television set.

After hearing Officer A's round discharge, Officer B observed that the Subject had resumed choking Officer A. Officer B, who was still positioned on the Subject's ride side, pointed his pistol at the Subject and pulled the trigger; however, his pistol malfunctioned. Officer B pulled the slide back, which caused a live round to be ejected from the chamber and then fired two consecutive rounds at the Subject's chest area from a distance of approximately one foot. The Subject stood up holding his stomach area, then went down slowly to the floor with his back against the door. Officer B grabbed Officer A toward him away from the Subject and then ordered the Subject to turn around and place his hands behind his back. According to Officer B, he fired his rounds approximately three to four seconds after hearing Officer A fire her round. Officer B stopped firing when he observed that the Subject had moved away from Officers A and was no longer a threat.

Officer A was unaware that Officer B fired his pistol during the altercation.

Witness C was unaware that Officer A had drawn her pistol and discharged one round at the Subject. Witness C stated she could not focus on Officer A because the room was dark. According to Witness C, she observed Officer B draw his pistol and state, "I'm going to shoot you." Witness C indicated that the Subject was no longer fighting

with the officers and was standing by the doorway when Officer B fired three rounds from his pistol, and the Subject fell to the floor. Witness C later stated that the Subject was already lying on the floor going down when Officer B fired his pistol. The officers then directed her to move out of the way and Witness C made her way outside.

According to Witness A, he was exiting the front door when he heard two sets of two gunshots. Witness A indicated the delay between the two volleys of gunshots was approximately one to two seconds.

Witness B was already outside of the residence speaking to the 911 emergency operator on his cellular phone when the officer-involved shooting (OIS) occurred. He advised the operator that LAPD had responded to his location to assist with placing a patient on a 5150 hold; that the patient threatened to hit the officers; and that the officers had tased the patient.

Officer A broadcast that shots had been fired and requested help at the location. Officer A observed the Subject attempting to get back up and delivered a front kick to the Subject's torso, which caused the Subject to fall face-down to the floor. Officers A and B then utilized their bodyweight to hold the Subject down and Officer B handcuffed him.

Sergeant A, Detective A, and Officers C and D arrived at the location and entered the residence. Officers B and A advised Sergeant A that an OIS had occurred and that they had each fired their pistols. Officer D watched over the Subject. Officer B broadcast a request for a rescue ambulance. Personnel from the Los Angeles Fire Department (LAFD) arrived at the scene and the wounded Subject was carried by LAFD personnel out from the hallway to a gurney that had been setup at the front of the residence. The Subject was then transported by ambulance to the hospital.

LAFD personnel also treated Officer A for multiple injuries.

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

## **B. Drawing/Exhibiting/Holstering**

The BOPC found Officers A drawing and exhibiting to be in policy.

The BOPC found Officer B's drawing to be in policy.

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

The BOPC found Officers B's less lethal use of force to be in policy

## **D. Use of Force**

The BOPC found Officers A' and B's Use of Force to be in policy.

## **Basis for Findings**

### **Tactics**

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

Based on the information that they had received regarding the potential violent nature of the Subject, a more tactically advantageous decision would have been to extract Witness C and await the arrival of additional units prior to making contact with the Subject. It is important to note that at the point in the incident at which the officers approached the location, the suspect had not yet committed any violent acts. In conclusion, although awaiting additional resources would have placed the officers in a more tactically advantageous position and will be an important topic of discussion at the Tactical Debrief, their decision to approach the location did not substantially deviate from Department approved tactical training.

In this situation, the officers were briefed by the mental health team and made contact with Witness C. The officers allowed Witness C to remain inside the location during their contact with the Subject which complicated the tactical situation and exposed Witness C to greater danger. It would have been preferred for the officers to ask Witness C to step out of the location and move her to a place of safety.

In conclusion, Witness C's presence inside the home complicated the tactical situation that the officers were faced with when they confronted the Subject and exposed her to additional danger. However, Witness C took it upon herself to remain inside and initiated the contact with the Subject. Although removing Witness C from the location would have been tactically advantageous, allowing her to remain did not represent a substantial deviation from Department approved tactical training.

In this situation, the officers made contact with the Subject who was, according to Psychiatric Mobile Response Team Registered Nurse Witness B, *“very, very psychotic and...very belligerent. He was very aggressive.”* The officers were confronting an aggressive individual who was threatening to fight with them. Although both officers appeared to recognize the need for a backup and Officer A recalled requesting a backup over the radio, no backup request was captured by CD. The officers are reminded to ensure that appropriate levels of backup or help are requested and that the request is received by CD. In conclusion, although this topic will be discussed during the Tactical Debrief, the officers’ actions did not substantially deviate from Department approved tactical training.

In this situation, Officer A deployed OC within the confines of a narrow hallway. When used in confined spaces, the effects of OC can impair the ability of officers to engage suspects and defend themselves. In conclusion, although the use of OC under these circumstances does not deviate from approved Department training, Officer A will benefit from a discussion regarding the limitations and hazards of deploying OC in confined spaces.

In conclusion, a Tactical Debrief is the appropriate mechanism for Officers A and B to evaluate the events and actions that took place during this incident and assesses the identified tactical considerations with the objective of developing peak individual and organizational performance.

The BOPC found that Officers A and B’s tactics to warrant a Tactical Debrief.

### **Drawing/Exhibiting**

In this instance, as Officer B and the Subject struggled over control of Officer B’s handgun, Officer A drew her service pistol. Although Officer B did not draw his service pistol, he was confronted with a suspect who was choking his partner and had gained control of Officer B’s service pistol. After regaining control of his pistol, Officer B exhibited the weapon and fired it at the Subject. At the point Officer B exhibited his pistol, the situation had already escalated to one in which lethal force was necessary.

In conclusion, due to Officer A and B’s belief that the situation had escalated to a level where deadly force had become necessary, the BOPC found Officer A’ Drawing/Exhibiting and Officer B’s Exhibiting to be In Policy.

### **Non-lethal Use of Force**

In this instance, Officers B and A were attempting to detain the Subject. The Subject refused to follow the officers’ lawful orders and acted in an aggressive manner, including obtaining control of Officer A’ collapsible baton, disarming Officer B and attempting to shoot Officer A in the head, which prompted the officers to utilize a variety of force types in order to take him into custody.



The non-lethal force used by Officers A and B to overcome the actions of the Subject was objectively reasonable and within Department guidelines. In conclusion, the BOPC found that the Non-Lethal applications of force utilized by Officers A and B to be In Policy.

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

Officer B continuously verbalized with the Subject to turn around and place his hands on his head; however, the Subject ignored the officer's commands and advanced toward the officers, resulting in Officer B firing one TASER cartridge at the Subject. The officers were confronted by a suspect who was larger in stature than either officer or acting in a belligerent and aggressive manner toward them. Based on the suspect's size, aggressive actions, mental condition and the confined space in which they were working, another officer with similar training and experience would believe that the Subject was unsafe to approach and that other tactics would likely have been ineffective in dealing with the Subject. Therefore, the use of the TASER on the Subject was objectively reasonable.

In conclusion, the use of the TASER by Officer B was within Department guidelines and In Policy.

### **Lethal Use of Force**

In this situation, the Subject was choking Officer A with his hands. In fear for his partner's life but concerned about creating a crossfire situation, Officer B applied a CRCH to the Subject. The Subject immediately reached for, and gained control of, Officer B's service pistol. During the ongoing struggle, the Subject attempted to shoot Officer A in the head with the handgun. Officer B was able to direct the muzzle of the handgun away from Officer A so that the round fired by the Subject missed Officer A.

Although Officer B was able to regain control of his service pistol, he believed that the Subject was again choking Officer A. In defense of Officer A's life, Officer B fired two rounds at the Subject. Another officer with similar training and experience would believe that a subject choking Officer A represented a threat of serious bodily injury or death to Officer A. Therefore, the use of both a CRCH and the two rounds that Officer B fired at the Subject were objectively reasonable.

Another officer with similar training and experience who was being choked by a suspect and hears their partner say that the suspect has gained control of their partner's service pistol would believe that the suspect posed a substantial risk of serious bodily injury or death to both officers. Therefore, the use of lethal force by Officer A was objectively reasonable.

In conclusion, the BOPC found Officers A and B's application of lethal force to be In Policy.

