

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

**LAW ENFORCEMENT RELATED INJURY – 085-15**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Northeast	10/18/15		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer F	6 years, 6 months
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**Reason for Police Contact**

Officers observed a subject driving a stolen car who subsequently fled from officers. Officers initiated a vehicle pursuit that terminated on a freeway construction project, where the subject continued to flee on foot. Officers contacted the Subject and deployed a TASER, causing the subject to fall from the freeway construction project to the ground below, resulting in a Law Enforcement-Related Injury (LERI).

<b>Subject(s)</b>	<b>Deceased ( ) Wounded (X) Non-Hit ( )</b>
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Subject: Male, 45 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 23, 2016.

## **Incident Summary**

Northeast Area Auto Detectives received a report of a stolen vehicle. This stolen vehicle was equipped with an automated vehicle locator device. On the date noted, the detectives received an approximate location for the vehicle. They then requested a patrol unit to meet them at the police station. Uniformed Police Officers A and B responded to the request. The officers were in a marked black and white police vehicle. The officers met with the detectives, who provided them with a copy of the stolen vehicle report. While still at the station, they heard an informational broadcast from Communications Division (CD) that a male, driving the stolen vehicle, was seen removing license plates from a vehicle near the area.

The investigation determined that the Subject had removed dealership paper plates from a different vehicle parked nearby. The paper plates had a black background with the words "North Hollywood" in white and the word "Toyota" in red print.

The officers left the station and drove toward the location provided for the stolen vehicle. While Officer B drove, his partner received information that the vehicle was moving near a designated block, so the officers responded there. When they reached the area, the officers observed a black Sports Utility Vehicle (SUV) with a paper plate on the front bumper. It was traveling in the opposite direction, directly toward them officers. Officer A pulled over to the side of the road and allowed the SUV to pass. As the vehicle went past them, the officers were able to view the rear bumper and noticed that it also had a paper plate attached. The driver, (the Subject) was wearing a black cap, blue shirt, and was approximately 35 years old.

The Subject continued driving and made a left turn onto a cross street, and was traveling east as Officer B made a U-turn to get behind the stolen SUV (the Subject's vehicle). Based on the information the officers had received from the detectives, the SkyLINK update, and the informational broadcast, the officers believed they were behind the stolen SUV. Officer A broadcast, on Northeast frequency, that they were following a possible stolen vehicle and requested backup, an Air Unit, and a supervisor.

An Air Support Division Air Unit, piloted by Police Officer C and Tactical Flight Police Officer D, broadcast that they were responding.

The patrol officers followed the stolen SUV east, turning onto various streets while continuously updating their location. The Subject continued toward a dead-end street. Once he reached the end, he drove onto an unauthorized access road and entered the Los Angeles River bicycle path. He then made a right turn, heading south, and quickly gained speed.

This bicycle path runs along the top of the concrete banks of the Los Angeles River. The path has one lane of travel in either direction. It is several miles long, with several access points for cyclists and pedestrians to enter. The path was

designed exclusively for pedestrian use, and through posted signage, unauthorized motor vehicles are strictly prohibited from entering the path.

Once the Subject entered the bicycle path, the officers initiated a vehicle pursuit. Officer B activated the vehicle's emergency overhead lights and siren. His partner broadcast that they were in pursuit, gave their location and route of travel. As the pursuit continued, the officers observed numerous pedestrians and cyclists having to quickly move out of the way to avoid being struck by the Subject. Based on the Subject's dangerous actions, the officers believed that they needed to continue with their lights and siren to warn the public that were on the bicycle path. Officer B slowed his vehicle and allowed greater separation from the SUV.

Upon hearing the broadcast that the officers were following a stolen vehicle, uniformed Sergeant A began driving toward the officers' location. Once it was upgraded to a pursuit, Sergeant A notified CD that he was responding and declared himself the Incident Commander (IC). According to Sergeant A, while he was en route, he was monitoring the pursuit and evaluating pursuit options, such as tracking and vehicle intervention techniques.

Tactical Flight Officer D announced the Air Unit was over the pursuit and available for tracking. The pursuit continued south to the end of the bicycle path and onto a dirt and gravel road. The Subject weaved around the concrete columns that supported the freeway above it. The Subject continued driving until a temporary light stand blocked his path. He stopped, exited the SUV, and ran south.

The vehicle pursuit terminated, and Tactical Flight Officer D broadcast that officers were pursuing the Subject on foot. The officers stopped behind the SUV, exited their vehicle, unholstered their weapons, and approached the vehicle on the driver side. They systematically cleared it from back to front, and once they were satisfied it was clear, they holstered their weapons and chased after the Subject. According to Officer B, the Subject was approximately 50 yards away. The Subject then jumped over a rail that had a wooden board on top and ran to the west.

Due to the short duration of the pursuit after the Air Unit arrived, tracking was not initiated.

Uniformed Police Officers E and F arrived at scene. Officer E was driving a marked black and white police vehicle. The officers were driving parallel to the Subject as he ran on the east side of a rail. They watched as he jumped over the rail, and crossed in front of their vehicle.

The Subject jumped over another rail located to the west and continued running in a northwesterly direction. Officer F exited his vehicle, jumped over the same rail and ran after the Subject, who was 10 to 15 feet ahead. Officer F twice yelled at the Subject to stop, but the Subject was unresponsive to his commands and he never looked back at the officers or broke his stride.

Officer F ordered the Subject to stop and warned him that if he did not stop, he would use the TASER. Disregarding the warning, the Subject continued running north on an elevated concrete platform that was under construction. Once he reached the end of the platform he began to climb over a wooden safety rail.

Officer F stated he was focused on the Subject and believed the Subject was simply jumping over another rail as he had done twice before, and would then continue to run. According to Officer F, he was unaware that the platform ended. His perception was that the road continued downhill.

Officer F explained that the Subject had shown a total disregard for the safety of the public by traveling at a high rate of speed on a designated pedestrian and bicycle path. Officer F was concerned that the Subject was running toward the freeway and would attempt to steal another car. Officer F estimated that he was 10 to 15 feet behind the Subject when he unholstered his TASER. He held it with a single hand, aimed it at the Subject's back side and fired from an approximate distance of 12 feet. The TASER prongs struck the Subject on the back as he was straddling the rail. The Subject went over the corner edge and fell approximately 15 feet down onto the dirt below.

Immediately after seeing the Subject fall, Tactical Flight Officer D requested a Rescue Ambulance (RA) to respond.

Tactical Flight Officer D stated, "When he reached the edge, he bent over, and I could see him reaching as though he [was] gonna climb down the edge of that ramp. And that's when he lost his footing and fell. He tumbled sideways, rather than head over heels. It was a – kind of a spiral, fell to the ground."

Pilot Officer C also believed that the Subject was climbing down the edge before he fell.

Neither Pilot Officer C nor Tactical Flight Officer D was aware that the Subject had been tased immediately prior to falling.

According to Officers A, B and E, they did not realize that the construction ended and that there was a drop.

Officer F remained on top, removed the cartridge from the TASER, and placed it on the ground. Officers B and E climbed down two sets of ladders to where the Subject landed. He was conscious and breathing. The officers approached, and Officer B handcuffed him. They remained with the Subject and waited for the arrival of the ambulance.

Due to the construction, it was determined that the ambulance would have difficulty reaching the Subject from the street. The officers decided that the ideal location for the ambulance to approach the scene was from the northbound transition road of the

freeway. Communications Division was advised of that information, who then notified the Los Angeles Fire Department (LAFD).

The LAFD RA, staffed by Firefighter/Paramedics received the alarm to respond to the scene, and arrived at scene and provided emergency medical treatment to the Subject. They subsequently transported him to the hospital for additional medical treatment.

Officer G rode in the ambulance. He did not ask the Subject any questions pertaining to the use of force, nor did the Subject make any voluntary or spontaneous statements.

Sergeant A arrived at scene. He identified the involved officers, separated them, and obtained a Public Safety Statement (PSS) from Officer F. Sergeant A then directed personnel to establish an inner and outer perimeter and maintain a crime scene log for each.

Force Investigation Division (FID) detectives responded to the scene and to the hospital. The Subject stated to investigators that he had recently been released from jail after serving a four-month sentence and did not want to return. The Subject was subsequently admitted into the hospital for a fractured pelvis and remained there for four days.

### **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 Officer F's tactics to warrant Administrative Disapproval, and Officers A, B, and E's tactics to warrant a Tactical Debrief.

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

The BOPC found Officers A and B's drawing and exhibiting of a firearm to be in policy.

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

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

### **Basis for Findings**

#### **A. Tactics**

- 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.

In conducting an objective assessment of this case, the BOPC found that the tactics utilized by Officer F substantially and unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval. Additionally, the BOPC found that Officers A, B, and E's tactics did not substantially deviate from approved Department tactical training.

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

Therefore, the BOPC directed that Officers A, B, E and F's attend a Tactical Debrief and that the specific identified topics are also covered.

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

- Officers A and B were in pursuit of a suspect driving a stolen vehicle. The suspect stopped, exited the vehicle and fled on foot. The officers drew their service pistols as they made their approach to tactically clear the vehicle for additional suspects.

According to Officer A, he climbed down a ladder to a wooden platform to gain a better vantage point of the Subject. Upon reaching the platform, he drew his service pistol and directed the Subject to turn over onto his stomach and show his hands.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, while faced with a similar circumstance would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers A and B's drawing and exhibiting of a firearm to be in policy.

### C. Less-Lethal Use of Force

- **Officer F** – One TASER activation in probe mode from an approximate distance of 12 feet.

According to Officer F, he was approximately 15 feet behind the Subject and ordered him to stop running or he would be tased. The suspect ignored his commands and began to climb over a wooden railing. He retrieved and activated the TASER in probe mode, striking the Subject in the back.

The UOFRB was not unanimous regarding the Less Lethal Use of Force finding for Officer F, with a majority opinion, consisting of four board members concluding that Officer F's deployment of the TASER on the Subject was reasonable because he posed a threat to others during the pursuit and if he had continued his escape, would possibly take control of another citizen's vehicle and continue his flight.

The UOFRB minority, comprised of one dissenting board member, evaluated the same facts and circumstances. It was the opinion of the minority that the less-lethal use of force was not objectively reasonable, as Officer F's deployment of the TASER on the Subject as he fled on foot from the officers did not pose an immediate threat to the public or to the officers. As a result, the minority opinion rendered the following opinion:

The investigation did not provide any information that would cause Officer F to reasonably believe the suspect was violent or posed an immediate threat. The suspect, who was wanted for a property crime (stolen vehicle), was not believed to be armed, and did not pose an immediate threat to himself or others. The actions of the suspect were consistent with someone who was attempting to flee.

The BOPC considered the rationale in support of both the majority and minority recommendations, while also taking into consideration that this was a highly stressful and dynamic incident, and that police officers are often forced to make split-second decisions during rapidly evolving situations.

Based on the totality of the circumstance, the BOPC concurred with the minority's opinion that an officer with similar training and experience as Officer F, while faced with the same or similar circumstances would not reasonably deploy the TASER on a subject as he fled from the officers because he did not pose an immediate threat to the public or the officers.

Therefore, the BOPC found Officer F's use of less-lethal force to be out of policy.