

Incident Summary

Communications Division (CD) broadcast a radio call of a “Screaming Man” at a local hotel, and uniformed Police Officers A and B broadcast that they would handle the call. Officers A and B arrived at the hotel and parked their black and white police vehicle on the street, just east of the hotel. Officer A advised CD that they had arrived at the location via his police radio. Officer A took a TASER out of the glove compartment, then removed the TASER from its holster and placed the TASER in his pants pocket.

Upon exiting their vehicle, Officers A and B observed an unidentified witness walking on the sidewalk. The witness advised the officers that he called the police because he heard a man screaming incoherently inside a room and advised Officers A and B that he heard glass breaking inside and was concerned for the man’s safety.

The witness directed Officers A and B to the unit, and then stopped upon reaching the second floor. Officers A and B continued walking down the hallway. As the officers approached the closed front door there were no sounds coming from within the apartment. Officer B deployed on one side of the front door as Officer A walked down the hallway to the community restroom area located on the side of the building to clear the area of any possible subjects. Officer A then returned and deployed on the side of the front door. Subsequent investigation revealed the occupant of the hotel room was the Subject.

Witness A was downstairs in his apartment when another tenant told him there was a fight upstairs. Witness A ran to the rear of the hotel and up the exterior staircase, then heard the Subject breaking windows and yelling, “Bring them on, I’ll kill everybody, bring them on.”

Officer A knocked on the front door and announced, “Los Angeles Police Department, can you please open up, I want to make sure you are okay.” There was no response, but the officers heard the Subject mumbling then yelling, followed by more glass breaking. Officer A checked the door knob and determined the door was locked.

The yelling inside the unit became louder. Officer A utilized his police radio and requested an additional unit for a subject who was breaking windows. Officers C and D advised CD they were responding to the additional unit request.

Officer A removed his TASER from his right front pants pocket and repositioned himself along the side of the hallway. Officer B moved approximately five feet away from Officer A. Both Officers A and B backed away and continued to monitor the front door.

Officer A held the TASER in a two-handed, low-ready position. Moments later, the front door suddenly opened and the Subject quickly exited and began yelling incoherently as he swung a broken wooden cane with a jagged edge in his right hand and a broken aluminum window screen in his left hand at Officer A.

Note: According to Officer A, the Subject lunged forward and approached to within 6-8 feet of him.

Officer A observed a sharp stick coming towards him, at his face, and the Subject charging towards him, forcing Officer A to retreat into the community restroom area. Officer A repeatedly ordered the Subject to "Drop [the stick] and put your hands up." Officer B intentionally did not issue any commands to the Subject so as not to confuse him. While still in the hallway, Officer A attempted to discharge the TASER several times as the Subject lunged forward, but the TASER failed to discharge because the safety feature was "on."

As Officer A attempted to create distance by backing up toward the threshold of the community restroom area, he bumped into the door frame, which caused him to simultaneously activate the TASER from an approximate distance of four feet. Officer A discharged both TASER darts, striking the Subject with at least one dart.

The TASER dart had little effect on curtailing the Subject's aggressive and combative demeanor. The Subject paused momentarily then continued his assault. Officer A continued backing up against the wall in the corner of the restroom area. Officer A felt the Subject lunge at him with the stick and hit his arm. The Subject repeatedly struck Officer A on the left arm and along the back side of his neck with the sharp edge of the cane. Officer A attempted to protect himself by kicking the Subject in the stomach and groin with his left foot and by raising his arms to deflect the pointed end of the broken cane.

Witness B was standing adjacent to his apartment, on the second floor. Witness B stated Officer A fired the TASER at the Subject which temporarily stunned him but did not affect him because he continued to charge forward as Officer A backed up.

Officer A was holding the TASER in his left hand and dropped it on the floor as he attempted to unholster his service pistol with his right hand, but fell backward against the wall and was unable to unholster his pistol. The Subject attempted to utilize the sharp edge of the cane to stab Officer A in the face, leading Officer A to believe he was going to die.

Officer B indicated that the Subject opened the door and came out waving the window screen and cane and walking towards the officers. Officer A deployed the TASER, but the Subject was still approaching his partner. Officer A was giving the Subject commands to drop everything, put his hands up, but the Subject did not comply. The officers were both backing up, and Officer A was getting pinned to the wall.

Officer B continued to back up and re-positioned himself on the second floor landing. Officer B realized that Officer A was in danger and proceeded to unholster his service pistol and held his weapon in a two-handed close contact position. In defense of his partner's life, Officer B took a two-handed stance, then raised his pistol upward and

pointed it at the Subject's front torso area. Officer B then fired two rounds at the Subject from a distance of approximately five feet.

Officer A was attempting to acquire his pistol when he heard the first gunshot. After firing the first gunshot, Officer B encountered a tactical malfunction then proceeded to clear his malfunction by "tapping and racking" his pistol.

Despite being shot, the Subject did not relinquish control of his cane nor did the Subject cease his attack. The Subject raised the cane up over his head, pointed it downward in a 45 degree angle and continued striking Officer A in an overhead, downward stabbing motion.

In defense of his partner's life, Officer B fired three additional rounds in rapid succession from a distance of approximately five feet, striking the Subject in the front torso area. Officer B indicated that after being shot numerous times, the Subject ceased his attack and began swaying back and forth in the middle of the room. Surveillance footage showed Officer B quickly moving toward the Subject and with his right open hand, pushing the Subject backwards and down onto the floor. Officer B's momentum caused him to fall on top of the Subject's legs as he came to rest on the ground. Officer A got up off the ground. The officers requested a Los Angeles City Fire Department (LAFD) Rescue Ambulance (RA) and a supervisor.

Note: Witness B stated he did not observe the Subject use the cane against the officers but he did observe Officer A attempt to unsuccessfully tackle the Subject. As described by Witness B, the Subject pushed Officer A against the wall and was trying to wrestle with Officer A. After the Subject was shot, it didn't look like the Subject was going to go down. So Officer A fired two or three times the first time and then another three or four rounds until the Subject fell to the ground.

Note: Officer B believed he fired a total of five rounds at the Subject during two separate sequences of gunfire. Subsequent investigation revealed Officer B fired a total of eight rounds at the Subject.

Witness A stated she believed Officer B was backing up as he fired because the Subject was coming at him. Witness A heard officers order the Subject to stop but he refused and continued to advance. Witness B did not hear any commands being issued by the officers prior to the gunfire.

Officer E and F were the first back-up unit to arrive at the scene and indicated they had arrived via their Mobile Digital Computer (MDC). Officer E parked his black and white police vehicle directly in front of the location.

As Officers E and F were exiting their police vehicle, Officer E heard one gunshot, which was followed by a rapid series of additional gunshots. Officer F stated he heard more than three gunshots being fired. Officers E and F did not know who was shooting

because no communications were being broadcast over the radio. Officers E and F did not recall hearing any commands being issued by the officers, before, during or after hearing the gunshots.

Officers E and F unholstered their pistols in response to hearing the shots fired and entered the hotel lobby via the front door. The officers looked down the hallway but did not see the officers. They walked up the side staircase and proceeded to the second floor hallway announcing their presence to Officers A and B in order to prevent a “friendly fire situation.” As they approached the end of the hallway, Officer E repeatedly yelled “friendlies coming up.” Before walking down the second floor hallway, Officer E peeked around the corner of the hallway and observed Officer B standing over the Subject with his pistol drawn in a low-ready position.

Officer E observed the Subject lying on his back with his right hand positioned above his head, still gripping the cane in his right hand. Officers E and F holstered their pistols and checked on Officers A and B’s condition. After determining that the Subject was no longer a viable threat, Officer B re-holstered his pistol.

Officer B utilized his radio and broadcast, “[W]e need an RA for a man down, shots fired.” CD broadcast, “All units, Officer Needs Help, [...] shots fired.” After the incident, Officer A left the community restroom area and walked downstairs, out to his police vehicle.

Sergeant B arrived on scene. Sergeant B encountered Officer A as he walked down the rear stairs and out toward the front of the hotel to his vehicle. Sergeant B inquired if Officer A had been involved in an officer-involved shooting, then obtained a public safety statement (PSS). Although injured, Officer A refused to be transported to a contract hospital for medical treatment.

Note: During his confrontation with the Subject, Officer A sustained a one inch contusion to his left lower bicep area, a one inch abrasion to his left upper neck and a one inch abrasion to his left inner wrist. Officer A refused to be transported to a hospital and stated he would seek his own medical treatment.

An RA staffed by LAFD personnel arrived on the scene. The Subject was found lying on the second floor community restroom area with numerous gunshot wounds to his upper torso. According to LAFD personnel, the Subject did not have a pulse and did not exhibit any signs of life.

Officers G and H also arrived on scene. Officers E and G grabbed hold of the Subject’s legs and physically pulled him away from the wall toward the middle of the room. Officer E did not believe the Subject was ever handcuffed due to the extent of his incapacitating injuries and there being no signs of life.

Sergeant A arrived on scene. Sergeant A took several digital photographs of Officer A's uniform and injuries. As Officer B walked down the rear stairwell out to the front of the hotel, he encountered Sergeant A and provided him with a PSS. After obtaining the PSS, Sergeant A transported Officer B to the police station for monitoring.

The Subject was transported from the scene to a local hospital, where he was pronounced dead from his 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 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 Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officer B's drawing and exhibition of a firearm to be in policy.

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

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

E. Lethal Use of Force

The BOPC found Officer B's use of lethal force to be in policy.

Basis for Findings

A. Tactics

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

1. Handcuffing

In this instance, the Subject was not handcuffed, and both weapons were still in his vicinity when LAFD personnel arrived and began life-saving procedures.

When evaluating the decision not to handcuff the Subject, the BOPC took into consideration Officer B's statement that the Subject's movements ceased, and Officer B made the assessment that the Subject was no longer a threat. The BOPC also took into account responding officers' assessments that the Subject showed no sign of life and was not determined to be a threat.

In conclusion, although most subjects are immediately handcuffed following an OIS, current Department standards allow the involved personnel to make the decision to handcuff as determined by the nature of each situation as perceived by the officer. Therefore, the officers' decision not to handcuff the Subject did not substantially deviate from approved Department tactical training. Nevertheless, since instances have occurred where subjects were believed to be incapacitated and have regained consciousness such that they remained a threat, the BOPC directed that this topic be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:

1. Baton

In this instance, upon exiting the police vehicle, Officer A did not have a baton on his person. Officer A is to be reminded that having all required equipment affords various force options should the need to utilize them arise. The BOPC directed that this topic be discussed during the Tactical Debrief.

2. TASER

After removing the TASER from the police vehicle glove compartment, Officer A removed it from the holster and placed the TASER in his pants pocket in order to have it readily available during the incident. In this instance, the Subject abruptly emerged from his room and aggressively pursued Officer A, affording very little time to place the TASER safety in the off position. The BOPC would have preferred that upon hearing the Subject screaming and breaking glass inside of the room, that Officer A place the TASER safety in the off position, such that it would be ready to fire.

Once the Subject emerged from his room and attacked Officer A, Officer A attempted to fire the TASER darts at the Subject to stop his actions. The

TASER failed to discharge due to the safety being on. While the BOPC understood Officer A's reasoning, Officer A was reminded that utilizing a TASER holster assists in preventing unintentional discharges, and the TASER should be carried in its designed holster.

The BOPC directed that the above mentioned topics be discussed during the Tactical Debrief.

3. Tactical Planning

Upon Officers A and B's arrival, they were met by the unidentified witness who directed the officers to the correct location and advised them regarding specifics of the incident. While the BOPC appreciated that Officers A and B were compelled to quickly enter the building and assess the incident, it would have been prudent for the officers to have obtained follow-up information, such as name and phone number, from the witness so he may be contacted later, in the event that it should become necessary.

4. Code Six/Follow Up

Upon their arrival, Officers A and B advised CD that they had arrived at the scene via the radio, which afforded other units the opportunity to know their status. The officers were met by the witness, who advised them that she called the police because she heard a man screaming and breaking glass inside the location. After requesting an additional unit, the officers advised CD that they were on the second floor, but it was not clear if they indicated the precise apartment number. A review of the digital in car video (DICV) audio reflected that the officers may have updated their location. Due to heavy static and background noise, it is difficult to hear the DICV audio to determine one way or the other. Nevertheless, to further enhance future performance and officer safety, the BOPC directed that the topic of ensuring that officers update their status and location at every possible opportunity be discussed during the Tactical Debrief.

5. Back-up versus Additional Unit

The witness stated to Officers A and B that she feared for the Subject's safety due to glass breaking and screaming heard from within his room. Once outside the Subject's room, Officers A and B heard incoherent yelling and glass breaking from inside. While an officer's decision to request an additional unit versus back-up is based on the totality of information and their current threat assessment, officer safety is paramount. Officers A and B's decision to request an additional unit versus a back-up was appropriate; however, it was the BOPC's intent to enhance officer safety and awareness regarding various request "levels" during tactical incidents. The BOPC directed that this topic be discussed during the tactical debrief.

6. Weapon Retention

Immediately following the OIS, Officer B believed that he had to get the Subject away from his partner. In performing the takedown, Officer B believed he had no time to holster his service pistol, and maintained it in his right hand as he made contact with the Subject. While approaching subjects with the service pistol in hand can increase the possibility of an unintentional discharge, in this instance, Officer B's actions were reasonable to prevent the Subject from further attacking his partner.

- 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. Each tactical incident inherently results in considerations for improvement.

Each incident must be looked at objectively and the areas of concern must be evaluated based on the totality of the circumstances. In this case, the tactics utilized did not unjustifiably and substantially deviate from approved Department tactical training. In conclusion, a Tactical Debrief is the appropriate outcome to evaluate the events and actions that took place during this incident with the objective of developing peak individual and organizational performance.

In conclusion, the BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- In this instance, the Subject aggressively advanced on Officer A in the hallway with a broken cane in one hand and an aluminum screen in the other. As the officers redeployed to the bathroom area, Officer B took a partially barricaded position behind a door frame. Observing the Subject's continuous advance toward Officer A, and believing that Officer A was being stabbed, Officer B drew his service pistol. Officer B recalled that when his partner started backing up and he saw that Officer A was in danger, Officer B unholstered his weapon. He feared that his partner was going to get stabbed with the stick in the Subject's hand.

The BOPC has determined that an officer with similar training and experience while faced with similar circumstances 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 Officer B's drawing and exhibition of a firearm to be in policy.

C. Non-Lethal Use of Force

- **Officer A (Front Kick)**

The Subject continued his attack on Officer A and was forced against the wall of the bathroom. Realizing that the TASER was ineffective, Officer A delivered a kick with his left foot to the Subject's front mid-section in an effort to create space between him and the Subject and stop his attack. The kick was ineffective, and the Subject continued to strike Officer A with his weapons. Officer A recalled that there was what looked like a sharp stick coming towards him, and the Subject charged towards Officer A. That was when Officer A raised his left leg to the side to try to kick towards the stomach/groin area.

- **Officer B (Takedown)**

After Officer B ceased fire, he observed the Subject still standing over Officer A, who was now lying on the floor with his back against the wall. Not knowing if Officer A had been seriously injured and believing that the Subject, who still held both weapons in his hands, continued to be a threat to the safety of his partner, Officer B used both hands to push the Subject rearward, effectively taking him to the ground. Officer B recalled that the Subject was not combative but was swaying back and forth, so he pushed the Subject down to the ground.

The standard set forth in Department policy dictates that the decision to use force must be judged through the perspective of a reasonable officer with similar training and experience and in a similar circumstance. The BOPC determined that an officer with similar training and experience would reasonably believe that the force used to overcome resistance and effect an arrest was reasonable and would have acted in a similar manner. Therefore, the force used by Officers A and B was objectively reasonable and within Department policy.

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

D. Less-Lethal Use of Force

- **Officer A (one TASER contact)**

In this instance, Officers A and B were waiting for an additional unit to arrive before making contact with the Subject. The Subject suddenly exited his room and attacked Officer A by simultaneously hitting him with a broken cane and a broken window screen. Officer A attempted to discharge the TASER at the Subject, although the TASER did not fire due to the safety being on. As Officer A redeployed rearward into the bathroom, he backed up against the door frame, activated the TASER and discharged the darts at the Subject. The TASER was

ineffective and did not stop the Subject's attack, possibly because only one TASER dart struck him.

Based on the totality of the circumstances, an officer with similar training and experience would reasonably believe that it was not safe to be within contact range of the Subject and that the application of less-lethal force would be a reasonable option in order to protect themselves from the threat presented by the Subject.

In conclusion, the BOPC found Officer A's deployment of the TASER and subsequent application of less-lethal force to be objectively reasonable and in policy.

E. Lethal Use of Force

- **Officer B** (pistol, eight rounds)

After repeated verbal commands given by Officer A to stop and drop the weapons were ignored by the Subject, the officers redeployed to the furthest point possible at one end of the building. Officer A was backed against the wall of the bathroom and after receiving numerous strikes delivered by the Subject, Officer B believed that his partner was either injured or at risk of becoming seriously injured or killed. Upon realizing that the Subject had no intention of stopping his attack, Officer B fired a total of eight rounds at the Subject. Officer B stated that the Subject was getting closer to his partner, and he feared his partner was going to get stabbed and hurt. Officer B fired two rounds in the Subject's upper torso that were ineffective because the Subject continued his approach. When Officer B fired what he believed to be three additional rounds, the Subject finally started swaying back and forth.

Although Officer B did not recall having a malfunction with his service pistol, video captured from within the community bathroom area depicted Officer B experiencing a malfunction after firing his first round. The video also showed Officer B clear the malfunction and continue to fire the remaining seven rounds. Officer B recalled firing only five rounds, when evidence proves that he fired eight rounds.

Officers with similar training and experience as Officer B would reasonably believe that the Subject's actions of aggressively attacking Officer A with a broken cane and a broken window screen represented an imminent threat of serious bodily injury or death and that the use of lethal force would be a reasonable option. Therefore, the BOPC found Officer B's use of lethal force to be objectively reasonable and in policy.