

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

IN-CUSTODY DEATH – 003-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Pacific	12/24/14		
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Officer(s) Involved in Use of Force	Length of Service
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Sergeant A	21 years, 3 months
Officer A	4 years, 5 months
Officer B	4 years, 9 months
Officer C	11 years, 4 months
Officer D	15 years, 8 months
Officer E	1 year

Reason for Police Contact

The Los Angeles Fire Department (LAFD) requested back-up for a violent man, in an altered state. Officers attempted to get the Subject under control so he could be transported to the hospital, and a use of force occurred.

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 39 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 December 8, 2015.

Incident Summary

The Subject resided with Witness A, at an apartment complex. Witness A referred to the Subject as her brother. However, the Subject and Witness A were not related, but were high school friends who had lived together for the past six months.

According to Witness A, the Subject had served in the Marine Corps and had sustained a spinal cord injury during Operation Desert Storm. He also suffered from Post-Traumatic Stress (Post Traumatic Stress Disorder-PTSD). He took numerous medications, and aside from marijuana, he did not ingest any narcotics.

Note: During the Subject's enlistment, there were no troops deployed in the Middle East.

During the indicated date and time, the Subject and Witness A were in their apartment preparing for Christmas Eve dinner. Witness 1 had decided to bathe, and as she exited the shower, she heard the Subject screaming from what she believed to be his bedroom. Witness A stated the Subject was yelling, "They are coming to get me! They are coming to get me!" As Witness A ran to the living room, she found the Subject there and asked him what was wrong.

The Subject was ducking down as if trying to take cover from an unseen threat and said that someone was in in his bedroom. The Subject slammed the bedroom door closed and ran out of the apartment and into the common area hallway outside. Witness A followed and remained behind him as he ran to the "trash chute" waste disposal area at the end of the hallway. While the Subject was in that area, Witness A described that the Subject was "going crazy" and making noises as if he were involved in a fight with imaginary combatants and shouting, "You aren't going to get me! You aren't going to get me!" In fear for her safety from the Subject, Witness A went back inside her apartment and locked the door.

The Subject soon returned to the apartment and banged on the door for a few seconds, then abruptly left the area. Due to the Subject's erratic behavior, Witness A became concerned for his safety and went back in the hallway to look for him, but she could not locate him.

Witness A called the apartment complex security office located at the entrance to the apartment complex. The Security Officer, Witness B, answered the call.

Witness A told Witness B what was transpiring and requested he summon medical aid. She requested the police not be involved.

Witness B walked from the guard shack at the entrance of the complex to the building where the Subject was located, and walked up the stairs. When he reached the third level, Witness B heard the Subject hollering. From the stairwell he looked into the third

level hallway and observed blood smeared on the walls and doors. Hallway light fixtures had been broken and the glass was covering the floor. The Subject was jumping up and down, banging his head against the walls; shouting and screaming incoherently.

The Subject approached the stairwell where Witness B stood, and in order to prevent himself from being attacked, Witness B closed the stairwell door. The Subject repeatedly slammed his body against the stairwell door as Witness B held it shut.

Witness B called 911 and reported to a Los Angeles Fire Department (LAFD) 911 operator that the Subject was bleeding from an unknown wound and having convulsions.

Note: A review of the 911 recording determined the call did not provide any information regarding the Subject's behavior. The LAFD 911 operator concluded based on the information provided, that the Subject was the victim of a fall and was bleeding from an unknown wound. The operator advised Witness B to apply pressure to the wound and that LAFD personnel would be en route.

The call was dispatched to an LAFD Rescue Ambulance (RA) staffed by LAFD personnel. The paramedics arrived on the third level hallway of the building and observed the Subject rolling on the floor in broken glass. According to Paramedic A, the Subject was "covered from head to toe" in his own blood. The Subject was screaming and shouting incoherently. A fire extinguisher had been removed from its cabinet and the glass cover had been shattered.

The paramedics called out to the Subject in an attempt to get his attention; however, the Subject did not respond. The paramedics believed that the Subject appeared to be under the influence of narcotics and due to his behavior it was unsafe to approach him.

The LAFD Rescue Ambulance requested backup from an LAFD Engine Company, which subsequently responded. The LAFD RA also requested backup from the Los Angeles Police Department (LAPD). LAPD Communications Division (CD) broadcast, a request for back-up for LAFD.

Witness B again called 911 again and disclosed that he had spoken to the Subject's Witness A and she reported that the Subject was having an allergic reaction to medication and was behaving violently.

The Engine Company arrived on scene and stood by with the paramedics on the third floor of the building, awaiting the arrival of police officers. While waiting for the officers to arrive, Witness A approached LAFD personnel and stated she was the Subject's sister and that the Subject was a veteran and he needed help. She stated the Subject was on medication, but LAFD personnel believed that the Subject behavior appeared to be more consistent with being under the influence of PCP (phencyclidine) or cocaine.

Police Officer A and his partner, Officer B, advised CD that they would handle the call. They further broadcast that they would be responding with emergency lights and siren (Code Three).

Officers A and B broadcast their arrival at the location (Code Six) via the vehicle's Mobile Digital Computer (MDC) and met the LAFD personnel behind the closed fire safety double doors in the middle of the third floor hallway.

The LAFD personnel advised the officers that the Subject needed medical attention, but he was unsafe to approach because he was violent and possibly under the influence of narcotics or having an allergic reaction to medication. They requested that the officers restrain and handcuff the Subject so they could sedate him, place him on a gurney, and provide him medical treatment as soon as possible.

Officers A and B observed the Subject rolling on the floor in broken glass, covered in blood, screaming and shouting incoherently. The Subject was violently thrashing his body back and forth on the floor, slamming his body against the hallway walls, and flailing his arms and legs.

Officers A and B discussed their tactical plan with LAFD personnel. The plan was for the officers to approach the Subject, Officer B would handcuff the Subject, LAFD personnel would sedate him, and they would immediately place the Subject on a gurney for transportation to the hospital.

Officer B opened the double doors and directed the Subject to lay on his stomach. The Subject was unresponsive and continued to move about in the above-described manner.

Officers A and B discussed waiting for the Subject to tire himself out and calm down prior to approaching and subsequently waited for an opportunity to approach him. The Subject soon quit thrashing about and became relatively still. He was lying on his back. His head was farthest away from the officers and his feet were pointing toward the officers.

Officer A approached on the left and Officer B on the right. The LAFD personnel followed behind them. The officers did not give any commands at that point because they did not want to stir the Subject and lose the element of surprise.

As Officers A and B approached within approximately one foot from the Subject, the Subject suddenly "came to life" and kicked both his legs toward Officer A.

In response to the Subject kicking at his legs, Officer A drew his PR-24 baton holding it primarily with his weak side hand on his left side since Officer B was positioned to his right. Officer A utilized two power strokes in a downward motion and struck the Subject twice around the knee area. Officer A then transitioned to his OC spray and sprayed an

approximately five second burst of OC to the Subject's face as he and Officer B backed away from the Subject.

Officer A then requested a back-up unit.

The officers positioned themselves by the double doors in the hallway with LAFD personnel and discussed their next course of action. They decided to monitor the Subject until back-up officers arrived to assist them.

Officer A requested a supervisor, a TASER and a beanbag shotgun.

Several officers arrived to assist, including Officers C, D and E and Sergeant A.

The officers ran up the stairs to the third level where they were briefed by Officers A and B.

Officer A advised several officers, including Officers C, D, and E, that they needed to handcuff the Subject so that the LAFD personnel could transport him to the hospital for medical treatment. The Subject continued to roll around in the glass on the floor, slamming his body against the walls, and screaming incoherently.

Officer A made a plan to approach the Subject. According to Officer A, the plan consisted of the following: Officer C, armed with a TASER, was designated as the point officer. Officer D was armed with a beanbag shotgun; however, he handed it to another officer since the decision was made not to use it. Officers A, B, and E were assigned to be the arrest team. Another officer was designated as a cover officer. Officer C was going to deploy the TASER. The arrest team would then move in, swarm the Subject, and handcuff him. The LAFD personnel would then sedate him, place him on a gurney, and transport him to the hospital for medical treatment. Due to the Subject being covered in blood, the officers donned protective gloves.

As the officers approached, the Subject continued to thrash about on the floor in the broken glass, and slam his body against the walls while screaming and shouting.

Sergeant A arrived on the third level of the building as the officers were approaching the Subject. Sergeant A did not interfere with the plan that was already in motion and did not attempt to direct any use of force.

Officer C gave the Subject a use of force warning; however the Subject was unresponsive.

Officer C looked for an opportunity to deploy the TASER while the Subject continued to move in a violent and erratic manner. The Subject rolled onto his stomach at which time Officer C deployed his TASER from a distance of approximately seven feet.

Officer C believed the darts may have struck the Subject on his upper right back/shoulder area and penetrated the Subject's clothing (the Subject was wearing a blood soaked shirt). The TASER had no effect on the Subject and he continued to thrash his body and flail his arms and legs in a combative matter.

Officer C initiated second and third TASER activations. The second activation lasted 32 seconds; however, Officer C did not recall activating it for that length of time, nor was he aware it could be activated longer than the standard five-second burst. Officer C continually assessed the impact of the TASER and believed the TASER was ineffective because the Subject continued to violently flail about.

However, after what was estimated to be the third TASER activation, the Subject rolled over facedown with his head toward the officers and his feet away from them. This provided the officers an opportunity to move forward and hold the Subject down. Officer A placed both his knees on the Subject's buttocks and lower back from the Subject's right side. Simultaneously Officer D approached the Subject's left side and placed his left knee on the Subject's lower back. Officer B also approached from the Subject's left side and placed his right knee on the middle of the Subject's back. Officer E, while kneeling, held the Subject's lower legs down with his hands and knees to keep him from kicking.

The Subject continued to try to move about and break free from the officers. He pulled his arms under his chest and held them there. Officers A attempted to pull the Subject's right wrist out from underneath his torso while Officers B and D attempted to pull the Subject's left wrist out. The Subject resisted these officers' efforts and the officers were unable to handcuff him.

Officer C cycled through to the fourth, fifth, and sixth TASER activations while continuing to assess and observing that the TASER activations were having little or no effect on the Subject.

Simultaneous to the additional TASER activations, Officer B clenched his right hand into a fist and in a downward motion struck the Subject's left shoulder blade area with the outer palm area of his right hand in an effort to dislodge the Subject's hands from underneath his torso. He assessed and observed that his strike had no effect. Officer B struck the Subject's left shoulder blade an additional time, causing the Subject to move his torso slightly. The movement of the Subject's torso allowed Officers A, B and D to get control of the Subject's wrists and pull them out from underneath his torso and behind his back. Officer A handcuffed the Subject's wrists together.

At 2046:34 hours, Sergeant A broadcast that the incident had been resolved.

The Subject was still kicking his legs. Officers E and B looped a hobble restraint device around the Subject's ankles and tightened it around his lower legs. The officers then rolled the Subject over to his backside, sat him up, and with the assistance of LAFD personnel at scene, placed him on a gurney.

Firefighter/Paramedic A administered an injection to sedate the Subject. Firefighters/Paramedics A and B started their medical assessment of the Subject while wheeling his gurney to their RA.

The RA subsequently transported the Subject to the hospital. Officer B rode in the back of the RA while Officers A, C, and D followed behind the RA in their respective vehicles. The Subject did not make any statements during this incident.

Sergeant A telephonically notified Watch Commander Sergeant B, of the apparent non-categorical Use of Force (UOF) investigation and advised that he did not direct any of the UOF.

Sergeant B advised Sergeant A to handle the UOF investigation. Sergeant A then commenced with canvassing the immediate area for witnesses.

Sergeant A directed several officers who arrived on scene as the Subject was being wheeled outside on the gurney, to photograph the blood on the walls, doors, and the area where the incident occurred.

Upon completion of the investigative mandates associated with an on scene non-categorical use of force investigation, Sergeant A directed the remaining officers to clear the scene.

The Subject arrived at the hospital and was admitted for multiple self-inflicted lacerations and possible drug overdose. According to Officer B, while at the hospital, he overheard that the Subject went into cardiac arrest but was resuscitated, and Officer A notified Sergeant B of the Subject's condition.

Note: Officer A stated he was not aware of the Subject's condition, and did not make any notifications. Officer A also stated he knew Sergeant A was en route to the hospital and would make any notifications if necessary.

According to Sergeant B, he received his updates on the Subject's condition during multiple telephone calls from Sergeant A, and at no time did he receive any information that would classify the incident as a categorical use of force.

Sergeant A advised other officers to respond back to the location and to secure the area as a potential crime scene because the Subject had "taken a turn for the worse."

According to Officer B, he made inquiries regarding the Subject's condition with the hospital staff treating the Subject. The Emergency Room (ER) doctor told him that the Subject was being treated for a drug overdose and that based on the amount of drugs in the Subject's system, he may have sustained organ damage, but he was in stable condition.

Sergeant A responded to the hospital and spoke to the ER doctor. According to Sergeant A, the ER doctor stated that the Subject was admitted for drug overdose and self-inflicted injuries (numerous lacerations), and he did not believe the Subject was in danger of dying as a result of his injuries.

Sergeant A telephonically contacted Sergeant B and advised him that the Subject was going to be hospitalized for drug overdose and self-inflicted injuries. Sergeant B directed Sergeant A to proceed with his non-categorical UOF investigation.

According to Sergeant B, he was advised by Sergeant A that the Subject was going to be hospitalized due to narcotics ingestion, and altered mental state, and not for reasons related to the force used.

According to Sergeant A he advised hospital staff attending to the Subject to call him if the Subject condition changed. Sergeant A interviewed Officers A and B at the hospital regarding the UOF and then directed them to complete a report regarding the incident once they returned to the Station. It was determined that based on the Subject's mental condition, he was unable to form the intent to commit a crime and he was not arrested accordingly. The officers and sergeant left hospital with no further monitoring of the Subject.

Two days subsequent to this incident, the Subject failed to respond to medical treatment and was pronounced deceased. No notification to LAPD was made at that time. The hospital reported the death to the Los Angeles County Coroner's Office.

Eleven days after the incident, the Coroner's Office reported the death to the LAPD, at which time the categorical use of force (CUOF) protocol was implemented.

The Medical Examiner later concluded that the Subject died as a result of Ventricular Dysrhythmia due to Cardiac enlargement with Biventricular Hypertrophy and Four Chamber Dilation. "Significant conditions" were listed as Cocaine Intoxication and Police Restraint with Use of TASER.

Los Angeles Board of Police Commissioner's 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 unanimously made the following findings.

A. Tactics

The BOPC found Sergeant A, along with Officers A, B, C D and E's tactics to warrant a Tactical Debrief.

B. Non-Lethal Use of Force

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

C. 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 its analysis of this incident, the BOPC identified the following tactical considerations:

1. Requesting a Back-up

Officers A and B did not request a back-up prior to approaching the Subject.

Officers are given discretion regarding the appropriate time to request additional resources during an incident. In this instance, the officers were dealing with an irrational subject who was likely under the influence of drugs. Although, the officers subsequently requested back-up, the BOPC concluded that it would have been tactically advantageous for the officers to request back-up when they initially observed the subject acting in an irrational manner, rolling around on the floor covered in blood. This would ensure that the appropriate resources were responding in the event they were needed.

Based on the totality of the circumstances, the BOPC found that Officers A and B's actions did not substantially deviate from approved Department tactical training in regard to this point.

2. Deployment of OC

Officer A sprayed the Subject with an approximate five second burst of OC in the enclosed hallway of an apartment building with limited ventilation.

Officer A sprayed the Subject in his face in an effort to stop his advancement as the officers redeployed rearward and awaited the response of additional personnel. As resources arrived, a contact team was established. As the team

made their approach, several officers indicated that they had experienced trouble breathing as a result of the leftover fumes from the earlier OC spray.

Although it was reasonable for Officer A to deploy his OC spray, the duration of the burst, coupled with the enclosed environment, resulted in secondary exposure concerns to the involved officers.

3. Deployment of the TASER X-26

Officer C activated his TASER six times in an effort to take the Subject into custody.

There was concern regarding the number of TASER activations conducted by Officer C, which included one activation for a period of 32 seconds. The remaining five activations were between three to five seconds in duration for a total of 21 seconds, with an overall combined activation time of 53 seconds. Although the TASER was activated six times, the data downloaded from the TASER revealed there was a break in between each of the activations, which tends to support Officer C's statement that he conducted an assessment of the TASER's effectiveness after each of his activations.

Several factors were considered during the assessment of Officer C's use of the TASER. It was noted that the Subject was a large individual who weighed approximately 305 pounds and was covered in blood, acting in a manner that made him unsafe to approach. Another consideration was that the officers' use of the baton and OC spray had little effect on stopping the Subject's aggressive behavior.

Officer C did not recall that he activated the TASER for 32 seconds and believed the TASER had a safety feature that would automatically stop the activation after five seconds.

In this case, the ultimate goal was to handcuff the Subject, which necessitated the officers placing their hands on him. Other tactics employed to secure the Subject had already proven ineffective and due to his demeanor, he was unsafe to approach. Tactics are meant to be conceptual in nature and each tactical situation is unique in that officers must be given flexibility to resolve tactical situations in the field.

As such, the BOPC determined that Officer C's deployment of the TASER to assist his fellow officers with taking the Subject into custody was reasonable.

Based on the totality of the circumstances, the BOPC determined that Officer C's actions did not substantially deviate from approved Department tactical training.

- 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 Sergeant A and Officers A through E's tactics to warrant a Tactical Debrief.

B. Non-Lethal Use of Force

- **Officer A** – Baton Strikes, OC, Bodyweight and Physical Force.
- **Officer B** – Bodyweight, Punches and Physical Force.
- **Officer D** – Bodyweight and Physical Force.
- **Officer E** – Bodyweight.

As Officers A and B entered the hallway, they observed the Subject rolling around on the floor in broken glass, covered in blood and making incoherent sounds. According to the officers, the Subject ignored their commands and then stopped moving causing the officers to believe they had an opportunity to approach and handcuff the Subject. As they approached the Subject, he started kicking his legs at Officer A. In an effort to stop the Subject from kicking him, Officer A drew his side-handle baton and struck the Subject twice on his legs.

Officer A holstered his baton and transitioned to his OC spray then sprayed the Subject in the face with a five second burst to create distance and stop the Subject from advancing. Officers A and B repositioned themselves near a door leading to the adjacent hallway and continued to monitor the Subject until the arrival of back-up officers.

Upon the arrival of additional resources, a contact team was formed to approach and handcuff the Subject. As the team made their approach, Officer C ordered the Subject to, "Stop what you are doing and put your hands behind your back or you will be tased." After failing to comply, the Subject was tased by Officer C.

After being tased, the Subject assumed a prone position, and Officers A, B, D, and E approached and utilized bodyweight in an effort to hold the Subject down and place him in handcuffs. Officer A placed both knees on the right side of the Subject's buttocks/lower back area. Officer B placed his right knee on the left side of the Subject's middle/lower back area. Officer D positioned his left knee on the left side of the Subject's lower back, and Officer E placed both knees on the Subject's calves.

The Subject continued to resist and moved his arms underneath his body, preventing the officers from placing him in handcuffs. In an effort to gain control of the Subject's arms, Officer B delivered two punches to the Subject's left shoulder blade area with the outer palm area of his right hand. This coupled with Officer C's additional TASER activations, enabled Officers A, B and D to pull the Subject's arms out from underneath his body to complete the handcuffing process.

Once handcuffed, the Subject continued kicking his legs. Officer B held onto the Subject's legs as Officer E applied the HRD around his ankles. Upon securing his ankles, they immediately rolled the Subject over, sat him in an upright position and assisted LAFD personnel with placing him on the gurney.

Upon review of the incident, the BOPC determined that an officer with similar training and experience as Officers A, B, D and E, while faced with a similar set of circumstances, would believe that the application of non-lethal force by these officers would be reasonable to overcome the Subject' resistance to prevent further injury or escape.

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

C. Less-Lethal Use of Force

- **Officer C** – Six TASER activations

First TASER Activation (Probe Mode)

Upon the arrival of additional resources, a contact team was formed to approach and handcuff the Subject. As the team made their approach, Officer C ordered the Subject to, "Stop what you are doing and put your hands behind your back or you will be tased." The Subject was unresponsive and continued to behave in a violent manner. Officer C then deployed the TASER from a distance of approximately seven feet.

Second and Third TASER Activations (Probe Mode)

The Subject appeared to be unaffected by the initial TASER activation and continued to behave in an irrational manner. In an effort to stop his actions, Officer C pressed the trigger and activated the TASER two additional times.

Fourth, Fifth and Sixth TASER Activations (Probe Mode)

According to Officer C, the Subject ceased his actions and assumed a prone position, allowing the officers to approach the Subject and apply bodyweight on his person. While in a prone position, the Subject continued to resist the officers'

attempts to place his arms behind his back to facilitate the handcuffing process. In response, Officer C pressed the trigger and activated the TASER three more times.

Upon review of the incident, the BOPC determined that an officer with similar training and experience as Officer C, while faced with a similar set of circumstances, would believe the application of less-lethal force was reasonable to overcome the Subject's resistance and aggressive actions.

Therefore, the BOPC found Officer C's application of less-lethal force to be in policy.