

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

IN-CUSTODY DEATH – 030-14

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Foothill	6/15/14		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	7 years, 7 months
Officer B	1 year, 3 months

Reason for Police Contact

Communications Division received multiple calls regarding a “screaming man.” Officers responded and contacted the Subject who was acting extremely irrational and violent. Non-lethal and less-lethal force was deployed, and the Subject was pronounced dead several hours later.

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 47 years of age.

Board of Police Commissioners’ Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on June 2, 2015.

Incident Summary

Witness A arrived at his residence and heard screaming coming from the sober living home next door. Witness A ran to where the sound was coming from and observed the Subject, who lived and worked at the sober living house. The Subject was in the backyard being held by Witness B, who was trying to prevent the Subject from either running out to the front and hurting one of the neighbors or hurting himself. Witness A observed the Subject screaming and striking his own face and head with his fists.

According to Witness B, he was attempting to calm the Subject down. Witness B reported the Subject was hyperventilating and screaming.

Another resident of the sober living home, Witness C, advised Witness A that the Subject was having a seizure. However, in Witness A's opinion, it was not a seizure. She believed the Subject was under the influence of drugs. Witness C advised Witness A to call 911. Another resident of the sober living home, Witness D, told Witness A not to call because the owner of the facility had to be notified first. Witness A called 911 anyway.

According to Witness D, the Subject had approached him approximately a half hour before the police arrived and stated, "I've been up for five days high on meth. ...But, I got to go see my girlfriend at the hospital, right?" Witness D advised the Subject to take a shower and get some sleep. Witness D told the Subject that he would drive him to the hospital, and when they came back he could get some rest. Witness D went into his room to put some shoes or slippers on his feet. When he returned, the Subject was squeezing a shampoo bottle in his hand. Witness D thought the Subject didn't know what he was doing because the shampoo was coming out everywhere. The Subject started rubbing the sides of his head with his palms and apologizing to his dog. The Subject was saying, "I'm sorry, [to his dog]. Don't look at me this way." He continued to rub his head and his eyes as if he were in physical pain.

Witness A called 911 and reported she needed the police to respond because, "I think somebody is being severely injured. My next-door neighbors." Witness A further reported that she could hear a man yelling for help and things breaking. Witness A also told the operator that one of the residents asked him to call 911.

After receiving the information, CD then broadcast the call. Officers A and B acknowledged the call and advised they were responding with emergency lights and sirens.

Witness A called the 911 operator back and reported there was a lot of screaming next door, and she needed the police and an ambulance as soon as possible. The 911 operator informed Witness A that the police were already on their way and asked if someone was injured. Witness A stated, "...the guy is freaking out. Somebody says he's having a seizure." Witness A offered the opinion that, "...he is highly under the influence. He -- he is hallucinating really, really bad." Witness A did not believe the

Subject was having a seizure. She thought the Subject was being held because he wanted to break things.

CD updated the responding officers with the additional information provided.

Upon arrival, the officers observed Witness A flag them down as she stood on the north sidewalk near the residence. Officer A stopped the police vehicle along the north curb, east of her. Officer B advised CD they had arrived at the location. Both officers could hear yelling and screaming from the location. Witness A spoke to the officers and according to Officer A, advised them that the Subject was in the house "throwing, breaking things, and going crazy."

The officers walked north to the rear of the location along the east driveway toward a converted detached garage. When they were approximately 10 to 12 feet from the northeast corner of the house, they observed a male quickly peek his head and upper chest area around the corner, look in their direction, then disappear westward behind the house. Witnesses B and D stood to the rear of the location near the detached garage and pointed at the male who was now inside the residence. Officer A heard Witnesses B and D saying something, but the Subject's yelling and screaming made it difficult to understand the words. Even though Officer A could not discern what they were saying, Officer B heard them identify the screaming male by name. Witnesses B and D also said they were trying to control him and did not know what was wrong with him.

The officers approached the northeast corner of the residence and looked around the corner. The officers approached the open rear door of the residence, which led to a laundry room. Beyond the laundry room was a small dining area and a galley style kitchen leading to the front/living room and front door. One could look south from the backdoor all the way through the house, through the kitchen and into the front room. Officer A looked south from the backdoor and observed the male he had observed while approaching the back of the house, who was subsequently identified as the Subject, enter the front room. Officer A ordered the Subject to exit. The Subject did not comply and poked his head out from the front room and looked back through the kitchen in Officer A's direction, then ducked back in again. Officer A observed another resident in the front room, and gave commands to the Subject to come outside and put his hands behind his back. The Subject failed to comply and yelled, "No," while continuing to scream.

The Subject subsequently entered the kitchen. He appeared agitated, flailing his arms, pacing back and forth and yelling. In his hands he held a cellular telephone. Officer A formed the opinion the Subject was under the influence of some sort of narcotic or suffering some sort of mental episode. Officer A was also concerned that the Subject was in the kitchen and that items in the kitchen could be readily used as weapons. Officer B formed the opinion that the officers needed to take the Subject into custody for the protection of the residents at the location. Officer A then requested a backup unit. Officer A did not hear a response on the radio to his request, so the officers directed

their attention back to the Subject. The officers entered the laundry room and walked to the threshold of the kitchen. At this point, Officer B, utilizing a cross draw motion with his right hand, unholstered the TASER attached to the left side of his equipment belt and followed his partner inside. Officer B readied the TASER due to the violent behavior of the Subject. Officer A then entered the kitchen and ordered the Subject to calm down, put his phone down, turn around, and put his hands behind his back. The Subject failed to comply with Officer A's orders and took a few steps back, then walked forward. Officer A was able to see the Subject's hands and noted that he still only held a cellular phone. Officer A approached and when the Subject turned counterclockwise away from Officer A, he utilized a firm grip and took hold of the Subject's left arm and wrist. Officer B holstered his TASER and, utilizing a firm grip, grabbed the Subject's right arm. The officers were positioned behind the Subject and struggled to gain control of him. The officers attempted to utilize the west wall in the northwest portion of the kitchen as a controlling agent. The Subject attempted to get his arms in front of him as he turned to face the officers. According to Officer B, at this time they ordered the Subject to stop resisting or get tased.

The Subject's body was sweaty and clammy, and he broke free from Officer A's grip. Officer B, standing behind the Subject, hooked both of the Subject's arms from under his armpits/elbows with his forearms against the small of his back. At that time, Officer A advised Officer B he was going to tase the Subject. Utilizing his right hand, Officer A unholstered the TASER from the left side of Officer B's equipment belt and told him to let go of his grip on the Subject. As Officer B did so, the Subject turned and was positioned in front of the laundry room door, facing toward the kitchen and Officer A. Officer A stepped back approximately seven feet and activated the TASER.

The TASER darts struck the Subject on the left upper quadrant of his abdomen. After being tased, the Subject started screaming, held his fists in front of his body and shook them back and forth. Officer A again ordered the Subject to put his hands behind his back and stop resisting. The Subject failed to comply and, with the dart cartridge still engaged on the TASER gun, Officer A administered a drive stun to the Subject "...once or twice." According to Officer B, Officer A ordered the Subject to stop resisting or he would get tased again.

During this period, Officer A made another back-up request and heard CD broadcast the request.

The use of the TASER appeared to be moderately effective, and the Subject went down to his knees then onto his back. While the Subject was on his back, Officer B was positioned on the Subject's left side and Officer A was on the Subject's right side. Officer B attempted to gain control of the Subject's left arm to prevent him from punching him. He placed his right forearm on his left arm and applied his body weight, while maintaining his knees on the floor.

The Subject rolled toward Officer B, onto his left arm, causing Officer B to lose control of his arm. The Subject continued to roll until he was facedown. Officer A placed the

TASER on the floor because the Subject held his left arm underneath him. Officer A needed both hands to get the Subject's left arm free. Officer B gained control of the TASER, removed the TASER's cartridge, and warned the Subject that he was going to be tased again if he did not stop resisting. The Subject continued to struggle and with his left hand, Officer B applied the TASER in drive stun mode to the Subject.

The TASER did not appear to be effective, and Officer B removed it from the Subject's body, held it up in the air and conducted two test activations. He was not sure if the TASER activated or not during the two test activations.

The Subject had rolled over to his stomach and Officer B, at some point, was able to place the manacle of one pair of handcuffs on the Subject's right wrist. Officer A applied his right knee against the Subject's buttocks and thigh area. The Subject was yelling, fighting, moving, and struggling to get away. Officer A continued to struggle with the Subject, but was able to place the manacle of another pair of handcuffs on the Subject's left wrist. Working together, the officers placed the Subject's hands behind his back and hooked together the two open manacles, thus double cuffing the Subject.

Witness B was in the backyard when the police arrived and observed the police order the Subject to put his hands behind his back. He witnessed the struggle in the kitchen, which he characterized as the officers trying to control the Subject. Witness B heard a warning that the officers were going to use the TASER but does not remember who said it.

Witness E was exiting through the front door when the police were making their initial contact with the Subject and did not see the incident, but heard the police say "Get on the ground or we're going to tase you."

Witness A was approximately four feet from the water heater located outside the rear door. She did not see the struggle but heard the officers identify themselves and command the Subject to get on the floor. She saw the officers enter the residence through the back door and again order the Subject to the ground. Then she heard an officer tell the Subject he would be tased if he didn't follow their instructions. She heard the TASER and an officer told her to go to the front of the house and direct responding officers to their location.

Witness D, from the rear doorway, heard the officers order the Subject to lie on the ground. Witness D observed the struggle with the officers and observed various portions of the incident. Witness D heard Officer B say, "Either you lay on the floor or we're going to Taser you." Witness D heard the TASER being deployed.

Officer A eventually broadcast that the incident had been resolved and the subject was in custody. He then requested an additional unit and a supervisor.

The officers rolled the Subject over, sat him up, and propped him up against the side of the refrigerator. The Subject was not answering or responding to questions, and his muscles were slack.

Officer A was unable to tell if the Subject was breathing. Officer B, utilizing his hand held police radio, requested a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) to respond and provide medical treatment for the Subject, who was not conscious and not breathing.

Additional officers arrived to assist. The officers responded to the rear of the location. They observed the Subject propped up against the refrigerator, but did not notice if he was conscious or breathing. The officers checked if Officers A and B were injured or not.

Sergeant A arrived on scene and advised CD accordingly. Upon arrival, Witness A directed the sergeant to the incident. Sergeant A entered the location and observed the Subject leaning against the refrigerator. Sergeant A reached down and checked the Subject's carotid artery for a pulse. Sergeant A felt a pulse and advised Officer A to verify it. Officer A checked for a pulse and told the sergeant that he also felt one. Sergeant A took charge of the incident as the Incident Commander (IC) and initiated crime scene measures.

LAFD Engine personnel arrived at the location and were directed to the rear. The LAFD personnel observed the Subject in a seated position leaning against a refrigerator, his chin on his chest, unresponsive with darts protruding from the left side of his chest. Handcuffs were removed and CPR was initiated on the Subject.

Additional supervisors arrived and assisted with scene management.

The Subject was transported to the hospital. Upon arrival at the hospital, the Subject was treated in the emergency room and subsequently admitted into the hospital in critical condition.

The Subject, who remained in critical condition, did not respond to proffered medical treatment and was eventually pronounced dead.

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. Non-Lethal Use of Force

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

C. 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

A. Tactics

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

1. Back-up Request

Officers A and B responded Code-Three to a screaming man radio call with a subject that was reportedly under the influence of a substance possibly causing him to hallucinate. Upon the officers' arrival, they observed the Subject acting erratically as he continued yelling unknown statements and attempted to evade police apprehension. Neither officer broadcast a back-up request.

In the BOPC's review of this incident, they took into account that officers are afforded discretion in determining the appropriate time to broadcast a back-up request. The BOPC also looked at the information Officers A and B knew prior to their arrival, along with the information they gathered from the PR and their observations after they arrived, as well as the fact that the Subject continually ignored the officers' commands and repeatedly evaded them.

While policy dictates that officers should request a back-up as soon as possible, officers are required to balance officer safety concerns with the evolving tactical incident. Although it would have been beneficial for the officers to request a back-up at this time, their actions did not substantially deviate from approved Department tactical training.

2. Possible Agitated Delirium/Under the Influence

Officers A and B responded to a screaming man radio call and observed the Subject acting irrational, uncooperative and agitated, as he was screaming incoherently as if he was under the influence of an unknown substance.

During the BOPC's evaluation of this incident, they took into consideration that the officers tactically and methodically approached the Subject. The officers also gave multiple commands in an attempt to get the Subject to surrender before approaching him, including a complete Use Force Warning. The BOPC also took into consideration that although the first back-up request was broadcast on simplex, Officer A realized additional units may be beneficial and attempted to get additional personnel before they made contact with the Subject.

3. Situational Awareness/Tactical Communication

Officers A and B consistently communicated with each other throughout the entire incident. Upon receiving the radio call and before their arrival, the officers discussed tactics, including contact and cover roles. The officers' communication continued during their physical altercation with the Subject and subsequent application of various force, with no injury to either officer. Additionally, the officers were aware of their surroundings throughout the entire incident, as they adapted quickly and appropriately during their encounter with the Subject.

Officers are expected to gather and communicate pertinent information before and during a tactical incident. In this situation, Officers A and B effectively communicated with each other, in particular during the use of force. Additionally, as the officers' contact with the Subject rapidly evolved into a violent encounter, the officers appeared to remain aware of their surroundings, including any potential danger.

Officers A and B were cognizant of the evolving situation and demonstrated situational awareness and constantly communicated their actions to each other.

- The BOPC additionally considered the following:
 1. **Required Equipment** - Officers A and B were not equipped with their Hobble Restraint Devices. Officer B did have a side-handle baton on his equipment belt; however, it was located inside the police vehicle.
 2. **Status Update** - Officers A and B placed themselves at the location indicated on the radio call. However, the actual location of the screaming man was one address west of the location they broadcast. The incident location was an unsupervised sober living home. After obtaining information including the updated location, Officers A and B conducted a follow-up investigation. However, neither officer updated their status with CD.

3. **Broadcast on Simplex** - Officer A inadvertently broadcast his initial back-up request on the Simplex frequency. Officer A then switched over to the base frequency during the physical altercation with the Subject, in order to broadcast a second back-up request.
 4. **Effective Encounters with Mentally Ill Persons** - The Subject's reported and observed actions by the officers were consistent with a person suffering from a mental illness. Although, the officers made several attempts to verbalize with the Subject, his bizarre, unpredictable, non-compliant and aggressive actions resulted in the use of multiple applications of force by the officers.
 5. **Maintaining Equipment (TASER)** - Officer A placed the TASER on the ground in order to use both hands to pull the Subject's left arm out from underneath his stomach and handcuff his left wrist. Simultaneously, Officer B was attempting to get control of the Subject's right arm. Shortly thereafter, Officer B retrieved the TASER from the ground and discharged it. Officer B holstered the TASER afterward.
 6. **TASER Deployment** - Officer B removed the cartridge from the TASER and discharged it in Direct-Stun mode.
 7. **TASER Documentation** - The FID investigation revealed the actual time on the TASER was incorrect. The clock drift issue was brought to the attention of the Area Captain, who stated the Area Training Coordinator would ensure compliance and verify all Area TASERs be synchronized according to protocol to minimize clock drift.
- 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 individual actions that took place during this incident.

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

B. Non-Lethal Use of Force

- **Officer A** - Firm Grip, Bodyweight and Physical Force.
- **Officer B** - Firm Grip, Bodyweight and Physical Force.

Officer A observed the Subject screaming and yelling, and ranting and raving, pacing back and forth, as they all entered the kitchen. Officer A observed the Subject holding a cell phone and nothing else in his hands, and ordered the Subject to put the cell phone down, turn around, and put his hands behind his back. The Subject did not comply with any of the verbal commands. The Subject once again took a few steps back and a few steps forward, and it was during this time that Officer A grabbed the Subject's wrists. The Subject pulled away from Officer A and turned counterclockwise away from the officers.

Officer A grabbed the Subject's left arm and wrist and utilized a firm grip to control him. Officer B holstered his TASER and used a firm grip on the Subject's right arm. As the officers attempted to control the Subject, he continued resisting the attempts to take him into custody. During the struggle, Officer A pushed the Subject against the northwest portion of the kitchen wall and utilized it as a controlling agent by applying pressure with his bodyweight.

The Subject continued his efforts to free himself from the officers, as his body became clammy and sweaty. This allowed the Subject to break free from the officers' grasp. Officer B, also standing behind the Subject, wrapped each of his arms underneath the Subject's arms at the elbows and pulled his arms together behind his back in an effort to handcuff the Subject. Officer B also used the wall as a controlling agent to prevent the Subject from escaping. Officer A advised Officer B that he was going to deploy his TASER and removed the TASER from Officer B's holster attached to his equipment belt. Officer A advised Officer B to release his grip from the Subject and discharged the TASER in probe mode.

The Subject was affected by the TASER activation and went down to his knees and onto his back. According to Officer A, the Subject was still actively resisting, as he struggled to escape apprehension. The Subject was on his back, as Officer A was on his right side, with Officer B on his left side. The Subject rolled onto his stomach toward Officer B, causing him to lose his grip on the Subject's left arm. The Subject subsequently put his hands underneath his body.

Officer A, now on the Subject's left side, placed the TASER on the floor and used both hands to pull the Subject's left arm from underneath his body. Officer B recovered the TASER from the ground, placed it on the Subject's back area and discharged it in direct-stun mode. Following the use of the TASER, Officer B holstered the TASER and used his right forearm and applied bodyweight onto the Subject's left arm.

The Subject continued to struggle with the officers, and it was during this time that Officer B placed one of the manacles from his handcuffs onto the Subject's right wrist. Officer A utilized his right knee and continued to apply bodyweight onto the Subject's buttock and thigh area. As the struggle continued, Officer A was able to place one of the manacles of his handcuff onto the Subject's left wrist. The officers

worked together and used physical force to pull his arms behind his back, to ultimately connect the individual sets of handcuffs.

After a thorough review of the incident, the BOPC determined an officer with similar training and experience as Officers A and B would believe multiple applications of non-lethal force in this situation was reasonable to overcome the Subject's resistance, prevent his escape and detain him.

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

C. Less-Lethal Use of Force

- **Officer A** - Two TASER activations in probe mode from approximately seven feet, and one TASER activation in Direct-Stun mode.

Officers A and B became involved in a physical altercation with the Subject. The Subject refused to comply with any of their commands and continued to fight with the officers. During the altercation, the Subject was clammy and sweaty and broke free from Officer A's grasp. As Officer B was struggling with the Subject, Officer A advised Officer B to move away from the Subject, as he was going to utilize his TASER. Officer A removed the TASER from Officer B's holster attached to his equipment belt. Officer B released his grip from the Subject. Officer A stepped back approximately seven feet and activated the TASER in probe mode. The darts struck the Subject's left upper quadrant area of his abdomen.

The Subject went down to his knees and then onto the ground. The Subject, lying on his back, was still actively resisting, as he continued screaming and held his fists in front of his body, moving them back and forth. Officer A ordered the Subject to place his hands behind his back and stop resisting. The Subject failed to comply. Officer A, with the darts still attached to the Subject, administered a Direct-Stun mode on the Subject. Officer A believed he administered the TASER once or twice.

Following the last TASER activation, Officer A placed the TASER on the floor in order to gain control of the Subject's left arm by using both of his hands. Officer B took possession of the TASER.

- **Officer B** - Four TASER activations in Direct-Stun mode.

During the physical altercation, Officer B made several attempts to control the Subject in order to place handcuffs on him. However, each attempt failed. Officer B was positioned on the right side of the Subject, as Officer A was on his left side. The Subject was on his stomach and had his hands underneath his body. Officer B picked up the TASER from the floor, removed the cartridge and placed it against the Subject's right back area. He then activated the TASER in Direct-Stun mode.

Department policy states that the decision to use force must be judged through the perspective of a reasonable officer under similar circumstances. The BOPC determined that an officer with similar training and experience would reasonably believe the applications of less-lethal force to stop the Subject's actions were reasonable and justified.

Therefore, the BOPC found that Officers A and B's less-lethal use of force was objectively reasonable and in policy.