

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

**LAW ENFORCEMENT-RELATED INJURY – 020-14**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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77 <sup>th</sup> Street	05/02/14		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	10 years, 11 months
Officer B	7 years, 6 months
Officer C	6 years, 5 months
Officer D	5 years, 1 month
Officer F	10 years, 11 months
Officer G	6 years, 10 months

**Reason for Police Contact**

Officer A conducted a vehicle stop and was confronted by the Subject. Additional officers responded and various uses of force were employed during a struggle with the Subject. The Subject was later admitted to a hospital for an injury to his foot.

<b>Suspect</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject: Male, 30 years old.

**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 March 31, 2015.

### **Incident Summary**

Officer A was driving a plain vehicle, equipped with a forward facing red light and siren. Officer A was travelling west when he observed a vehicle following closely behind his vehicle. The driver, later identified as the Subject, suddenly accelerated and swerved his vehicle around Officer A's vehicle and travelled on the wrong side of the street into oncoming traffic. As the Subject's vehicle travelled ahead of his position, Officer A observed the Subject commit several traffic violations, including lane straddling and speeding.

Based upon these actions, Officer A formed the opinion that the Subject was under the influence of a controlled substance or alcohol, and activated his forward facing red light and siren to conduct a traffic stop and further investigate. The Subject stopped his vehicle at the northeast curb.

Officer A broadcast his location to Communications Division (CD) and requested an additional unit. Officer A exited his vehicle and stood behind the open driver's side door. As he looked toward the Subject's vehicle, Officer A observed the Subject reaching down toward the floorboard of his vehicle. Officer A asked the Subject to show his hands. The Subject responded by turning his upper body around in the vehicle in a counter-clockwise motion and yelling expletives. Officer A again asked the Subject to show his hands. The Subject responded by holding his driver's license and a white envelope in his left hand outside the driver's side window, while continuing to reach toward the floorboard with his right hand.

Believing the Subject was arming himself with a weapon, Officer A unholstered his pistol and broadcast a back-up request. Officer A continued to give commands to the Subject to show both of his hands. The Subject responded with expletives and challenged Officer A to fight.

The Subject then threw the items he was holding into the street, exited the vehicle and quickly advanced toward Officer A in an aggressive manner. The Subject had both his fists clenched, with his right fist over his right shoulder in a cocked position. Officer A, observing that the Subject was not armed with a weapon, immediately holstered his pistol and transitioned to his Oleoresin Capsicum (OC) spray. Officer A re-deployed toward the rear of his vehicle to create distance between himself and the Subject. The Subject continued to advance toward Officer A. At a distance of approximately five feet, Officer A aimed the OC canister at the Subject's face and discharged a three to five second burst.

The Subject stopped, wiped his face with the back of both his hands, assumed a fighting stance, advanced again toward Officer A, and stated, "Now I'm going to [expletive] you up. I'm going to [expletive] kill you." In response to the Subject's aggressive behavior, Officer A used his right foot and kicked the Subject, striking him in

the abdomen. The Subject fell to the ground, but immediately got up, resumed a fighting stance and advanced again toward Officer A's position. Officer A used his right foot to kick the Subject a second time, striking the Subject's mid-section. As Officer A kicked the Subject a second time, he observed a black and white vehicle arrive behind the Subject's position.

The Subject fell to the ground a second time, but immediately stood up and again assumed a fighting stance. Officer A used his right fist and attempted to punch the Subject on the left side of his face. The Subject was able to block the punch and then used the back of his left hand to strike Officer A on the right side of his face, causing his OC-covered hand to come in contact with Officer A's right eye, which caused irritation and vision impairment from the chemical agent.

Officers B, C, D and E responded to Officer A's additional unit request. As Officers B and C exited their vehicle, they observed the Subject strike Officer A on the face with his left hand. Officer B retrieved his Thomas A. Swift Electronic Rifle (TASER) as he exited his vehicle. In order to stop the Subject's actions and effect an arrest, Officer C approached the Subject from behind and struck him on the left side of the face with his right elbow, causing the Subject to spin around and turn his back toward Officer A.

As the Subject turned his back, Officer A lost sight of the Subject's right hand, which was close to his waistband. Believing the Subject was possibly arming himself, Officer A charged at the Subject and delivered a right-handed strike with his fist at the right side of the Subject's face. Officer A's momentum caused him to lose his balance and fall to the ground.

After striking the Subject, Officer C used both of his arms and bear hugged the Subject, pinning his arms to his body, and tackled him to the ground. Officer C landed on his back with the Subject on top of him. Officer C maneuvered the Subject to his stomach and applied his upper bodyweight to the Subject's lower back to hold him. Officer A attempted to control the Subject by placing his right knee on the Subject's upper left shoulder area. Officer B placed his right knee on the back of the upper thigh of the Subject's right leg and attempted to gain control of the Subject's right hand. The Subject continued to resist and attempted to free himself from Officer C's grasp. The Subject placed his right hand on the ground and began to push his body up. Officer B also observed the Subject attempting to reach toward Officer A's right leg and belt area where Officer A's holstered pistol was on his person.

Officer B advised Officers A, C, D, and E he was going to deploy the TASER. As the other officers backed away from the Subject, Officer B discharged the TASER at the Subject's back and activated an electrical charge for approximately five seconds. Once the cycle ended, Officer A told the Subject to put his hands behind his back. Ignoring the commands to stop resisting, the Subject placed his hands on the ground and again attempted to rise to his knees. Officer B advised the other officers regarding the deployed TASER wires and activated the TASER a second time. Following the second activation, the Subject stayed on the ground but continued to ignore officers' commands to place his hands behind his back.

Officer A again used his right knee to apply pressure to the Subject's left shoulder area. Officer C continued to apply bodyweight to the Subject's back. Officer D was able to gain control of the Subject's right arm. Officer B used his left hand to apply pressure to the Subject's right leg to keep the Subject from rolling onto his side.

Officers F and G along with Parole Officer A responded to the scene. As they approached to assist, Officer G heard an unknown officer yell, "TASER, TASER." Officer G then observed the Subject being tased. Following the second TASER activation, the Subject's right arm came free and Officer D was able to gain control of it. As Officer D gained control of the right hand, Officer F replaced Officer C and placed his right knee to the Subject's lower back, gained control of the left hand and assisted as Officer D handcuffed. As he was being handcuffed, the Subject began to kick his legs. In order to control the Subject's legs, Officer G placed his right foot on the Subject's left calf and applied pressure to hold it down. The officers then assisted the Subject to a seated position.

Officer F requested a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) to respond to the location. Officers assisted the Subject to a standing position and walked him to the sidewalk. While standing at the sidewalk, the Subject began to spit at Officer B. In order to prevent him from spitting, with no immediate access to a spit sock, Officer B pulled the Subject's shirt over his head. The Subject continued to be combative by trying to kick officers standing behind him. With the help of other officers, the Subject was placed in a lying position on the ground, where Officer D hobbled the Subject at his ankles. The Subject was then placed in a seated position on the sidewalk.

After the Subject was taken into custody, Officer A heard children crying in the Subject's vehicle. He opened the rear door and discovered two children seated in the backseat. Both children were taken into custody for child endangerment, transported to the Police Station, and were later released to their mother.

While conducting a search of the Subject's vehicle, Officer B recovered a sheathed six-inch fixed blade black-handled knife. The knife was semi-concealed under a cardboard box located near the front floorboard, in the same area Officer A observed the Subject reaching with his right hand. An additional folding knife was recovered, attached to the sheath. Officer B observed that the locking strap of the knife was unsnapped for ready access.

Detective A was the first supervisor to arrive at the location. He was followed by Sergeant A and Detective B. Detective A determined a Level I non-categorical use of force (NCUOF) had occurred, and initiated an investigation.

LAFD personnel arrived at scene and transported the Subject to a hospital for medical treatment.

Officer F contacted Detective A and informed him that according to the hospital staff, the Subject possibly had a fractured foot and might need to be admitted for surgery.

While being treated at the hospital, the Subject complained of soreness to his left foot. A medical doctor directed x-rays to be taken which subsequently revealed a fractured left ankle. The Subject was admitted to the hospital after the swelling failed to subside. As a result, the incident was elevated to a categorical use of force.

### **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 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 made the following findings.

#### **A. Tactics**

The BOPC found Officers A, B, C, D, F and G's tactics to warrant a Tactical Debrief.

#### **B. Drawing and Exhibiting**

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

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

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

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

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

### **Basis for Findings**

#### **A. Tactics**

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

##### **1. Lone-Officer Tactics**

Officer A broadcast his location to Communications Division (CD), placed himself Code Six, requested an additional unit, then exited his vehicle and stood behind his opened driver's side door, and gave the Subject verbal commands.

Officer A observed the Subject reaching down toward the floorboard of his vehicle and asked the Subject to show his hands. The Subject responded by turning his upper body around in the vehicle, in a counterclockwise motion and yelling expletives. Officer A again asked the Subject to show his hands.

According to Officer A, the Subject responded by holding his driver license and a white envelope in his left hand outside the driver's side window, Officer A believed the Subject was attempting to bait him into walking toward the vehicle while continuing to reach toward the floorboard with his right hand.

Believing the Subject was arming himself with a weapon, Officer A remained behind the cover of his door, un-holstered his service pistol and requested back-up to his location. It is the BOPC's expectation that uniformed officers consistently maintain self-discipline and utilize good tactics, as Officer A did in this case.

Although the philosophy behind a Tactical Debrief is to enhance future performance by discussing areas where improvements could be made, often times, discussions pertaining to positive aspects of the incident lead to additional considerations that would be beneficial in future incidents. Therefore, this topic was to be discussed during the Tactical Debrief.

- 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.

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

After a thorough review of the incident, regarding Officers A, B, C, D, F and G, the BOPC determined the identified areas of improvement neither individually nor collectively substantially deviate from approved Department tactical training.

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

## **B. Drawing and Exhibiting**

- While standing behind his driver side door, Officer A verbalized with the Subject to show his hands. Officer A observed the Subject reaching down toward the floorboard of his vehicle with his right hand.

The Subject turned his upper body toward Officer A and stated an expletive. Officer A again asked the Subject to show his hands, who responded by holding his driver's license and a white envelope out the window, while continuing to reach toward the floorboard with his right hand. Believing the Subject was attempting to arm himself, Officer A drew his service pistol.

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

In conclusion, the BOPC found Officer A's drawing and exhibiting of a firearm to be in policy.

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

- **Officer A:** OC, Kicks, Punches, Bodyweight
- **Officer B:** Bodyweight
- **Officer C:** Elbow Strike, Bodyweight, Takedown, Physical Force
- **Officer D:** Physical Force
- **Officer F:** Bodyweight, Physical Force
- **Officer G:** Bodyweight

Officer A, standing behind his vehicle door awaiting an additional unit, observed the Subject exit the vehicle and advance toward him in an aggressive manner stating an expletive.

With both fists clenched, the Subject placed his right fist over his right shoulder in a cocked position. Officer A observed that the Subject was not armed with a weapon, holstered his service pistol and removed his OC spray from his tactical vest. Officer A then redeployed toward the rear of his vehicle to create additional distance between him and the suspect. As the Subject continued his advance, Officer A, from approximately five feet, aimed the OC canister at the Subject's face and discharged a three to five second burst. After being struck by the OC, the Subject wiped his face with the back of both of his hands, assumed a fighting stance, and again advanced toward Officer A while he stated expletives.

Officer A used his right foot and kicked the Subject, striking him in the abdomen and causing the Subject to fall to the ground. The Subject got up, resumed a fighting stance and again advanced toward Officer A. Officer A used his right foot to kick the Subject a second time, striking the Subject's mid-section.

As Officer A kicked the Subject a second time, he observed a police vehicle arrive behind the Subject's position. The Subject fell to the ground a second time but stood up and again assumed a fighting stance. Officer A used his right fist and attempted to punch the Subject on the left side of his face. The Subject blocked the punch then used the back of his left hand to strike Officer A on the right side of his face,

causing the OC on his hands to come in contact with Officer A's right eye. The transfer of OC caused irritation and vision impairment to Officer A's right eye.

Officers B, C, D, and E arrived. Officer B retrieved his TASER from between the front seats as he exited his vehicle. Officers B and C observed the Subject strike Officer A on the face with his left hand. In order to stop the Subject's actions, Officer C approached the Subject from behind and struck him on the left side of the face with his right elbow, causing the Subject to spin around and turn his back toward Officer A.

As the Subject turned his back, Officer A lost sight of the Subject's right hand, which was close to his waistband. Believing the Subject was possibly arming himself, Officer A delivered a strike with his right fist at the right side of the Subject's face. Officer A's momentum caused him to lose his balance and fall to the ground. Officer C then wrapped both of his arms around the Subject and took the Subject down to the ground. Officer C initially landed on his back with the Subject on top of him; however, he was able to maneuver the Subject to his stomach and apply his upper bodyweight to the Subject's lower back.

Officer A attempted to control the Subject by placing his right knee on the Subject's upper left shoulder area. Officer B placed his right knee on the back of the upper thigh of the Subject's right leg and attempted to gain control of the Subject's right hand. The Subject continued to resist and attempted to free himself from Officer C's grasp by placing his right hand on the ground and pushing his body up.

Officer B observed the Subject attempting to reach toward Officer A's right leg and belt area on the same side that his [Officer A's] gun was on. Officer B advised Officers A, C, D and E that he was going to deploy the TASER. As the other officers backed away from the Subject, Officer B discharged the TASER at the Subject's back.

After the TASER was discharged, Officer A told the Subject to put his hands behind his back. Ignoring Officer A's commands, the Subject placed his hands on the ground and again attempted to rise to his knees. Officer B activated the TASER a second time.

Following the second activation, the Subject stayed on the ground and ignored the officers commands to place his hands behind his back. Officer A again used his right knee to apply pressure to the Subject's left shoulder area. Officer C continued to apply bodyweight to the Subject's back. Officer D was able to gain control of the Subject's right arm. Officer B used his left hand to apply pressure to the Subject's right leg to keep the Subject from rolling onto his side.

As Officers were attempting to handcuff the Subject, he began to kick his legs. In order to control the Subject's legs from kicking other officers, Officer G applied his right hand to hold down the Subject's left leg, then applied his right foot on the Subject's left calf, as Officer B placed his left foot on the Subject's right calf. As

Officer D gained control of the right hand, Officer F replaced Officer C and placed his right knee to the Subject's lower back, gained control of the left hand and assisted as Officer D handcuffed.

After a thorough review of the incident and involved officers' statements, the BOPC assessed each application of force by each involved officer. The BOPC determined that officers with similar training and experience as Officers A, B, C, D, F and G, would believe the application of non-lethal use of force would be reasonable to overcome the Subject's resistance and take him into custody.

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

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

- **Officer B** – Two TASER activations

Officer B exited his vehicle and observed the Subject strike Officer A on the face with his left hand. Officer B retrieved his TASER from between the front seats as he exited his vehicle. Officer B placed his right knee on the back of the upper thigh of the Subject's right leg and attempted to gain control of the Subject's right hand. As the Subject continued to resist, he attempted to free himself from Officer C's grasp by placing his right hand on the ground and pushing his body up. Officer B observed the Subject attempting to reach toward Officer A's right leg and belt area near Officer A's gun.

Officers A, C, D and E backed away from the Subject, and Officer B discharged the TASER at the Subject's back. After the TASER was discharged, the Subject ignored Officer A's commands to place his hands behind his back, and placed his hands on the ground and again attempted to rise to his knees. Officer B advised the other officers, "Hey Taser watch the wires," and activated the TASER a second time.

Department policy states 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 application of less-lethal force to stop the Subject's actions during this incident was reasonable and would have acted in a similar manner.

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