

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

**LAW ENFORCEMENT RELATED INJURY – 031-14**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Southwest	6/18/14		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer C	15 years, 10 months
Officer D	18 years, 2 months

**Reason for Police Contact**

Officer C and D conducted a traffic stop on the Subject for a narcotics investigation. The Subject exited the vehicle and fled on foot, resulting in a Law Enforcement Related Injury (LERI).

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject: Male, 64 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 April 28, 2015.

## **Incident Summary**

On the date of this incident, Wilshire Area Narcotics Enforcement Detail (NED) Police Officers III A and B were monitoring the area for narcotics activity. The officers were attired in plain clothes, driving an undercover vehicle. The officers had received information that the Subject was selling narcotics in the vicinity.

**Note:** The officers knew the Subject from prior narcotics investigations, and were aware that he was on active formal probation for narcotics sales, which included search and seizure conditions. The officers also knew that the Subject had a suspended California Driver License.

Officers A and B drove to the Subject's residence to determine if his vehicle was parked at the location and observed the vehicle parked in the driveway. The officers then placed themselves Code Six at the location via their portable Mobile Digital Computer (MDC). Officer A also queried the Subject and his vehicle on the MDC while at scene to verify the Subject's probation status and vehicle information.

Officer A telephoned their supervisor, Wilshire Area NED Detective A, and informed him of their investigation. Officer A told Detective A that if the Subject was observed driving, he would request uniformed officers to conduct a traffic stop for the suspended driver license and a probation compliance check. If narcotics were recovered, Officer A would notify Detective A, whose supervisory oversight was required to conduct a search of the vehicle and a possible search warrant for the Subject's residence. Detective A instructed Officer A to keep him informed regarding the progress of the investigation, and stated he would monitor Wilshire base frequency.

A few minutes later, Officers A and B observed the Subject exit the residence and enter his vehicle, driving away. Officer A telephoned Wilshire Area Police Officer C, who had assisted him with prior narcotics investigations. Officer A informed Officer C that he wanted to conduct a narcotics probation compliance check on the Subject, who was driving his vehicle with a suspended license.

Officer A asked if Officer C was available to conduct a traffic stop on the Subject's vehicle. Officer C and his partner, Officer D, were at Wilshire Station, asked their supervisor for permission to assist the narcotics officers, which he approved. Officers C and D, driving their marked black-and-white police vehicle, with Officer D as the driver, left the station and drove toward the area to assist.

While en route to the area, Officer A telephoned Officer C with the license plate number of the Subject's vehicle. Officer C queried the license plate on his Mobile Digital Computer (MDC), which returned to the Subject as the registered owner. As Officer C and D reached the area of the Subject's location, Officer C advised Officer A to switch his police radio to Wilshire simplex frequency.

Meanwhile, Air Support, staffed by (Pilot) Officer E and Tactical Flight Officer (TFO) Officer F, were flying in the area when they heard Officer A broadcasting on simplex

that they were following the Subject's vehicle. Officer F informed Officers A and B on Wilshire simplex frequency that Air Support was available to monitor the Subject's vehicle. Officer A informed Officer F that the Subject was on formal probation for narcotics and driving with a suspended license, and he and Officer B were awaiting a marked black and white patrol vehicle to initiate a traffic stop. Officer F advised that Air Support would track the Subject's vehicle as they waited for the arrival of the marked unit.

Officers C and D subsequently initiated a traffic stop on the Subject, who stopped his vehicle on the south curb. Officers A and B stopped their vehicle and parked approximately 50 to 60 feet west of the patrol vehicle. Officer A broadcast that he and Officer B were Code Six at the location. Air Support remained overhead to provide assistance.

**Note:** Officer A believed he placed both units Code Six at the scene; however, he only identified the NED unit in the broadcast. Officers C and D both believed they heard Officer A include them in the broadcast.

Officers A and B remained inside their vehicle, so as not to compromise their identities as plainclothes narcotics officers until necessary. Officers C and D exited their police vehicle. Officer D, the contact officer, approached the driver's side of the Subject's vehicle as Officer C walked on the sidewalk toward the rear passenger side of the vehicle. As he approached the driver's side of the vehicle, Officer D observed the Subject through the open driver's side window moving his arms. Officer D observed the Subject reach across the front passenger seat, sit up, and then reach down again. Officer D believed the Subject was attempting to conceal something. At this time, Officer C told the Subject to place his hands on the steering wheel and to speak with Officer D. Officer D approached the driver's window and asked the Subject for his driver license.

**Note:** Neither Officers C nor D unholstered their service pistols.

The Subject retrieved his wallet from the center console of the vehicle, removed his driver license and handed it to Officer D. The Subject placed his wallet back inside of the center console. Officer D then asked the Subject for his vehicle registration. The Subject looked inside the center console, then reached into the glove compartment, looked through several papers, and appeared visibly frustrated. The Subject removed his seat belt, leaned his torso toward the glove compartment, and continued to search for the registration. Officer C asked the Subject what he was doing, but the Subject did not respond. The Subject closed and then again opened the glove compartment. Officer C asked if he was looking for his registration, but the Subject did not respond.

The officers observed that the Subject appeared nervous and acted suspiciously. Officer D asked the Subject to exit the vehicle in order to better control his movement for tactical advantage. Officer D opened the driver's door, and the Subject exited the vehicle with his wallet in an unknown hand. Officer D and the Subject walked to the

rear of the Subject's vehicle, and the Subject placed his wallet upside down on the edge of the trunk lid, causing business and credit cards to fall onto the pavement. The Subject bent down to pick up the cards, and Officer D assisted by picking up two business cards from the pavement.

**Note:** During this time, neither Officers C nor D observed the Subject holding any other small items in his hands.

Once the fallen items were retrieved and the Subject picked up his wallet, Officer D pointed his hand and directed the Subject to move onto the sidewalk and face the exterior wall of a nearby business. The Subject complied and stood facing south approximately one foot away from the wall. Officer C, who stood approximately two to three feet east of the Subject's position, became the contact officer, while Officer D positioned himself approximately six feet northwest of the Subject's position, creating a triangle formation. Officer C directed the Subject to place his hands behind his head. According to Officer C, the Subject, while holding his open wallet in an unknown hand, placed both of his hands behind his head.

**Note:** According to Officer D, the Subject raised his hands to shoulder level, but did not place his hands behind his head.

The officers observed that the Subject appeared nervous and began looking to his left and right, consistent with determining a path of escape. Officer C, who was concerned the Subject would attempt to run, moved and positioned himself approximately three feet east of the Subject and offset to prevent his escape. As Officer D began to move toward the wall to position himself closer to the Subject, the Subject turned to his right (west) and threw the wallet and additional unknown small items he held in his other hand onto the sidewalk behind him near the curb.

The Subject then ran west at a full sprint on the sidewalk while looking north directly at Officer D as he ran. The Subject ran approximately five feet past Officer D before colliding with a metal encased telephone booth attached to the wall of the business, which the Subject apparently did not observe. The officers observed the Subject's face and the majority of his left torso impact with the metal casing during the collision. The Subject's torso bounced off of the metal casing which caused the Subject to turn with his back facing north toward the officers. The Subject, facing the telephone booth, grabbed onto the booth with both hands.

Officer D approached the Subject from behind and placed him in a bear hug, utilizing both arms around the upper part of the Subject's body to pin the Subject's arms to his sides. The Subject physically resisted by moving and twisting his body, causing Officer D's hands to strike and scrape against the metal casing, causing injury.

Officer D released his hold on the Subject believing the little finger on his left hand may have been broken from striking the metal casing. The Subject continued to face the telephone booth and held onto it with both hands. Officers A and B told the Subject to

stop resisting approximately two to three times. Officer D grabbed the Subject's right shoulder with his left hand and the Subject's right elbow area with his right hand, as Officer C grabbed the Subject's left wrist with his left hand, and used his right hand to control the Subject's left upper arm.

Both officers attempted to pull the Subject away from the telephone booth for approximately five to ten seconds. During this time, Officer D repeatedly told the Subject to stop resisting. The officers continued pulling, and the Subject released his grip on the telephone booth. The Subject continued to physically resist as he flailed both arms and attempted to break free from the officers' grasp. Both officers then utilized their hands and bodyweight to force the Subject to the ground to gain compliance.

The Subject came down to his knees and then onto his stomach and chest, with his head positioned approximately two feet north of the wall of the business. About this time, Officer F advised Officers A and B to assist Officers C and D because the Subject was attempting to escape. Officers A and B drove toward their position to assist them.

**Note:** Officer A was seated in the rear passenger seat of the vehicle for surveillance purposes, which allowed him quick concealment from passersby's. His view, as well as Officer B's view of Officers C and D was obstructed by parked vehicles.

Officer C maintained control of the Subject's left wrist and shoulder with his hands and attempted a twist lock to place the Subject's arm behind his back for handcuffing. The Subject continued to resist the officers by lifting his left shoulder off of the sidewalk and attempting to stand using his knees. Officers C and D continued to order the Subject to stop resisting, but he did not comply. The Subject turned the left side of his body toward Officer D by pushing off of the sidewalk with his left arm. Officer D placed his right knee and hands on the Subject's left shoulder and utilized bodyweight to push him down, while Officer C continued to control the Subject's left arm.

Officer D then used his right hand and elbow to press down on the Subject's right shoulder area to push the Subject down to the sidewalk. Officer D grasped the Subject's right wrist to facilitate handcuffing. The Subject continued to struggle and resist the officers. The officers forced the Subject onto his stomach. The Subject attempted to place his hands under his torso. Officer D forced the Subject's right hand behind his back, as Officer C forced the Subject's left hand behind his back with his left hand, and retrieved a pair of handcuffs from his equipment belt with his right hand. Officer C then handcuffed the Subject's left wrist, but was unable to secure the right wrist.

During this time, Officers A and B parked their vehicle behind the patrol unit. Both officers exited the vehicle wearing tactical vests embroidered with "Police" on both the front and rear sides. Air Support requested back-up on the Southwest base frequency. Officer A also requested back-up on the Wilshire base frequency.

Officer A saw the need for an additional set of handcuffs because the Subject's right wrist had not been secured. Officer A handed the handcuffs to Officer C, which he took with his right hand as he continued to control the handcuffs on the Subject's left wrist with his left hand. The Subject attempted to place his right wrist under his torso. Officers C and D connected the second pair of handcuffs to the right side of the first pair of handcuffs. Officer C grabbed the Subject's right wrist, forced it toward the small of the Subject's back, and completed the handcuffing.

Approximately ten seconds later, Officers C and D moved the Subject onto a seated position on the sidewalk, with his feet pointing north. The officers observed that the Subject was bleeding from his mouth, but the Subject did not complain of any other pain. Officer D told Officer C to request a rescue ambulance (RA). Officer A broadcast a Code Four at the location. Officer C requested a supervisor to respond.

Officer C requested an RA unit to respond to their location. During this time, Wilshire Area NED Detectives A and B arrived at the scene in response to the supervisor request. Detectives A and B met with the officers, canvassed the scene for any witnesses to the use of force, and Detective A took photographs of the Subject and the use of force scene.

Officer C told Officer A that the Subject had thrown unknown items on the sidewalk and directed him to the spot where the items were located. Officers A and B examined the items and recovered a plastic bindle containing 12 individually packaged baggies containing off-white pieces of a substance resembling cocaine base. Officers A and B conducted a pat-down search of the Subject's clothing for any additional contraband.

Wilshire Patrol Division Sergeant A arrived at the scene and assisted with the canvass of the scene. Sergeant B also arrived on the scene to assist.

Los Angeles Fire Department (LAFD) RA Unit responded to the scene to provide medical treatment for the Subject and Officer D. Officer D was treated at scene for the minor injuries to the top of his right hand and left pinky finger. The Subject complained of dizziness during his examination by firefighters. The Subject was transported from the scene to a nearby hospital.

Sergeant B interviewed Witness A located during the canvass. Witness A stated she exited the business where she works and observed the traffic stop conducted by Officers C and D, which to her appeared routine and without incident. Witness A went back inside the store, but then exited a few minutes later and observed Officers A and B speaking with the Subject. Witness B went back inside the store. A few minutes later, Witness A exited the store again and observed Officers C and D down on the sidewalk and the Subject was resisting them by flailing his body and attempting to flee from them. Witness A observed the officers handcuff the Subject and take him into custody.

Sergeant B conducted a follow up at the hospital and was informed that the Subject was going to be admitted for his injuries. Based on this, Sergeant B upgraded the

investigation to a categorical use of force (CUOF). Both Officers C and D were separated and monitored.

### **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 C and D's tactics to warrant a Tactical Debrief.

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

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

### **Basis for Findings**

#### **A. Tactics**

- In its analysis of this incident, the BOPC identified the following tactical considerations:
  1. Radio Broadcast/ Communications (Code Six)

Officers A and B notified Communications Division (CD) they were Code Six at the location as Officers C and D conducted their traffic stop. Officer A subsequently updated the location, however, Officers C and D did not broadcast their location.

Officers are given discretion to determine the appropriate time to notify CD of their location. In this circumstance, Officers C and D conducted a traffic stop on the Subject at the request of Officers A and B. Officers C and D heard Officers A and B's Code Six broadcast as they exited the vehicle, and believed Officers A and B had also placed them Code Six at the location.

Officer C recalled that as soon as the vehicle pulled over after his partner activated the lights, he heard Officer A going Code 6 over the air. At that point, Officer C exited his vehicle.

Although Officers C and D did not notify CD of their location, it was reasonable that Officers C and D believed Officer A broadcast Code Six for them as they conducted their traffic stop, due to the fact they were also present with them. The purpose of going Code Six is in the event the officers should need assistance, CD knows their location. In this instance, CD was aware of the NED officers' location and they were with Officers C and D.

Therefore, the BOPC concluded that this did not represent a substantial deviation from approved Department tactical training. Nonetheless, in an effort to improve future tactical performance during similar circumstances, this topic will be discussed during the Tactical Debrief.

## 2. Contact/Cover Roles (Positive)

Officers C and D utilized proper contact and cover roles during the stop, as they effectively switched roles as contact and cover officer.

Officer C recalled that he and his partner changed roles. Officer C was the cover officer and his partner was the contact officer. Officer D recalled that Officer C was much closer than he was because he took a step back in order to have a better view. Officer D also recalled that if any pedestrians were walking on the sidewalk, he would be in a position to observe them coming.

The BOPC took into account that Officers C and D have worked together for over five years as partners, and discussed tactics regularly. Each officer communicated during this incident and seamlessly transitioned their contact/cover roles as they were confident with each other's tactics. It is the BOPC's expectation that uniformed officers consistently communicate with one other to remain aware of the tactical situation in order to appropriately respond to a Subject's actions, as Officers C and D 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 will be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:

### 1. Communications/Radio Procedures

Prior to the onset of the Categorical Use of Force incident, Officer A contacted Officer C via his cellular telephone and requested that he conduct a traffic stop

on the Subject, rather than broadcast the request over Wilshire Area base frequency. Officers A and B are reminded that in order to maintain the tactical advantage and ensure all units in Wilshire Area are aware of the tactical situation, a broadcast over Wilshire Area base frequency could increase the likelihood of their operational success.

Additionally, Officer A requested a back-up on Wilshire Area base frequency, while in Southwest Area. Although this was reasonable under the circumstances, as the incident went into Southwest Area from Wilshire Area, consideration should have been given to having one officer remain on Wilshire Area base frequency and the other on Southwest Area base frequency. Therefore, in an effort to enhance future tactical performance, this topic will be discussed during the Tactical Debrief.

## 2. Required Equipment and Less Lethal Force Options

Officers C and D left their side-handle batons inside of the police vehicle upon exiting during the traffic stop. Additionally, although not required to be maintained on their person, the officers had a TASER inside of the vehicle and did not retrieve it prior to exiting. The officers are reminded that having required equipment and deploying a less-lethal force option can increase tactical effectiveness. This topic will 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 individual actions that took place during this incident.

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

## C. Non-Lethal Use of Force

- Officer C - Firm Grip, Physical Force, Takedown.
- Officer D - Firm Grip, Physical Force, Bodyweight, Takedown.

After the Subject collided with the metal encased payphone enclosure, Officer D observed the Subject with both of his arms wrapped around the phone booth, holding onto the phone booth. Officer D approached the Subject from behind and wrapped both of his arms around the Subject's upper torso to trap his arms

to his sides. The Subject physically resisted by moving and twisting his body, causing Officer D's hands to strike and scrape against the metal housing of the phone enclosure.

Believing the 'pinky' finger on his left hand may have been broken, Officer D released his hold on the Subject. The Subject continued to hold onto the payphone with both hands. Officer D grabbed the Subject's right shoulder with his left hand and the Subject's right elbow area with his right hand, as Officer C grabbed the Subject's left wrist with his left hand, and used his right hand to control the Subject's left upper arm. As this was occurring, Officer D repeatedly told the Subject to stop resisting.

Officers C and D attempted to pull the Subject away from the payphone enclosure for approximately five to ten seconds before he eventually released his grasp. The Subject continued to physically resist as he flailed both arms and attempted to break free from the officers' hold. Officer C controlled the Subject's left wrist with his left hand, and used his right hand to control the Subject's left upper arm, while Officer D grabbed the Subject's right shoulder with his left hand and the Subject's right elbow area with his right hand and took him down to the sidewalk.

The Subject came down to his knees, then onto his stomach and chest. Officer C maintained control of the Subject's left wrist and shoulder and attempted to place the Subject's arm behind his back for handcuffing. The Subject continued to resist and lifted his left shoulder off of the sidewalk and attempted to get onto his knees. Officer D continued to verbalize with the Subject to stop resisting, to which he did not comply.

The Subject turned the left side of his body toward Officer D by pushing off of the sidewalk with his left arm. Officer D applied bodyweight by placing his right knee and right elbow on the Subject's left shoulder, while Officer C continued to control the Subject's left arm. Officer D recalled that as they were pushing the Subject down, he attempted to get up again by lifting his left shoulder. Officer D did not know if the Subject was bracing himself with his left arm or not.

Officer D used his right hand and right elbow to hold down the Subject's right shoulder. Officer D grabbed the Subject's right wrist with his left hand. The Subject, while face down, continued to resist by placing his hands under his body. Officer D applied a firm grip and forced the Subject's right hand behind his back, as Officer C, with his left hand, forced the Subject's left hand behind his back, and retrieved a pair of handcuffs from his equipment belt with his right hand. Officer C handcuffed the Subject's left wrist, but was unable to secure his right wrist.

Officer B parked their vehicle behind Officers C and D's vehicle and exited. Officer A recognized that the officers might need an additional pair of handcuffs because the Subject's right wrist had not yet been secured.

Officer A handed his handcuffs to Officer C, which he took with his right hand as he continued to control the handcuff on the Subject's left wrist with his left hand. The Subject attempted to place his right hand and wrist under his body. Officer C connected the second pair of handcuffs to the already handcuffed left wrist. Officer C grabbed the Subject's right wrist with his right hand and applied a firm grip to pull the Subject's right wrist behind his back and completed the handcuffing.

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 C and D would reasonably believe the application of non-lethal force would be reasonable to overcome the Subject's resistance, prevent his escape and take him into custody.

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