

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

LAW ENFORCEMENT-RELATED INJURY – 085-10

Division	Date	Duty-On(X) Off()	Uniform-Yes(X) No()
Central	12/13/2010		

Officer(s) Involved in Use of Force	Length of Service
Officer A	8 years, 4 months
Officer B	3 years
Officer C	2 years, 4 months
Officer D	2 years, 2 months
Officer E	2 years, 4 months

Reason for Police Contact

Officers responded to a call for service for a deranged and suicidal suspect when the suspect resisted and obstructed the officers, resulting in a law enforcement-related injury.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
Subject: Male, 54 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 the 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 Chief and made itself available for any inquiries by the BOPC.

In accordance with state law, divulging the identity of police officers in public reports is prohibited, so the masculine pronouns (he, his and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on November 1, 2011.

Incident Summary

The Witness received a call of water leaking from under the door of a hotel room. The Witness knocked on the door of the hotel room and called out to the resident, later identified as the Subject, but the Subject was unresponsive. The Witness used his key to open the door.

According to the Witness, he saw the Subject sitting with his back to the wall wearing nothing but a pair of underwear. The room was in disarray and the Subject sat in water, staring straight ahead and making unusual noises. The Subject was holding an electrical cord in his hand and did not acknowledge the Witness's presence. The Witness feared the Subject was going to plug in the cord and attempt to commit suicide.

The Witness called 9-1-1 and requested assistance. Communications Division (CD) broadcast the radio call and Officers A and B responded.

When the officers arrived, the Witness told them that it seemed the Subject's intent was to electrocute himself. He then escorted them upstairs to the Subject's apartment. Officer A heard the Witness announce that the police were there and asked the Subject if he was okay. The Subject did not respond, so the Witness opened the door for the officers.

As soon as the Witness opened the door, the officers observed that the apartment appeared to be ransacked. Officer A saw the Subject face down in several inches of bloody water. Feces was also present throughout the room. The Subject was breathing but unresponsive, so Officer B requested an ambulance.

As the officers waited for the ambulance to arrive, the Subject began to shake and move around. Officer A ordered him not to move but the Subject did not comply, so Officer B requested another patrol unit to assist. Officer A unholstered his pistol and held it at a low ready position, not knowing if the Subject was armed. Officers C, D and E responded to the request for assistance and Officer A briefed them upon their arrival. Meanwhile, an ambulance and Los Angeles Fire Department (LAFD) personnel also arrived.

A paramedic contacted the Subject but the Subject was uncooperative. Although the LAFD personnel repeatedly asked the Subject to step outside the apartment, the Subject refused. The Subject then started to yell obscenities and taunt the officers to come in and get him.

The officers believed the Subject was a threat to himself and/or others and devised a tactical plan to take him into custody. Officers A, B and C made entry, while Officer A covered the Subject with his pistol.

Upon entry, the Subject threw either a fan or a small refrigerator toward the officers. Officer B approached the Subject and attempted to grab one of his wrists. Officer B lost his grip, and the Subject rose to his feet and charged at Officer B. Officer B moved out

of the way and the subject landed on the floor. The Subject kicked at the Officers, striking Officers B and C. Officer A heard Officer C verbally warn the Subject to stop resisting or the TASER would be used. The Subject did not comply and Officer C applied the TASER to the Subject's skin (direct-stun) and activated it. The TASER had no immediate effect. Officer A then drew his baton and struck the Subject once on his right thigh, once on his right knee and once on his right elbow. The strikes also had no effect on the Subject. The Subject continued kicking at Officer A, as well as kicking the refrigerator toward Officer A, until the refrigerator hit Officer A on the leg. Officer C attempted to apply the TASER in direct-stun a second time, but the Subject kept kicking.

The battery charge on the TASER began to run low and Officer C requested a second TASER, which Officer E gave him. Officer C then utilized a direct-stun application of the second TASER, on the Subject's abdomen and back area. Officer A indicated that the Subject continued to kick and slap Officer C's TASER away. Officer B then struck the Subject with his baton two times, with no effect. Officer D then removed the refrigerator from the apartment to give the officers some space to maneuver.

The officers succeeded in getting one handcuff on the Subject, before deciding to move the Subject into the hallway for better control. As the officers pulled the Subject by his arms and legs out of the apartment and into the hallway, the Subject continued to resist and slipped out of their grasp. Officer D then placed his right knee on the Subject's lower right back to hold him down. Meanwhile, Officer B took over the position of holding onto the Subject's right wrist from Officer C, and Officer C took over attempting to control the Subject's legs. The Subject grabbed Officer C's pant leg and Officer C kicked him twice in an effort to break free.

Officer C requested a hobble restraint device. Officer C also believed Officer E's TASER was ineffective and asked for a third TASER. Officer D gave Officer C his TASER. Officer C applied a direct-stun with his TASER a third time and the Subject stopped resisting long enough to place the hobble on him, which Officer E did. Once the Subject was placed in a hobble, he stopped resisting. The Subject was handcuffed and placed on a gurney.

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/Holstering 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 A, B, C, D and E's actions to warrant a tactical debrief.

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

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

Basis for Findings

A. Tactics

In this instance, it is apparent that Officer C based his assessment of the TASER's functionality, in part, on his inability to hear the TASER as it was being applied to the Subject. Tests conducted during the investigation of this incident had shown that the characteristic "clicking sound" emitted by the TASER during operation can become muffled when utilized in drive stun/direct stun mode. Officer C also based his assessment of the TASER's functionality, in part, to the fact that the Subject did not react to use of the TASER.

In conclusion, the use of the TASER in this case did not "unjustifiably or substantially" deviate from approved Department tactical training.

In conclusion, the BOPC found Officers A, B, C, D and E's actions to warrant a tactical debrief.

B. Drawing/Exhibiting

In this instance, based on the Subject's strange behavior, the inability to see the Subject's hands and the Subject's access to uncontrolled and unobserved area of the apartment, an officer under similar circumstances with similar training and experience would reasonably believe that there was a substantial risk that the situation may escalate to the point where lethal force may be justified.

In conclusion, the BOPC found Officer A's drawing and exhibition of a firearm to be In Policy.

C. Non-Lethal Use of Force

Officers A and B: Baton Strikes

The Subject continued to resist and attempted to kick and punch Officer C. In an attempt to stop the Subject's actions, Officers A and B struck the Subject with their side-handle batons.

Officer C: Kicks

Once the Subject's right wrist was handcuffed, the Subject utilized his free hand to grab Officer C's right leg. In response, Officer C kicked the Subject in the chest. The Subject continued to resist and once again grabbed Officer C's right leg. Officer C kicked the Subject in the chest a second time

Officers B and D: Bodyweight

In this instance, the officers at scene were confronted with an aggressive and combative Subject who exhibited signs of possible mental illness or of being under the influence of drugs; possibly phencyclidine (PCP).

Based on the totality of the circumstances and on the Subject's active resistance, all aforementioned non-lethal force options were objectively reasonable to overcome the Subject's active resistance and to take him into custody.

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

D. Less-Lethal Use of Force

In this instance, Officer C was confronted by the Subject who was violent, combative and resisting the officers. In an effort to overcome the Subject's resistance, Officer C deployed the TASER three separate times. A check of the TASER Recorded Firing Data for the three TASER devices indicated that Officer C activated the devices a total of 18 times during the incident time period.

Based on the totality of the circumstances, an officer with similar training and experience would believe that the application of less-lethal force was reasonable to overcome the Subject's resistance.

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