

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

LAW ENFORCEMENT-RELATED INJURY – 057-21

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Southeast	10/12/21		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	15 years, 11 months
Officer B	15 years, 10 months

Reason for Police Contact

Officers responded to a radio call of a “415 Man with a knife” call and encountered the Subject) in the street, armed with a large sword. The Subject walked toward the officers and struck the hood of their police vehicle with the sword. Both officers deployed their TASERS, which was effective, and allowed the officers to disarm and handcuff the Subject. The Subject was transported to the hospital to have the TASER darts removed. The Subject was admitted to a hospital for surgery to remove one of the TASER darts from his body.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Male, 39 years of age.

Board of Police Commissioners’ Review

This is a brief summary designed only to enumerate salient points regarding his Categorical Use of Force (CUOF) 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 his matter, the BOPC considered the following: the complete Force Investigation Division (FID) 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 (UOFRB) recommendations, including any Minority Opinions; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on September 13, 2022.

Incident Summary

On Tuesday, October 12, 2021, at approximately 1230 hours, Witness A was at his residence when the Subject came to visit. According to Witness A, he has known the Subject for over 15 years.

According to Witness A, the Subject was sober and fully clothed as he visited him for approximately 45 minutes. The Subject told Witness A that he was going home to get a gift for Witness A's mother. Approximately 30 minutes later, the Subject returned and came into his garage. According to Witness A, "He was standing there naked with a sword [...]."

The Subject told Witness A that someone had shot his mother in her head. Witness A believed that the Subject was under the influence. The Subject walked home as Witness A followed him in his vehicle. Witness A observed the Subject knocking on the front door of his residence and calling out to whoever shot his mother. Witness A noticed that the windows of the house were all closed. Witness A believed that the Subject was becoming "higher" as he began to act more erratic. The Subject told Witness A to go home; but instead, Witness A slowly drove around the block and returned to keep an eye on him. According to Witness A, this went on for about an hour before police arrived. Witness A advised that he did not call the police.

At approximately 1435 hours, Witness B called 911 on behalf of his wife, who advised of an adult male wearing shorts, walking eastbound with a sword, and yelling at nothing. The California Highway Patrol (CHP) dispatch relayed the information to Communications Division (CD).

At 1442:32 hours, CD broadcast, "415 man with a knife. Second hand information from CHP last seen eastbound, male, no shirt, shorts, walking with a sword."

Police Officer A, driver, and Police Officer B, passenger, responded to the radio call. The officers were equipped with Body-Worn Video (BWV) cameras and each had their camera mounted to their upper torso. The officers were driving a marked black -and-white sport utility vehicle (SUV), which was equipped with ballistic door panels and a Digital In-Car Video System (DICVS).

At their start of watch, the officers conducted a vehicle equipment check, which included a DICVS, siren, and light-bar check. Both officers advised they routinely discuss tactics. Sergeant A responded to the supervisor request.

At approximately 1452 hours, Officers A and B arrived at the location. Witness A was in his personal vehicle, which was parked on the northwest corner of the intersection.

At 1453 hours, Officer B activated his/her BWV camera as he/she exited the passenger side of the police vehicle to speak with Witness A. As seen on Officer B's BWV, Witness A advised the officers that he believed the Subject was under the influence of

drugs and in front of the house where he resided with his mother and aunt. Witness A stated that the Subject was harmless and sword was not sharp. Officer B stated in his BWV that neither he/she nor his/her partner wanted to hurt the Subject, and that if Witness A could get the Subject to drop the sword, it would be better. Witness A advised Officer B that he would try once more to have the Subject drop the sword.

As Witness A drove toward the Subject, Officer B re-entered his/her police vehicle and both officers discussed tactical options, such as utilizing a beanbag shotgun and requesting additional units. Officer A drove forward and stopped mid-block as both officers observed Witness A's encounter with the Subject. Witness A drove to where the Subject was standing in the middle of the street, still armed with the sword. According to Witness A, when he stopped, the Subject told him to leave. The Subject slammed the sword onto the side of Witness A's vehicle. Witness A drove away and parked his vehicle at his/her residence.

Back-up was requested and Officers C and D responded.

At 1456:00 hours, Officer A drove westward and stopped mid-block, approximately 50 yards from the Subject, who was still in the street armed with the sword. As Officer A stopped the police vehicle, he/she opened the door and stood outside the driver's side. Officer B opened his/her door, but he/she remained seated as he/she broadcast on the public address (PA) system. According to Officer A's BWV, Officer B gave commands to the Subject to drop the sword. At one point, the Subject placed the sword on the street in front of him and called himself a king. The Subject began screaming obscenities at the officers; then he picked up the sword and began walking eastward toward them.

According to Officer B's BWV, at 1457:35 hours, Officer B closed his/her door and Officer A re-entered the vehicle and began backing up. Officer B told Officer A, "Back up. That thing is not sharp." As Officer A began backing up, Officer B continued to communicate with the Subject over the PA system. At this time, officers began discussing deployment of their TASERS and the range of the darts they had loaded. Officer A advised he/she had the short-range cartridge loaded in his/her TASER and Officer B advised he/she would load the long-range cartridge into his/her TASER, so they would have options.

At approximately 1458:00 hours, Officer B removed his/her TASER from his/her holster and switched out the cartridge from short range to long range. At 1458:15 hours, Officer B could be heard on his/her BWV saying, "He probably has a mental illness."

According to Officer C, during their response, the officers discussed deploying a beanbag shotgun, which Officer D advised he/she would deploy upon arrival. Officer C described driving southward and seeing the primary unit with both officers still inside, backing into the intersection. Officer C also observed the Subject in the middle of the street wearing underwear and holding a large sword over his head and walking toward Officers A and B. Officer C drove past the primary unit's police vehicle to allow his/her

partner cover as he/she obtained the beanbag shotgun from the rear of their police vehicle. As depicted on Officer C's DICVS video, he/she drove behind and passed the primary unit's police vehicle as he/she conducted a three-point turn facing in a northwest direction, stopping his/her police vehicle approximately 20 feet from the primary unit.

According to Officer B's BWV, at 1458:30 hours, he/she opened his/her door and simultaneously removed his/her TASER from the holster. Officer B exited the police vehicle holding his/her TASER with a two-handed grip. Officer B stood outside the open passenger door, between the A-frame of the vehicle and the door. The Subject is seen walking toward the police vehicle, holding the sword above his shoulders with a two-handed grip. Officer B said, "Hey, drop it, drop it sir!" At 1458:37 hours, the Subject swung the sword over his head and struck the hood of the police vehicle with the sword. The Subject looked directly toward Officer B and uttered an expletive. The Subject took two steps to his left and faced Officer B as he held the sword with two hands with the blade pointed upward. Officer B stepped to the right of his/her open door and fired his/her TASER, striking the Subject and causing him to fall onto his back.

Officer B stated he/she fired his/her TASER from an approximate distance of 10 to 12 feet. The TASER had an immediate effect on the Subject, as his body locked up and fell back onto the ground.

According to Officer A's BWV, at 1458:35 hours, Officer A held his/her TASER with his/her left hand as he/she pushed his/her door open. Officer A stepped out of his/her vehicle just after the Subject struck the hood of police vehicle with the sword. While still holding his/her TASER with his/her left hand, Officer A pointed his/her TASER between the open door and the A-frame of the police vehicle and fired it at the Subject. Officer A described transitioning his/her right foot onto the brake as he/she opened his/her driver side door and stepped out of the vehicle with his/her left foot and stood up. With his/her right foot on the brake pedal, and his/her left foot on the street, Officer A held his/her TASER with his/her left hand as he/she pointed it at the Subject. Officer A aimed at the Subject's chest area and activated his/her TASER's laser sighting system. Officer A observed the green dot on the Subject's chest as he/she fired his/her TASER.

According to Officer C's DICVS, at 1458:46 hours, the Subject was tased and fell to the ground. Officer B immediately moved toward the Subject, removed the sword from his hands, and placed the sword on the street behind him. Simultaneously, Officer A stepped away from the vehicle, which began moving backward. Officer A reached into the vehicle and placed it in park. Officer A discarded his/her TASER onto the street as it became tangled on the driver door as he/she went to assist his/her partner with handcuffing.

According to Officer B's BWV, at 1458:42 hours, the Subject was on the ground, gripping the sword with two hands and his body was rigid. As Officer B approached, he/she held his/her TASER in his/her right hand, which he/she dropped to the ground

next to the Subject prior to removing the sword from his hands and placing it behind him and to the north. Officer B rolled the Subject onto his stomach and took control of his right arm. Simultaneously, Officer A approached and took control of the Subject's left arm. Both officers removed a set of handcuffs from their belts and handcuffed the Subject's wrists. Officer A took control of the Subject's right hand and completed the handcuffing process. Officer A removed his/her partner's handcuff from the Subject's right wrist.

At 1500:06 hours, Officer A advised the Subject that they were going to get a rescue ambulance (RA) for him. Officer B verified the Subject was breathing. At 1500:18 hours, the Subject was placed onto his left side until the RA arrived at 1508 hours.

At approximately 1500 hours, Sergeant A arrived at scene and was briefed by Officer B. According to Sergeant A, he/she began investigating the incident as a non-categorical use of force (NCUOF).

At approximately 1508 hours, Los Angeles Fire Department (LAFD) arrived on scene and began treating the Subject. An RA transported the Subject to the hospital. Officer B rode in the RA as Officer A followed in the police vehicle.

At approximately 1800 hours, Sergeant A was advised that the Subject was going to be admitted to the hospital for injuries attributed to the use of force. Force Investigation Division (FID) was notified and responded. At 1952 hours, it was determined this case would be handled by FID as a Categorical Use of Force (CUOF). Sergeant A admonished Officers A and B not to discuss the incident.

BWV and DICVS Policy Compliance

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Officer A	Yes	Yes	Yes	No	No
Officer B	No	Yes	Yes	No	No

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each CUOF 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). 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 an Administrative Disapproval.

B. Less-Lethal Use of Force

The BOPC found Officers A and B's less-lethal use of force to be In Policy.

Basis for Findings

In making its decision in his matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. The Los Angeles Police Department also recognizes that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in *Graham v. Connor*, 490 U.S. 386 (1989), stating that:

"The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation."

The Commission is further mindful that it must evaluate the actions in his case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Use of De-Escalation Techniques: It is the policy of his Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

Verbal Warnings: Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is already aware of those facts.

Proportionality: Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

Fair and Unbiased Policing: Officers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct in the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

Use of Force – Non-Deadly: It is the policy of the Department that personnel may use only that force which is “objectively reasonable” to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

Factors Used to Determine Objective Reasonableness: Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines the reasonableness of any particular force used: a) from the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the suspect;

- Whether the suspect was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the suspect to escape;
- The conduct of the suspect being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the suspect;
- Officer versus suspect factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

Rendering Aid: After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, subjects, suspects, persons in custody, suspects of a use of force and fellow officers:

- To the extent of the officer's training and experience in first aid/CPR/AED; and
- To the level of equipment available to the officer at the time assistance is needed.

Requirement to Report Potential Excessive Force: An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer, shall report such force to a superior officer.

Requirement to Intercede When Excessive Force is Observed: An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a suspect.

Definitions

Deadly Force: Deadly force is defined as any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

Feasible: Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing

risk to the officer or another person.

Imminent: Pursuant to California Penal Code 835a(e)(2), “[A] threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to a peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”

Necessary: In addition to California Penal Code 835(a), the Department shall evaluate whether deadly force was necessary by looking at: a) the totality of the circumstances from the perspective of a reasonable Los Angeles Police Officer with similar training and experience; b) the factors used to evaluate whether force is objectively reasonable; c) an evaluation of whether the officer exhausted the available and feasible alternatives to deadly force; and d) whether a warning was feasible and/or given.

Objectively Reasonable: The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.”

The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.

Serious Bodily Injury: Pursuant to California Penal Code Section 243(f)(4) Serious Bodily Injury includes but is not limited to:

- Loss of consciousness;
- Concussion;
- Bone Fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and,
- Serious disfigurement.

Totality of the Circumstances: All facts known to or reasonably perceived by the officer at the time, including the conduct of the officer and the suspect leading up to the use of force.

Vulnerable Population: Vulnerable populations include, but are not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

A. Tactics

Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication*
(*Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques*)

Tactical de-escalation does not require that an officer compromise his//her or his/her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning – Officers A and B had been partners off and on for approximately 12 years. Both officers stated that they regularly discussed tactics at the start of each shift. Both officers understood that the driver officer would function as the cover officer and the passenger officer would be the contact officer. As they responded to the scene, Officers A and B noted that a sword was involved. Upon observing the Subject, the officers discussed the state of the sword and that they believed that it was not sharp. Officer B directed Officer A to move their police vehicle closer to the Subject’s location. Officer B stated to his/her partner that they could request additional units and a supervisor and that they had the option to utilize a beanbag shotgun. The officers discussed the incident and began to formulate a plan, before initiating contact with the Subject.

The BOPC noted that the Use of Force Review Board (UOFRB) noted that Officers A and B did not form a tactical plan before approaching and apprehending the Subject. However, the UOFRB also noted that the officers took advantage of the Subject being momentarily incapacitated by the TASER; then they disarmed and apprehended him without further incident. The UOFRB opined that the officers’ actions negated the potential for additional force.

Assessment – Upon their arrival at the scene, Officers A and B observed the Subject in the middle of the street, holding the sword. The officers assessed that the Subject posed a danger while he was still armed with the sword. The officers maintained their distance as they spoke with the Subject to get him to disarm himself. The officers assessed the Subject’s behavior, indicating that he was possibly suffering from a mental illness. As the Subject began to close the distance toward their vehicle, the officers assessed that the Subject was becoming more confrontational and posed a greater

threat. In response, they moved their police vehicle back to maintain distance between themselves and the Subject. As the Subject approached the front of their police vehicle with the sword, and after he struck the hood with it, Officers A and B assessed the threat the Subject posed and their need to use less-lethal force.

The BOPC noted that the UOFRB would have preferred that Officers A and B had requested backup units upon first seeing the Subject armed with the sword.

Time – After speaking with Witness A, Officers A and B maintained their distance while assessing the Subject’s behavior and demeanor. The officers approached the Subject in their police vehicle; however, they remained approximately 50 yards away from the Subject, using distance to create time. From this position, they attempted to communicate with the Subject for approximately two and a half minutes. The situation rapidly escalated when the Subject disregarded the officers’ commands and advanced toward them while armed with the sword, ultimately striking the hood of their police vehicle. The Subject’s actions limited the officers’ ability to use time to de-escalate the situation.

Redeployment and/or Containment – After speaking with Witness A, Officers A and B maintained their distance while assessing the Subject’s behavior and demeanor. The officers approached the Subject in their police vehicle, however; they remained approximately 50 yards away from the Subject, using distance to create time. From this position, they attempted to communicate with the Subject for approximately two and a half minutes. The situation rapidly escalated when the Subject disregarded the officers’ commands and advanced toward them while armed with the sword, ultimately striking the hood of their police vehicle. The Subject’s actions limited the officers’ ability to use time to de-escalate the situation.

Other Resources – After a brief dialogue with Officer B, Witness A offered to drive toward the Subject to speak with him; Witness A and the Subject were neighbors and acquainted. When Officers A and B observed the Subject strike Witness A’s vehicle, Officer B requested backup units, a supervisor, and an airship to assist with the situation. Officer B then used the police vehicle’s public address (PA) system to speak with the Subject from a distance. When the Subject approached with the sword, Officer B loaded the long-range cartridges into his/her TASER; Officer A’s TASER was already loaded with the short-range cartridges. By using their TASERS, Officers A and B prevented the situation from escalating to deadly force.

Lines of Communication – Officer B spoke with Witness A at length, obtaining valuable background information on the Subject. Contacting the Subject, the officers attempted to gain his compliance, briefly convincing him to put down his sword. Before tasing the Subject, the Officers ordered him to drop the sword; however, the Subject refused. Throughout the incident, Officers A and B communicated with each other. They discussed the range of the TASER cartridges they each had loaded in their TASERS, the Subject’s mental status, how close they would get to the Subject in the police vehicle, and when they should move their police vehicle away from him.

- During the BOPC's review of this incident, the following debriefing topics were noted.

Required Equipment – Body Armor – Officers A and B were not wearing their ballistic body armor during this incident. Per the FID investigation, both officers left their body armor in the trunk area of their police vehicle.

The BOPC noted that the UOFRB assessed Officers A and B's reason for not wearing their body armor during this incident. The UOFRB noted that Officer B indicated it could have been the temperature of the day that caused him/her to not wear his/her body armor. The UOFRB also noted that Officer A indicated there had been some issue with the effectiveness of the Velcro securing straps, which caused his/her body armor to not fit correctly and made it "uncomfortable." Officer A advised that since this incident, he/she had replaced the Velcro straps.

The UOFRB noted that Department policy requires sworn personnel to wear body armor when assigned to the field and opined there was no reasonable excuse or explanation for their deviation. As they were assigned to uniformed field duty in a geographic patrol division, the UOFRB determined that Officers A and B were required to wear their ballistic body armor during this incident.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's failure to wear their ballistic armor was a substantial deviation, without justification, from Department-approved tactical training.

Handcuffing Protocols - After he was handcuffed, the Subject was left prone for approximately 56 seconds before Officers A and B placed him in the left lateral recumbent position. Both officers indicated that they had checked to ensure the Subject was breathing, and Officer A remained by his side monitoring his condition. Although the officers observed blood on the Subject's face and neck, it did not appear he was actively bleeding, and they were initially unable to determine the source of the blood. While it is unclear if the officers conducted a full search of the Subject's waistband area, he was dressed only in socks and underwear.

The BOPC noted that the UOFRB discussed the length of time the Subject was left prone after he was handcuffed. The UOFRB noted that Officers A and B had been involved in a dynamic situation where they had encountered the Subject yielding a sword. The Subject, who was dressed only in socks and underwear, was exhibiting obvious signs of mental impairment. Although the officers had attempted to maintain distance, the Subject had suddenly advanced toward them. Despite the officers' attempts to back away, the Subject pursued them while swinging the sword in the air as he increased his pace. Using the sword, the Subject violently struck the officers' police vehicle and then took an aggressive stance. Seizing the opportunity to end the situation without the use of lethal force, both officers discharged their TASERS. To prevent the use of additional force, the officers managed to take control of the sword and the Subject's arms as the initial five-second cycle was ending and the Subject was incapacitated. The UOFRB opined that had it not been for

the officers' efforts to de-escalate the situation, this incident may have resulted in an officer-involved shooting (OIS).

The UOFRB noted that after the Subject was handcuffed, he laid prone for approximately 56 seconds. During that time, Officers A and B began securing their equipment and determining the next steps in the investigation. Officer A remained at the Subject's side and both officers checked to ensure he was breathing. The UOFRB also noted that officers had promptly requested an RA and had not detected active bleeding. Within less than one minute, Office B advised Officer A to place the Subject on his side; Officer A complied. While the UOFRB would have preferred that the Subject had been placed on his side sooner, they opined that the minor delay was reasonable based on the totality of the circumstances.

Based on the totality of the circumstances, the BOPC determined that the above-described tactics employed by Officers A and B were a substantial deviation, with justification, from Department-approved tactical training.

Additional Tactical Debrief Topics

- **Tactical Planning/Tactical Communication** – The BOPC noted that, although the UOFRB appreciated Officers A and B's effort to avoid using lethal force, they would have preferred that one of them had been designated as a lethal-cover officer. The UOFRB also would have preferred that they had a more detailed discussion regarding the use of their TASERS as well as other less-lethal options. The UOFRB opined that this may have reduced the potential for the simultaneous TASER deployment.
- **Third-Party Negotiators** – The BOPC noted that, although Officer A was hopeful that Witness A could convince the Subject to drop the sword, the UOFRB would have preferred that he/she had asked Witness A not to approach the Subject.
- **Maintaining Control of Equipment** – After tasing the Subject, Officers A and B both placed their TASERS on the ground. Officer A's TASER wires had become tangled in the police vehicle's door. Officer B maintains possession of his/her TASER as he/she approached the Subject and could have reactivated it had the need risen. Before handcuffing the Subject, Officer B placed his/her TASER on the ground behind him.
- **Police Vehicle Operations** – Officer A did not place the transmission in park before exiting his/her police vehicle to address the Subject. Instead, Officer A placed his/her right foot on the brake and his/her left foot on the ground as he/she deployed his/her TASER. When Officer A began to move forward to assist with handcuffing the Subject, he/she removed his/her foot from the brake causing the vehicle to roll back slightly. Officer A quickly stopped the vehicle and placed it in park.

- **Less-Lethal Force Warning** – Neither Officers A nor B provided the Subject with a less-lethal force warning before discharging their TASERS. While the officers' efforts were directed toward de-escalating the situation, alternatively, they could have interjected the warning while communicating with the Subject before he approached.

The BOPC found Officers A and B's tactics to warrant Administrative Disapproval.

B. Less-Lethal Use of Force

- **Officer A** – TASER, one five-second activation in probe mode, from Officer A's location between the "A" pillar and driver's side-door sill of the police vehicle, to where the Subject was standing at the front of the hood of the police vehicle.

Officer A had attempted to de-escalate the incident by backing away from the Subject to create more distance; however, the Subject continued to approach the police vehicle. Officer A observed the Subject quickly close the distance to the front of their police vehicle with the sword raised, and then strike the hood with it. The Subject then turned toward Officer B with the sword raised. Believing that the Subject was going to "attempt to strike" his partner, Officer A aimed at the Subject's "chest area" and deployed his/her TASER.

- **Officer B** – TASER, one five-second activation in probe mode, from approximately 12 feet.

Despite the officers' efforts at de-escalation and to create distance between themselves and the Subject by backing up their police vehicle, the Subject continued to close the distance toward them while armed with a sword. The Subject quickly approached the front of the police vehicle with the sword raised above his head. The Subject brought the sword down in a striking motion contacting the police vehicle's hood. He then turned toward Officer B with the sword raised to chest level and uttered an expletive. Officer B observed the Subject's behavior and perceived that he was preparing to strike again. At that time Officer, B deployed his/her TASER at the Subject's "chest" and "leg."

The BOPC noted that the UOFRB evaluated Officer A and B's less-lethal use of force. The UOFRB noted that before using force, Officers A and B had obtained background information on the Subject from Witness A. After speaking with Witness A, the officers approached the Subject in their vehicle, stopping approximately 50 yards from him and using their PA system to de-escalate the situation and obtain his surrender. Although he briefly placed the sword on the ground, the Subject soon picked it up and began to approach the officers. In response, Officer A drove backward to create distance and time for the Subject to comply. However, the Subject increased his pace. Having reached the end of the block, Officers A and B took cover behind their respective doors and ordered the Subject to drop the sword. Instead, he raised the sword above his head and then swung it down, striking the

police vehicle's hood. The Subject then moved toward the passenger side of the police vehicle, raised the sword, and uttered an expletive. The UOFRB noted that Officer B interpreted the Subject's posture to be a "fighting stance" and believed the Subject was preparing to swing the sword again. Officer A believed that the Subject was going to strike Officer B with the sword. In response, Officers A and B simultaneously deployed their TASERS.

Based on the totality of the circumstances, the UOFRB opined that it was reasonable for the officers to believe that the Subject posed an immediate threat to their safety.

The UOFRB was complimentary of Officers A and B's restraint and efforts to de-escalate this incident. According to Officer A, he/she refrained from discharging his/her TASER until he/she felt waiting any further could have caused the situation to escalate to the point where deadly force might have been necessary. Officer B refrained from using his/her TASER until he/she felt that it was his/her only option to prevent the need to use deadly force.

The UOFRB noted that before discharging his/her TASER, Officer B stepped to the right of his/her open door to gain a better angle on the Subject. The UOFRB also noted that Officer B remained near his/her door and could have quickly stepped back behind it had the need risen.

In terms of the Subject's distance from Officers A and B, the UOFRB opined that he was approximately 12 feet from both officers. As such, his distance fell between the recommended distance for both the long and short-range TASER cartridges.

As it pertains to the less-lethal force warning, the UOFRB opined that the officers' initial intention and efforts were directed towards creating and maintaining distance between themselves and the Subject, de-escalating the situation, and gaining his voluntary compliance. The UOFRB opined that the Subject's subsequent behavior eliminated the officers' opportunity to provide a less-lethal force warning. As such, the UOFRB opined that this issue could be addressed as a topic during the tactical debrief.

Regarding Officers A and B's decision to place their TASERS on the ground, while it would have been preferable for them to maintain control of their equipment, the UOFRB noted that they were seizing the opportunity to apprehend the Subject while he was incapacitated by the TASER. The UOFRB opined that had Officer B taken the time to holster his/her TASER, he/she may have missed the opportunity to disarm and apprehend the Subject. Likewise, had Officer A taken the time to untangle his/her TASER wires, he/she may have missed the opportunity to assist his/her partner. The UOFRB also noted that Officer B maintained possession of his/her TASER until he/she had control of the Subject and could have reactivated it had the need risen. The UOFRB opined that this issue could also be addressed as a topic during the tactical debrief.

Concerning the target area, the UOFRB noted that both Officers targeted the Subject's chest. While the optimal target area for the probes is the back or splitting the belt line, officers are not explicitly instructed to avoid the chest.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, in the same situation, would reasonably believe that the use of less-lethal force was proportional and objectively reasonable. Therefore, the BOPC found Officers A and B's less-lethal use of force to be In Policy.