

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

OFFICER-INVOLVED SHOOTING – 082-12

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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North Hollywood	11/24/12		
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Officer(s) Involved in Use of Force	Length of Service
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Officer D	3 years, 8 months
Officer E	5 years, 1 month
Officer F	5 years, 2 months
Officer G	4 years, 9 months
Officer H	7 years, 3 months
Officer I	3 years, 11 months
Officer J	6 years, 5 months

Reason for Police Contact

A witness called 911 upon observing the Subject break into a dental office building. Officers responded to the scene, and a short pursuit occurred. Subsequently, a categorical use of force occurred as the officers took the Subject into custody.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
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Subject, male, 19 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 suspect 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 3, 2014.

Incident Summary

Witness A observed the Subject, who was wearing dark clothing, climb onto the rooftop at a location and break into the dentist's office through the roof. Witness A called 911 and reported the break in. From Witness A's second story residence, he saw the Subject break the dentist's office door from the inside and exit through the hole in the glass door, while holding an aluminum baseball bat.

Communications Division (CD) broadcast "Any North Hollywood unit, [...] su[bj]ect there now[.] Su[bj]ect is male unknown white shirt, black pants, on the roof of the location attempting to break in."

Uniformed Police Officers A and B asked CD if they were still holding the Subject. In response to their request, CD assigned the radio call Officers A and B. CD also broadcast additional details about the Subject – that he was in a dentist's office, which he had entered through the roof and was wearing a black sweater, white T-shirt, and black pants.

Uniformed Police Officers C and D heard the broadcast and began driving toward the location. In addition, Officers E and F heard the broadcast and pulled into the strip mall parking lot. Officers G and H also heard the broadcast and began driving toward the location.

Officers E and F observed the Subject walking east in front of a store, matching the description that CD had given. Officers E and F placed themselves over the radio at the location of the possible subject, who began running east through the strip mall in front of a store.

Officers E and F followed the Subject in their vehicle followed by Officers C and D. The Subject then turned at the southeast corner of the strip mall, where a restaurant is located, and then ran north through the parking lot along the east wall.

As the Subject approached the northeast corner of the restaurant, he came upon a white minivan, that was parked in the last parking stall near the northeast corner of the building. Officer E noticed that the Subject was carrying a red metal pipe, approximately two feet long, in his hands as he ran from them. The Subject ran around the back of the minivan and climbed the chain link fence at the rear of the restaurant.

Officers E and F parked their vehicle facing west, on the east side of the chain link fence, and exited their vehicle. Upon exiting their vehicle Officer F unholstered his firearm and held it in a two-hand low ready position. The Subject used the front of the van to stand on and climbed over the chain link fence. Officers E and F both yelled for the Subject to stop. The Subject ignored the officers' commands and continued running west behind the store, through the alley, into the darkness. Officer F, believing they were going to climb the fence and chase after the Subject holstered his firearm. Officer

E yelled out to Officers C and D that the Subject was running west behind the strip mall and motioned with his hand, waving in a westerly direction.

Officers C and D negotiated a U-turn and drove west, along the front of the strip mall, to the rear of the strip mall, on the west side. They stopped facing east approximately eight feet from the chain link fence behind the store, with their headlights on, and exited.

Hearing Officers E and F broadcast that the Subject was running west behind the store, Officers G and H entered the parking lot on the west side of the strip mall and drove around to the west side of the store. Officers G and H followed Officers C and D parked behind them, with their headlights on, facing east, and exited their vehicle.

Simultaneously, Officer F moved to the middle of the east side fence and due to the fact that the fence was secured with a chain and lock, officers were unable to gain access. Officer E positioned herself at the east fence next to the right front quarter panel of the white minivan while giving direction to the other units responding to the west side.

As Officers C, D, G and H approached the chain link fence, they saw the Subject attempt to climb over a block wall on the north side of the alley; however, he was unable to make it over the wall. Officer H ran back to his vehicle, retrieved the beanbag shotgun from the trunk and ran back over to the gate where the other officers were located.

Officers C, D, G and H were unable to gain access to the loading dock area where the Subject was, because there was a chain and lock on the fence that prevented them from opening it. Officer C noticed there was slack in the chain, which created a gap between the two gates. Officer C pushed on the fence to allow enough room for officers to squeeze through and gain access into the loading dock area. Officer D squeezed through the gate followed by Officer G. The Subject turned and walked east through the loading dock area and away from Officers D and G, approximately 15 to 20 feet into the loading dock area.

Officer D stopped near the top of the loading dock ramp and, observing that the Subject was not holding anything in his hands, unholstered his X26 TASER. Officer D held it in his left hand; however, as the Subject walked toward them, he switched the TASER to his right hand. Officer G positioned himself approximately 24 feet northeast (left) of Officer D, next to the block wall. Officer D yelled at the Subject, "*Put your hands up,*" several times, but the Subject ignored his commands. The Subject paced back and forth, then bent down and picked up a piece of pallet plank. The plank was approximately three to four feet in length by four inches in width and had a small piece of plastic on the end of it. The Subject held the plank with his left hand near the plastic. The Subject turned and began walking toward Officers D and G. Seeing that the Subject had armed himself with the plank, Officer D holstered his TASER, unholstered his firearm and held it in a two-hand low ready position with his finger along the frame.

Note: Officer D thought that the Subject picked up a two by four piece of wood and held it in his right hand, as if he were swinging a baseball bat. Officer D said that the Subject completed his swing all the way through.

Officer C said that the Subject picked up a two-by-four. Officer C said that Officer D told the Subject, "Turn around. Put your hands above your head." Officer C described the Subject's two-by-four as being serrated at one end.

Simultaneously, Officer G unholstered his pistol, held it with two hands and aimed at "center mass" of the Subject as he approached. Officers D and G yelled at the Subject to drop his weapon several times. The Subject ignored the officers' commands and continued walking toward them at a brisk pace. As the Subject approached, Officer G heard him say, "F'ck you, Trece" while holding his right hand in the air displaying a possible gang sign. According to Officer D, the Subject paced back and forth and stuck his chest out as if he were challenging them to a fight.

Note: Officer F heard Subject say, "F'ck you," and "Sol Trece."

Witness B heard, "F'ck you, F'ck you. F'ck you bitch," from his bedroom window followed by a single gunshot.

Witness C heard two or three different voices yelling, "F'ck you." One of the voices he heard was a female's voice.

Officers D and G yelled, "Drop the weapon," at the Subject; however, the Subject continued advancing toward them, now with the plank down by his side. The Subject approached to within three to four feet of Officer G, held the plank with two hands, cocked his arms back around the left side of his body, and was holding it at a 45-degree angle as he swung the plank upward from left to right, in the direction of Officer G's head. Officer G feared that he was going to be struck in the head, raised his firearm, pointed it at the Subject's chest, leaned to his right, and brought his right shoulder up slightly in front of his face to avoid being struck by the plank. Officer G then fired one round in a southeast direction, to stop the threat, striking the Subject in the left shoulder area.

Officer F saw Officer G unholster his firearm as the Subject raised the plank above his head in a swinging motion. Officer F recognized that he and his partner were in a possible crossfire situation and told Officer E to get behind cover. Officer E moved from the right quarter panel of the minivan and positioned himself behind the officers' police vehicle and unholstered his firearm, holding it in his right hand, with his finger along the frame, next to his right leg. At the same time, Officer F took cover behind the parked white minivan, Officers E and F heard the gunshot as they moved to cover.

Note: Officer G said that Officer D told the Subject to, "Drop the weapon."

Officer H said that the Subject picked the stick up with his right hand, swung the stick from right to left at Officer G. Officer H described the Subject as, "following through" with his swing before hearing a loud bang.

Officer H thought the Subject was swinging the stick at both Officers D and G.

Officer E heard officers yelling, "Put your hands up, drop what you have."

Witness D heard a male officer's voice yelling, "He fired a shot," or "He shot a fire, he shot a fire, be careful."

According to Officer G, after the Subject was struck by the gunfire, he jerked backward and his left arm went limp. The Subject then turned and ran east approximately five to seven feet before dropping the stick. The Subject continued running east through the loading dock area. Officers G and D holstered their firearms and chased after the Subject yelling, "Stop." According to Officer D, he was approximately three to five feet in front of Officer G as they chased after the Subject.

As the Subject ran east through the loading dock, Officer E told Officer F that the Subject was coming in their direction. The Subject jumped onto the east fence and began climbing over. Officers E and F holstered their firearms and approached the chain link fence in an effort to grab onto the Subject. As the Subject reached the top of the fence, he placed his right leg over the top and straddled the fence with his head facing north. Officer E reached up with his left hand and grabbed onto the Subject's sweatshirt near his right shoulder. He attempted to place his right hand on his neck to pull him over the gate; however, the Subject punched Officer E on the top of his head approximately eight to 10 times with his right hand. Officer E yelled at the Subject to get down and stop resisting while striking him two times, on an unknown part of his body, with his closed right fist. Simultaneously, Officer F reached up and grabbed onto the Subject's right pants pocket with his right hand and the Subject's right knee with his left hand while yelling at the Subject to get down. The Subject ignored the officers' commands and continued to punch Officer E on top of his head and yell, "F'ck you pig, f'ck you."

Note: Officer F thought the Subject punched Officer E in the head three to four times.

Witness D heard the Subject yell, "F'ck you, Sur Trece," three times while kicking at an officer.

While the above was occurring, Officer H, who was not able to fit through the gate opening with the Beanbag shotgun, placed it on the ground, leaned it against the fence and slipped through the gate opening, followed by Officer C. Officers C and H ran east through the loading dock area to assist Officer D and G.

Note: According to Officer H, he did not know who recovered and secured the beanbag shotgun from the ground. Investigators learned that the beanbag shotgun was later secured by an unknown officer.

As Officers E and F struggled with Subject, Officers D and G reached the east fence and grabbed onto him. Officer G grabbed onto the Subject's sweatshirt with both hands. He placed one hand near the Subject's upper back and his other hand near the right side of his body and pulled the Subject toward him to bring him down off of the gate. Officer D reached up, grabbed onto the Subject's sweatshirt and pulled him while telling the Subject to stop resisting. Realizing that Officers D and G were pulling on the Subject from their side of the fence, Officer F told Officer E to push him back over the fence toward Officers D and G. Officers D and G then pulled the Subject off of the fence and placed him face down on the ground.

According to Officer G, the Subject began kicking his legs and thrusting his body forward in an attempt to get away from him and Officer D. The Subject placed his right hand under his upper body and his left arm alongside his body. Officer D continued to tell the Subject to stop resisting while holding onto him. Officer G positioned himself on the Subject's left side and placed his right knee on the back of the Subject's right thigh and his left knee on the ground. Officer D positioned himself on the Subject's right side and placed his right knee on his right upper back and his left knee on his right leg.

Simultaneously, Officer G used his left hand to push down on the Subject's left wrist, while reaching over him and grabbing onto the right arm of his sweatshirt with his right hand. Officer G pulled on the Subject's right sweatshirt arm as Officer D grabbed onto the Subject's right wrist with both hands and pulled his arm out from under his body. As Officer D placed the Subject's right arm behind his back, the Subject attempted to pull his arms apart to prevent from being handcuffed. Officer D told Officer G to handcuff him. Officer G placed handcuffs on the Subject's right wrist then his left wrist. Officer G then yelled out for someone to secure the stick that the Subject had swung at him. According to Officer D, after being handcuffed, the Subject yelled out, "You shot me," as well as several profanities.

As Officers C and H arrived at the east side of the loading dock area, the Subject was already handcuffed and lying face down. Uniformed Officer I arrived on scene and ran over to assist Officers D and G control the Subject, who was still attempting to move his arms and kick his feet. According to Officer I, the Subject was yelling, "I hate cops," and "South side," while attempting to spit at officers. Officer I placed both of his hands on the Subject's lower back and applied body weight to prevent him from moving. At one point Officer I placed his left hand next to the Subject's left cheek to prevent him from spitting on officers. Simultaneously, uniformed Police Officer J arrived on the west side of the loading dock area. Officer J exited his police vehicle and ran to the eastside of the loading dock area to assist officers with the Subject, who was still moving around on the ground.

Note: Officer H said that Subject was yeling, "MS," or "Salvatrucha," and using his hands to manipulate a sign.

Officer C said that Officer G was on top of the Subject holding him down with his hands. Officer C said Officer D was grabbing the Subject's legs.

According to Officer E, the Subject was taken off of the gate and placed on his feet before she let go of him. Officers D and G placed the Subject on his back. The Subject braced his feet on the ground with his knees up and his elbows up and appeared to be fighting with officers. Officers D and G were telling the Subject to turn over; he ignored their commands and stayed on his back.

Officer J said that Officer I's knee(s) were on the Subject's right shoulder blade area. Officer J said that Officer G was holding onto the Subject's right arm. Officer J said that Officer D was holding onto the Subject's left arm.

Officers I and J's partners were not involved in the handcuffing of the Subject.

The Subject continued to kick his legs and move his shoulders back and forth. Officer H placed his left knee on the Subject's back and his right knee on one of the Subject's legs to prevent him from kicking officers. As Officer J reached the Subject, he squatted down and placed his right knee and both hands on the Subject's left shoulder blade to control his movement. According to Officer I, the Subject continued to move around on the ground for approximately 10 to 15 minutes until the Rescue Ambulance (RA) arrived.

Officers subsequently broadcast that the Subject was in custody and that a supervisor and two RA's were needed at the location, given that the Subject was suffering from a gunshot wound to the chest.

Note: It was later determined that the Subject had sustained a gunshot wound to his left shoulder.

Los Angeles Fire Department personnel arrived on scene to treat the Subject for his injuries. The Subject was subsequently transported to a local hospital, where he was treated for a gunshot wound to the left shoulder.

Patrol Sergeant A obtained a Public Safety Statement from Officer G.

Patrol Sergeant B transported Officer E to another hospital where he received treatment for a contusion to the top of his head and was subsequently cleared for full duty.

The next day, Sergeant C transported Officer G to the Area Jail Dispensary for medical treatment. Officer G sustained a small laceration on the inner palm area of his right hand while taking the Subject into custody.

FID reviewed all documents and circumstances surrounding the separation, monitoring and the admonition not to discuss the incident to officers prior to being interviewed by FID investigators. All protocols were followed.

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 and 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 unanimously made the following findings.

A. Tactics

The BOPC found Officers, D, E, F, G, H, I and J's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officers D and G's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC found Officers D, E, F, G, H, I and J's non-lethal use of force to be in policy.

D. Lethal Use of Force

The BOPC found Officer G's 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. Apprehension vs. Containment

Officer D utilized the opening created by Officer C to gain entry into the alley area. Officer G followed Officer D into the area in an attempt to arrest the Subject.

Officers are reminded that a perimeter may be used to contain a subject in a specific area, thus making apprehension more likely. In this circumstance, the Subject was contained in an area where adequate resources were available to safely monitor his movements. Furthermore, Officers D and G were afforded the opportunity of time which could have potentially enhanced their tactical options.

Officers are given discretion when considering their tactical options while attempting to conduct an arrest. Tactical options are conceptual in nature, incident specific and situational driven. Accordingly, in evaluating Officers D and G's decision to enter the secured area that contained the Subject, the Use of Force Review Board (UOFRB) determined that various tactical options were available. As such, Officers D and G's decision to apprehend the Subject did not constitute a substantial deviation from approved Department tactical training.

Nonetheless, Officers D and G could benefit from a review of the various tactical options and considerations to handle a similar situation in the future. Consequently, this was a topic of discussion at the Tactical Debrief.

- The BOPC additionally considered the following:
 1. Equipment - Officer G left his baton in his police vehicle. Additionally, Officer G was not equipped with a collapsible baton. Officer G is reminded of the importance of being properly equipped while performing field duty. This was also a topic of discussion at 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 (see Additional Tactical Debrief Topic) 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.

The BOPC directed that Officers D, E, F, G, H, I and J attend a Tactical Debrief and that the specific identified topics also be covered.

B. Drawing/Exhibiting

- Officers D and G entered a locked gated area while attempting to take a burglary subject into custody. Officers D and G observed the Subject attempting to flee into the loading dock area of a commercial building. Officers D and G ordered the Subject to raise his hands, at which time he failed to comply and armed himself with a 3 to 4 foot long wooden plank. Officer G, fearing that the situation could rise to the level of deadly force, drew his service pistol. Additionally, Officer D, upon observing the Subject armed with the aforementioned plank, feared that the situation had risen to the level where deadly force may be justified. Subsequently, Officer D drew his service pistol.

The BOPC determined that an officer with similar training and experience as Officers D and G, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation might escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers D and G's drawing and exhibiting of a firearm to be in policy.

C. Non-lethal Use of Force

- **Officer D - Physical Force and Bodyweight**

Officer D utilized physical force to pull the Subject from the fence. Upon taking the Subject to the ground, Officer D utilized bodyweight with both hands to control the Subject's right hand. Officer D recalled that when he had the Subject facedown, his right arm was kind of somewhat tucked into his waistband area and then he had both the Subject's arms on his right hand.

- **Officer G - Physical Force and Bodyweight**

Officer G utilized physical force to remove the Subject from the fence. Additionally, Officer G placed his left knee onto the Subject's left back thigh and utilized bodyweight to control the Subject's movements while attempting to complete the handcuffing process.

Officer G recalled being able to see the Subject swinging and punching at one of the other officers. The officers had to drag him down off the chain link fence because he was hanging onto the fence and swinging at the officers simultaneously. Officer G indicated that his right knee was on the Subject's left back thigh.

- **Officer E - Physical Force and Punches**

Officer E utilized physical force to pull the Subject from the fence. The Subject subsequently struck Officer E on his head approximately eight to ten times with a

closed fist. Officer E subsequently struck Subject twice, on an unknown part of his body, with a closed fist.

Officer E indicated he was trying to prevent his face from being struck by blows from the Subject being above him.

- **Officer F - Physical Force**

Officer F utilized physical force to gain control of the Subject and remove him from the fence to affect an arrest. Officer F recalled that his partner grabbed the Subject's right shoulder area while he grabbed the Subject's right front pocket area and his right knee area in an attempt to grab him down from the fence.

- **Officer H - Bodyweight**

Officer H responded to assist Officers D and G control the Subject, who was handcuffed on the ground. Officer H observed that the Subject continued to resist by kicking. Officer H placed his left knee on the Subject's leg and his right knee on the Subject's back to prevent him from kicking. Officer H recalled he placed his right knee on the Subject's back and his left knee on his leg because the Subject was still trying to kick and was continuing to resist even though he was handcuffed.

- **Officer I - Bodyweight and Physical Force**

Officer I observed unidentified officers attempting to control the Subject while he resisted on the ground. Officer I utilized bodyweight by placing both hands on the Subject's lower back to control him while on the ground. The Subject continued to resist by kicking and spitting, at which time Officer I utilized physical force to control the Subject's head to prevent him from spitting. Officer I recalled using his hands to hold the Subject's lower back down, and with an open palm, placed his hand next to the left side of his cheek. When the Subject turned his face towards him, he would not spit at me.

- **Officer J - Bodyweight**

Officer J observed Officer D, G and I struggling to control the Subject while he was being handcuffed. Officer J utilized bodyweight by placing his right hand on the Subject's back in an attempt to control the Subject while he was being handcuffed.

Based on the totality of the circumstances, officers with similar training and experience as Officers D, E, F, G, H, I, and J would reasonably believe that the use of non-lethal force in order to overcome the Subject's resistance and take him into custody would be justified.

In conclusion, the BOPC found Officers D, E, F, G, H, I, and J's application of non-lethal force to be objectively reasonable and in policy.

D. Lethal Use of Force

- **Officer G** – (pistol, one round)

Despite numerous verbal commands given by Officers D and G, the Subject refused to comply with the officers' commands to drop the weapon. The Subject held the wooden plank with two hands at an approximate 45 degree angle while cocked back as if ready to swing. Subsequently, the Subject swung the plank at Officer G. Officer G, fearing for his safety, fired one round at the Subject's chest.

When asked regarding his perception when he fired, Officer G indicated that "the stick" was going to hit him in the head.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer G would reasonably believe that a subject armed with a 3 to 4 foot wooden plank posed an immediate threat of serious bodily injury or death and that the use of lethal force would be justified.

In conclusion, the BOPC found Officer G's use of lethal force to be objectively reasonable and in policy.