

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

LAW ENFORCEMENT RELATED INJURY – 034-14

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Northeast	06/29/14		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	9 years, 1 month
Officer B	7 years, 6 months
Officer C	9 years, 6 months
Officer D	4 years, 3 months
Officer E	4 years, 9 months
Officer F	4 years, 5 months
Officer G	4 years, 3 months

Reason for Police Contact

While investigating a call of “shots fired,” officers encountered a possible subject (the Subject). The Subject was uncooperative, and a use of force occurred.

Subject(s)	Deceased () Wounded (X) Non-Hit ()
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Subject: Male, 32 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 May 12, 2015.

Incident Summary

Witness A called 911 and told the emergency operator that he heard gunshots in his apartment complex. Witness A further stated that he saw the man that lived in Apartment No. 1 with a gun in his waistband earlier in the day. Witness A believed that the man was the source of the gunshots.

Communications Division (CD) broadcast the call, and Officers A and B reported they would respond.

Seconds later, CD broadcasted updated information that the Person Reporting (PR) did not actually see the Subject fire the shot, but saw the gun in his waistband earlier in the day and then heard the shot just before calling 911. The PR reported that the Subject lived in Apartment No. 1.

Officers A and B arrived at the location and notified CD they had arrived at the location via their Mobile Digital Console (MDC). As Officer A stopped the police vehicle east of the location, he observed a subject matching the description of the radio call, enter Apartment No. 1. The individual, later identified as the Subject, was shirtless and holding a shirt in his hand. Upon entering, the Subject looked out of the living room window in the direction of Officer A. Officer A then used his flashlight and illuminated the Subject standing at the window. The Subject immediately stepped away from the window and walked toward the rear of the apartment.

Officer A informed Officer B that he had observed the Subject inside the apartment. Officers A and B exited their vehicle and approached Apartment No. 1. The officers noticed that the front door and the security door of the apartment were wide open. In addition, there were several individuals outside of the apartment in the driveway/courtyard area.

Officer A requested an additional unit. Officer A assumed a position at the threshold of the front door. Officer A unholstered his gun and held it in his left hand with his flashlight in his right hand. Officers A and B had a view of the interior of the apartment. Officer B stood outside of the front door directly behind Officer A. Officer B attempted to obtain information from the people outside, who were arguing in Spanish, about whether the person inside had a gun. According to Officer B, obtaining the information from those individuals was difficult.

Moments later, Officer A observed the Subject exit a rear room of the apartment and walk toward him. The Subject was now wearing the shirt that he was previously holding in his hand. Officer A alerted Officer B that the Subject was coming out. Officer B was still behind Officer A. Officer A holstered his gun and gave the Subject commands to stop, turn around, and put his hands behind his head. The Subject complied with Officer A's commands. The Subject turned around and interlocked his fingers behind his head.

Officer A approached the Subject in the living room and grabbed his fingers behind his head with his left hand. Officer A conducted a pat down search of the Subject's waistband and front pant pockets. Once the search was completed, Officer A decided to handcuff the Subject due to the nature of the radio call. Officer A removed his handcuffs with his right hand and attempted to place a handcuff on the Subject. The Subject quickly turned around and advanced toward Officer A. The Subject grabbed the open ratchet of the handcuff with his left hand while Officer A maintained control of the chain connecting the two handcuffs with his right hand. Officer B, still standing behind Officer A, observed the Subject's actions and immediately assisted Officer A.

As Officer A and the Subject struggled for control of the handcuffs, Officer A squatted down in front of the Subject and wrapped his arms around his upper thighs. Officer A pushed his shoulders and moved his body weight forward to take the Subject to the floor and onto his back. The Subject continued struggling and swinging his arms and struck Officer A on the left side of his head. Officer A requested a back-up unit via his radio.

Officer A maintained control of the handcuff chain while he was on the Subject's upper body. The Subject continued to struggle with Officer A, which caused the handcuff chain to twist on Officer A's right ring finger, causing pain. Officer A was unable to remove the handcuffs from the Subject's grasp and subsequently punched him in the face two times with his left hand. Officer B attempted to remove the Subject's right wrist from the handcuffs, which he was holding with both hands and was unable to do so. Officer B then punched the Subject three to four times in the face with his left hand, which appeared to have no effect. The Subject maintained a grasp on the handcuffs and his strength did not diminish. Officer B then deployed his PR24 baton; he drove the tip of the baton into the Subject's shoulder three times. The baton strikes appeared to have no effect on the Subject as he continued to grasp the handcuffs. Officer B secured his baton to his belt and grabbed the Subject's right wrist again to gain control of the handcuffs, but was unsuccessful. Officer B redeployed his baton and used the long portion of the baton and struck the Subject in the ribs three to four times, trying to get him to release the handcuffs. The Subject released the handcuffs and Officer B secured his baton to his belt.

The Subject then moved his body upward and tried to stand up but did not completely get onto his feet. Instead, Officers A and B placed their hands on his wrists and pushed him off balance. The Subject went down onto the ground in a seated position in the northwest corner of the living room. By this time, Officers A and B were extremely fatigued and out of breath from struggling with the Subject. Officers A and B then opted to hold the Subject down by pushing his upper back and head down between his legs with their body weight, until additional units arrived.

As Officer A was holding the Subject down, he felt the weight of his holster leave his left leg. The Subject had grabbed the lower portion of Officer A's swivel holster with his right hand and pulled it toward him. Officer A quickly grabbed the holster back from the Subject with his left hand and pulled it away from him. Officer A repositioned himself to

minimize exposure to his firearm and continued to hold the Subject down with his body weight.

As a result of the 'help' call, Officers C, D, E and an additional officer, arrived at the scene to assist. The officers observed that Officers A and B were fatigued and needed their assistance.

The Subject was still struggling with the officers by kicking and twisting his torso, trying to get away. Officer B told the officers they needed a TASER. Officer E was in possession of a TASER and, due to the close quarters and close proximity of the officers, removed the probes cartridge from the TASER and handed it to Officer C.

Officers A and B began to release their control of the Subject. Officer D initially grabbed the Subject's legs and then transitioned to the Subject's right arm, as Officer E grabbed the Subject's left arm. The officers intended to move the Subject from his seated position onto his stomach and take him into custody.

Shortly thereafter, several additional officers arrived to assist, including Officers F and G.

Meanwhile, the officers maintained a position of cover at the hallway and directed their attention to the closed bedroom doors. Another officer unholstered his gun and took a two-hand barricaded position on the right side of the hallway.

Officer C told the Subject to stop resisting or he would be tased. The Subject continued to struggle and Officer C applied a five second drive stun to the Subject's left thigh. The Subject's leg tightened and he continued to resist. The Subject pushed the TASER away from his body, and the shock made contact with Officer D's left knee. The Subject continued to kick as the officers tried to turn him onto his stomach. Officer C then gave the Subject two more five second drive stuns to the left side of his stomach. However, the Subject appeared unaffected and continued to kick. It was at that time that Officer C believed the Subject kicked Officer D. Officer C gave the Subject another five second drive stun to his stomach area, but the Subject did not react and continued to struggle with the officers.

The Subject managed to get onto his feet and pulled the officers onto a couch located against the north wall. The officers again told the Subject to stop resisting, at which time Officer C gave another a five second drive stun to the Subject's upper left shoulder area. The Subject screamed but continued to resist. The Subject pushed himself off the couch and onto the floor. The Subject continued to kick and resist. At that point Officer C believed the TASER had lost its charge and handed it to Officer E.

Officer G approached the Subject's left side, grabbed his belt and pulled him toward his direction, attempting to gain control of him. The Subject continued to struggle, and Officer G struck the Subject three times in the left rib area with his right knee. The officers then rolled the Subject over onto his stomach; however his hands were tucked

underneath his body. The Subject continued to kick at the officers; Officer F approached the Subject and grabbed both his legs with his hands, placing his body weight onto his legs and attempting to control his legs. The Subject continued to move his legs, at times lifting Officer F off the floor.

The officers tried to get the Subject's left arm from underneath his body. Officer E gave the Subject a five second direct stun to his left rib cage area under his arm pit. The Subject's arm came out from underneath him, and Officer D placed a handcuff on the Subject's left wrist. The Subject's right arm was still tucked underneath his body. Officer B then deployed his PR24 baton and, with the assistance of Officer C, placed the long extended portion between the inside of the Subject's right elbow and his rib cage and pried his arm out from underneath his body. Officer D then handcuffed the other wrist.

The Subject continued kicking with his feet, at which point Officer D placed his right knee on the Subject's right hamstring and, with his body weight, attempted to control his legs. Officer F placed a hobble restraint on the Subject's legs. Officer D stood up and placed his right foot on the Subject's right calf to control his leg. Officer D took the hobble restraint from Officer F and held it until the Subject calmed down and stopped fighting. Officer C then rolled the Subject over to his right side. Within seconds of being handcuffed, the Subject stopped resisting.

The Subject was later transported to the hospital, where it was discovered he had sustained an orbital fracture to his left eye.

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 through G's tactics to warrant a Tactical Debrief.

B. Drawing/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 through G's non-lethal use of force to be in policy.

D. Less-Lethal Use of Force

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

Basis for Findings

A. Tactics

- In its analysis of this incident, the BOPC considered the following:

1. Radio Communications / Back-Up versus Help Call

Officers A and B did not broadcast a backup or help call for additional resources upon observing a possible shooting subject.

When circumstances warrant an emergency response of additional personnel a Help or Back-Up broadcast enhances the possibility of operational success. Upon observing the Subject running into the apartment, a Back-Up or Help broadcast would have ensured adequate resources were responding to the incident thereby enabling effective containment and providing a level of control. Within moments, Officer A conducted an additional unit broadcast, thereby ensuring the response of additional resources to the location.

In evaluating Officer A's decision to conduct an additional unit broadcast, the BOPC discussed that a back-up call would have been preferred. Nonetheless, Officer A's additional unit broadcast did not substantially deviate from approved Department tactical training. However, Officers A and B are reminded of the importance of a Back-up or Help call broadcast when encountering a possibly armed subject. Consequently, this topic will be discussed during the Tactical Debrief.

2. Utilizing Cover

Officers A and B approached the front door of the apartment without the benefit of cover.

Officers are trained to utilize cover during tactical incidents involving armed subjects. Although there is no requirement that officers utilize cover, it is the BOPC's expectation that officers continually evaluate their tactical options to ensure a successful outcome. Officers A and B left the cover of their police vehicle and moved to a position at the front door of the apartment. In this case, as the officers pulled up they observed the Subject enter the apartment. As they

made their approach they observed a crowd of people gathered in the courtyard. Therefore, it was reasonable for them to move to the apartment door in an attempt to contain the subject and simultaneously obtain pertinent information from the residents of the apartment complex. Although Officers A and B momentarily left the cover of their police vehicle, their decision enhanced their tactical options.

3. Approaching a Possibly Armed Subject

Officer A entered the apartment and approached a possibly armed subject without Officer B.

Due to the inherent dangers associated with confronting a possibly armed subject, officers are trained to utilize cover and concealment with the added benefit of a partner officer to provide cover. The ability to maintain the tactical advantage ensures an optimal outcome when dealing with possibly armed subjects. In this circumstance, Officer A was aware that Officer B was in close proximity and the Subject appeared to be compliant with Officer A's directions. Consequently, Officer A stepped into the apartment a few feet and initiated a pat-down search on the Subject.

4. Hobble Restraint Device Procedures

The Subject was handcuffed, hobbled and quickly placed on his side.

In evaluating the officers' actions, the BOPC took into consideration that this incident involved an ongoing physical altercation in which the officers became extremely exhausted. The officers recalled the physical strength the Subject displayed during the incident and the efforts of utilizing non-lethal and less-lethal force to handcuff the Subject.

Upon being handcuffed, the Subject continued to fight with his feet. As a result, the Hobble Restraint Device was applied while Officer D utilized his foot to control his movement. Within 20 to 30 seconds, the Subject was placed on his side and monitored.

5. Equipment (Batons)

Officers A, C, D, E, F and G were not equipped with their side-handle batons or a collapsible asp. Officers A, C, D, E, F, and G are reminded to have the required equipment during their patrol duties.

Officers A, C, D, E, F and G were not equipped with a HRD. Another officer handed his HRD to Officer F and the Subject was then hobbled to control his legs.

6. Punches to Bony Areas

Officers A and B punched the Subject during the physical altercation. Officers A and B are reminded when attempting to gain control of an aggressive/combative individual, the likelihood of success is influenced by an officer's ability to properly apply the appropriate force option, including strikes and kicks.

7. TASER Deployment

Officers C and E administered the TASER in the direct stun mode. The officers are reminded that the direct stun mode causes localized pain to the subject and the probe mode has the ability to cause neuro-muscular incapacitation.

In conclusion, the BOPC found Officers A through G's tactics to warrant a 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.

Therefore, the BOPC found that Officers A through G's tactics warrant a Tactical Debrief, to ensure the specific identified topics are covered.

B. Drawing/Exhibiting

- Officer A responded to an Assault with a Deadly Weapon (ADW) Shots Fired radio call and observed the Subject enter Apartment No.1. Officer A drew his service pistol and held a position at the threshold of the door.

The BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would reasonably believe that the Subject was possibly armed. An officer would then believe that there was a substantial risk and that the situation may escalate to the point where deadly force may be justified.

C. Non-Lethal Use of Force

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

- **Officer B** - Baton Strikes, Punches and Physical Force.
- **Officer C** - Physical Force.
- **Officer D** - Bodyweight and Physical Force.
- **Officer E** - Physical Force.
- **Officer F** - Firm Grip, Bodyweight and Hobble.
- **Officer G** - Physical Force and Knee Strikes.

Officer A attempted to handcuff the Subject when he suddenly turned and grabbed the manacle portion of the handcuff. Officer A subsequently administered a takedown of the Subject.

Officer B entered the apartment, and Officer A conducted a back-up request. The Subject continued struggling and swinging his arms and struck Officer A on the left side of his head. Officer A held the chain portion of the handcuff as the struggle continued, at which time Officer A twisted his fingers thus causing him to be injured. Officer A was unable to gain control of the handcuffs from the Subject. Consequently, Officer A administered two punches to the Subject's face.

Meanwhile, Officer B administered three to four punches to the Subject's face in an effort to get the Subject to release his grip on the handcuffs without success. Consequently, Officer B drew his side-handle baton and drove the tip of the baton to the Subject's shoulder three times.

Officer B secured his baton, and utilized a firm grip to grab the Subject's hand. Officer B was unable to break the Subject's grasp on the handcuff and again removed his baton and administered three to four strikes to the Subject's rib cage area. The Subject then released the handcuff, at which time Officer B slung his baton.

Officers A and B stated they were fatigued from the physical confrontation and utilized physical force and bodyweight to hold the Subject down until the additional units arrived.

Note: During the physical altercation, the Subject attempted to grab the holster of Officer A's service pistol. Officer A was able to move and secure his service pistol from the grasp of the Subject.

Officers C, D, E and another officer entered the apartment and observed Officers A and B attempting to control the Subject. The Subject then became more aggressive and started to kick and twist to escape the hold of Officers A and B. Officer B requested a TASER, at which time Officer C administered multiple TASER activations. Officers A and B released their control of the Subject and Officer D utilized physical force to control the Subject's right arm, while Officer E utilized physical force to control the Subject's left arm.

Officers F, G, and two other officers arrived and entered the apartment. The Subject continued to fight with the officers and was still refusing to comply with any of the officer's orders. Officer G grabbed the Subject's belt and utilized physical force to pull him toward his direction. Officer G subsequently administered three knee strikes to the Subject's left rib area to overcome his resistance.

The Subject was positioned on his stomach, but the Subject placed his hands underneath his body as he continued to kick at the officers. Consequently, Officer F utilized physical force to and bodyweight to control the Subject's legs.

At the same time, Officer E administered one TASER activation. Consequently, the Subject released his left arm, and Officer D was able to handcuff his left wrist. Officer B then utilized his baton, with the assistance of Officer C, and placed the long extended side of the baton between the inside of the Subject's right elbow and rib cage. Officer B utilized the baton to pry the Subject's right arm from underneath, him at which time Officer D handcuffed the Subject's right wrist.

The Subject continued to kick at the officers, and Officer D utilized bodyweight by placing his right knee on the Subject's right hamstring to overcome the Subject's resistance. Officer F utilized the Hobble Restraint Device on the Subject's legs while Officer D placed his right foot on the Subject's right calf to control his leg. Officer C rolled the Subject onto his right side.

After a thorough review of the incident, the BOPC determined that officers with similar training and experience as Officers A through G would believe the application of non-lethal use of force would be reasonable to overcome the Subject's resistance and prevent further injury and/or escape.

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

D. Less-Lethal Use of Force

- **Officer C** – Five TASER activations.

Officer C entered the apartment and observed Officers A and B fatigued and fighting with the Subject. Officer C advised the Subject of the TASER warning (Use of Force Warning). Subsequently, Officer C administered the TASER, in the direct stun mode, to the Subject's left thigh.

Officer C observed that the TASER had no effect on the Subject. The Subject continued fighting and kicking at the officers, and Officer C again warned him of the TASER and administered two direct stun activations to the Subject's rib cage or stomach area.

The Subject kicked Officer C's partner [Officer D] at which time he administered one additional direct stun TASER activation to the Subject's stomach.

The Subject continued to resist the officers. Consequently Officer C administered one direct stun TASER activation to the Subject's stomach area.

Officer C then believed the TASER was not effective and had lost its charge. Accordingly, he gave the TASER to Officer E.

- **Officer E – One TASER activation.**

As the Subject continued to fight and kick at the officers, Officer E requested the TASER. Officer E then administered one direct stun TASER activation to the Subject's rib cage area.

Consequently, the BOPC looked carefully at Officers C and E's decision to utilize a TASER to overcome the Subject's resistance and affect an arrest. Accordingly, the BOPC noted that both officers were involved in a prolonged struggle wherein fatigue, operational environment and the lack of options were evaluated. In this circumstance, Officer C utilized the TASER in various locations while continually evaluating its effectiveness and providing adequate warnings prior to utilizing the TASER.

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 six applications of the TASER to stop the Subject's actions was reasonable and would have acted in a similar manner.

Therefore, the BOPC found Officers C and E's less-lethal use of force to be objectively reasonable and in policy.