

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

LAW ENFORCEMENT RELATED INJURY 076-09

<u>Division</u>	<u>Date</u>	<u>Duty-On(x) Off() Uniform-Yes(x)</u>
Central	10/28/09	

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Sergeant A	11 years, 4 months
Detective A	30 years, 7 months
Detective B	32 years, 7 months
Officer A	15 years
Officer B	7 years, 3 months

Reason for Police Contact

Officers were in foot pursuit of a robbery subjects, which resulted in a law enforcement related injury incident.

<u>Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded (x)</u>	<u>Non-Hit ()</u>
Subject 1: Male, 19 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 Commission and made itself available for any inquiries by the Commission.

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 9/29/10.

Incident Summary

Officers A and B observed Victim A standing on a street corner waving his arms. According to Victim A, he had just been robbed of his cellular telephone by two subjects

who had fled on foot. Victim A told Officers A and B that the subjects ran northbound. The officers left in that direction in search of the subjects.

As the officers searched the area, they observed two individuals matching the subjects' descriptions. When Officers A and B contacted the two subjects (later identified as Subject 1 and Subject 2), Subject 1 fled while Subject 2 surrendered to Officer B. Subject 2 admitted to Officer B that he had taken Victim A's telephone and that it was in his sweatshirt. According to Officer B, he notified Communications Division (CD) that he was out on an investigation (Code 6).

According to Officer A, once he saw that Officer B had Subject 2 in custody, he started after Subject 1 in his police vehicle. Officer A's intent was to track Subject 1 and then call for additional police units. According to Officer B, he notified CD that Subject 1 was running from the location but he was not sure if his communication was received. Therefore, Officer B ordered Subject 2, who was handcuffed, to remain where he was while Officer B got into his police vehicle and started after Officer A and Subject 1.

According to Officer A, Subject 1 led him on a pursuit, doubling back and forth between streets. At one point while trying to locate Subject 1, Officer A saw him run out of a restaurant and into the street. Off-duty Detectives A and B were seated at the restaurant when they observed Officer A chasing Subject 1. Both detectives assisted Officer A in his pursuit. Officer A exited his police vehicle and continued the chase Subject 1 on foot. Officer A observed Subject 1 approach the entrance to a residential loft building and try to make entry but the entry door was locked. According to Officer A, he feared that Subject 1 could become barricaded if he succeeded in entering the building. Officer A did not know if Subject 1 was armed but it was obvious that he was desperate to get away.

Throughout the pursuit, Officer A had ordered Subject 1 to stop but to no avail. While continuing to run after Subject 1, Officer A drew his X26 TASER and warned Subject 1 he would deploy the weapon if he continued to flee.

According to Officer A, he discharged the TASER at Subject 1 from a distance of approximately 13 feet and saw the darts hit Subject 1's back. As described by Officer A, Subject 1 immediately went from running at a full sprint when the TASER darts hit him, to a rigid position. Subject 1 then fell face first onto the sidewalk. Officer A believed that one of the darts must have fallen out because it seemed as though when Subject 1 hit the ground and rolled, the TASER lost its effectiveness and Subject 1 tried to stand up. According to Officer A, he squeezed the TASER trigger again multiple times in an attempt to have it reactivate, but saw no affect on Subject 1. As Subject 1 had gotten to his knees, Officer A tried to push him back down on the ground. At this point, Detectives A and B joined Officer A and provided assistance. Officer A and the two detectives simultaneously initiated a take-down maneuver on Subject 1. According to Officer A, he grabbed Subject 1's lower extremities while the detectives grabbed his upper body and arms, but they were unable to control Subject 1. Officer A told Subject 1 to stop resisting or he would be tased.

Officer A then told the detectives that he was going to direct tase Subject 1. Officer A deployed his TASER against Subject 1's chest but it did not stop him from struggling. Officer A then put the TASER on Subject 1's right upper thigh and pulled the trigger again, performing a second direct stun discharge. Subject 1 rolled away from the officers. Detective B put his body weight on top of Subject 1 to control him while Detective A grabbed his right arm and pulled the arm behind his back. In the meantime, Officer A broadcast an, "Officer needs assistance" message.

Detectives A and B got Subject 1 in handcuffs but that did not stop Subject 1's struggle with the three officers. Therefore, Officer A made a second broadcast, this time asking for "back-up."

Sergeant A arrived at the scene in response to Officer A's broadcasts. Sergeant A observed the struggle and assisted by putting his knee on Subject 1's back to prevent him from rolling onto his side. Eventually Subject 1 gave up and stopped struggling. Victim A arrived at the location and identified Subject 1 as one of the people responsible for taking his cell phone. Sergeant A broadcast that Subject 1 was in custody and requested a Rescue Ambulance (RA) due to blood on Subject 1's face. Subject 1 was transported to a nearby hospital for medical treatment. Subject 1 had a hematoma to the right temporal region, lacerations to his right elbow, and abrasions to his face. The doctor admitted Subject 1 for observation due to his altered demeanor.

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 administrative disapproval.

The BOPC found Sergeant A and Detectives A and B's tactics to warrant a tactical debrief.

B. Non-Lethal Use of Force

The BOPC found Sergeant A, Detectives A and B and Officer A's non-lethal use of force to be in policy.

C. Less Lethal Use of Force

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

Basis for Findings

A. Tactics

In this instance, Officers A and B were flagged down by two males who had been victims of a robbery. After obtaining pertinent information, Officers A and B searched the immediate area for the subjects without updating their status or location and prior to completing a crime broadcast.

Additionally, as the incident progressed, Officer B eventually broadcast his Code Six location on South Bureau's base frequency; however, he provided the wrong location which was one block east of his actual location. In order to minimize the response time of additional units, should it become necessary, it is important for officers to be aware of their location and make appropriate radio broadcasts.

Finally, it would have been prudent for the officers to have considered switching to Central Area's base frequency in order to expedite the response of units in the area rather than broadcasting on their assigned frequency and relying on CD to re-broadcast the information to Central Area personnel. In conclusion, Officer A's action of separating from Officer B and remaining in "apprehension" rather than "containment mode" created a circumstance where a barrier existed that would *unreasonably delay the partner officer from being able to render aid*. Officer A's actions placed him at a severe tactical disadvantage and unnecessarily and unjustifiably deviated from established Department tactical training.

The BOPC noted that the tactics utilized by Officers A and B, require a finding of Administrative Disapproval.

B. Non-Lethal Use of Force

The BOPC noted that in this instance, Officer A attempted to lawfully detain Subject 1 as part of a robbery investigation. Subject 1 refused to comply with the officer's orders and attempted to flee from him. In an effort to prevent his escape, Officer A, Detectives A and B and Sergeant A attempted to physically restrain Subject 1 who became combative and resisted their attempts to handcuff him. Officer A, Detectives A and B and Sergeant A utilized a variety of force types to control Subject 1 and take him into custody.

The BOPC noted that officers with similar training and experience would reasonably believe that the application of non-lethal force would be appropriate based on the Subject 1's actions.

The BOPC found the application of non-lethal force by Officer A, Detectives A and B and Sergeant A to be in policy.

C. Less Lethal Use of Force

The BOPC noted that in this instance, as Officer A continued to track Subject 1, he observed Subject 1 attempting to gain access into several buildings. Knowing Subject 1 had just committed a robbery and fearing he could gain entry into a residential building allowing him access to potential victims, Officer A decided it was imperative to stop Subject 1's attempts to flee. After exiting his police vehicle, Officer A provided a verbal warning that the TASER would be used, then deployed his X-26 TASER and fired it at Subject 1 as he ran from Officer A.

As Officer A and Detectives A and B attempted to control Subject 1, Officer A advised the detectives he was going to deploy the TASER's direct stun feature to gain Subject 1's compliance. Officer A activated the TASER's direct stun feature twice directly onto Subject 1's upper chest and right thigh area. At the point in the struggle at which the TASER was used, lethal force would not have been appropriate and other attempts to subdue Subject 1 had proven ineffective.

The BOPC found the application of less-lethal force by Officer A to be in policy.