

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

LAW ENFORCEMENT-RELATED INJURY – 006-17

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Northeast	1/17/17		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	28 years, 9 months
Officer B	11 years, 3 months
Officer C	17 years, 11 months
Officer D	7 months, 6 months
Officer E	4 years, 1 months
Officer G	2 years, 8 months

Reason for Police Contact

Officers responded to a fast-food restaurant for a “burglary suspect there now” call. Upon arrival, the officers found the Subject fighting with employees, at which time a Law Enforcement-Related Injury (LERI) occurred.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 29 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 January 9, 2018.

Incident Summary

A male, identified as the Subject, arrived at a fast-food restaurant. The restaurant dining area was closed to customers, and only the drive-through service window was open. According to restaurant employees, Witnesses A and B, the Subject attempted to enter the restaurant through the drive-up window and through the locked, side pedestrian door several times. Eventually, the Subject pulled on the locked door and caused it to open. The Subject then entered the restaurant through the door. Witnesses A and B immediately confronted the Subject and escorted him out the same door. The Subject initially walked away, but soon returned to the door holding a rock in his right hand. The Subject threw the rock at the side pedestrian glass door, causing the glass to spider web. The Subject kicked the shattered glass and entered the restaurant.

Witness A told the Subject to leave the restaurant or he would call the police. According to Witness A, the Subject looked like he was high on something, told Witness A he needed help, and asked him to "call an ambulance or a taxi." When the Subject refused to leave, Witness A called his security company, who notified Communications Division (CD) of the incident.

CD broadcast a radio call of an "Ambulance 459 Suspect There Now" at the restaurant. The Subject was then described. The comments of the call indicated that the Subject broke a window with his fist for entry and was sitting in the dining area.

Uniformed Police Officers A and B were in the area and requested that CD assign the call to them. The officers were driving a marked black and white police vehicle, and advised CD they were responding with emergency lights and sirens (Code Three).

While driving to the radio call, the officers had a discussion regarding the restaurant being closed and only the drive-through service window being open. They discussed the fact that normally only a couple of employees would be working at that time of day. Both officers had their TASERS with them and they decided that Officer A would retrieve a beanbag shotgun from the trunk of the patrol vehicle upon their arrival.

CD updated the broadcast with additional information that the Subject was assaulting the employees behind the cash register and that the business was closed.

The officers advised CD that they were at the scene. According to Officers A and B, they arrived at scene at the same time CD broadcast the updated information. Officer A stated that he attempted to broadcast a backup request.

Officer B parked the vehicle at the driveway entrance leading to the restaurant parking lot. The vehicle faced the dining area and side pedestrian door and was next to a handicap ramp. The officers looked inside the dining area and observed Witnesses A

and B involved in a physical altercation with the Subject. According to Officer B, Witnesses A and B were trying to detain the Subject and were struggling with him. The officers observed that the glass on the side door was broken but still attached to the door.

Officers A and B believed it was imperative to enter the restaurant immediately to stop the physical altercation. The officers exited their patrol vehicle. Officer A walked to the trunk of the vehicle to retrieve the beanbag shotgun, and as he opened the trunk, he realized that the beanbag shotgun was not in the trunk.

Simultaneously, Officer B walked up the handicap ramp to the side pedestrian door and attempted to open the door, but was unable. In an attempt to render aid to Witnesses A and B, Officer B pushed and kicked the broken door, causing the glass to separate from the door frame and fall to the ground. Officer B reached inside the door and unlocked it. Officer A closed the trunk, walked up the ramp and met Officer B at the door. Both officers entered the restaurant. As they entered, they saw Witnesses A and B and the Subject fall to the ground. Witnesses A and B, seeing the officers, stood up and stepped away from the Subject, who remained on the ground in a seated position with his back toward the door.

As Officer A entered the restaurant, he unholstered his TASER based on the Subject's combative behavior. Officer A walked around the right side of the Subject, stood between the witnesses and the Subject, and faced him. Officer B approached the Subject and stood to the Subject's right side. The Subject was yelling repeatedly that he needed an ambulance. According to the officers, the Subject appeared agitated, his eyes were red, and he was sweating profusely. Based on the officers' training and experience in dealing with narcotic suspects, both officers believed the Subject was under the influence of a controlled substance.

In an attempt to deescalate the situation, Officer B used a calm tone of voice to reassure the Subject multiple times that an ambulance was on the way. After approximately 20 seconds, the Subject laid on the floor on his back and spread his legs slightly. Officer B continued to ask the Subject several times to calm down, to roll over onto his stomach, and put his hands behind his back. The Subject did not respond and failed to comply with Officer B's commands.

According to Officer A, since the Subject was not responding to the commands by Officer B, he believed a change of voice might be more effective and took over the role of contact officer. Officer A began giving the Subject commands to roll over onto his stomach. The Subject did not respond to Officer A's commands.

Officer A disengaged his TASER's safety, activating the TASER's red laser sight in an attempt to get the Subject's attention and gain his compliance. Officer A told the Subject to cooperate or the TASER would be used and that it would hurt. The Subject hesitated, but remained on his back, stared at the ceiling, and slightly spread his arms

and legs to the side. According to Officer A, there was a slight pause, but the Subject did not respond and did not roll over onto his stomach.

According to Witness A, the officers provided the Subject with commands to calm down, turn around, and put his hands behind his back, but the Subject ignored the commands and kept yelling that he needed help and an ambulance.

In an attempt to roll the Subject over onto his stomach, Officer B reached down and placed a firm grip on the Subject's right arm, utilizing his right hand to control the Subject's right wrist, and placed his left hand above the Subject's right elbow. Simultaneously, Officer A reached down with his left hand and grabbed the Subject's right leg to roll him over. The Subject began to roll over onto his hands and knees and, using a trash can that had been knocked over during the incident as leverage, quickly pulled away from the officers.

According to Witness B, the officers asked the Subject to lay on his back, turn, and put his hands behind his back, but the Subject ignored the officers and attempted to leave by crawling away.

The Subject began crawling toward the side pedestrian door and attempted to stand up. Officer B believed the Subject was attempting to flee. To prevent him from doing so, Officer B lowered his chest onto the Subject's upper back and attempted to force the Subject onto his stomach, but the Subject continued to move toward the door. Officer A used his right foot and stepped on the outside part of the Subject's right foot, trying to stop him from moving forward. The officers ordered the Subject several times to stop resisting and to calm down.

While Officer B continued to apply his bodyweight, he wrapped both arms around the Subject's upper chest and continued to attempt to force the Subject to the ground. The Subject crawled to the door and used the door frame to pull himself through the doorway and into a standing position outside of the location. Once outside the door, Officer B continued to hold onto the Subject as the two stood at the top of the handicap ramp. In an effort to stop the Subject's actions, and prevent injuries to himself, his partner, and the Subject, Officer A told his partner to release the Subject because he was going to Tase him. Officer B released the Subject and took a step back from him.

Note: According to Witness A, the officers dragged the Subject out of the location by his feet. According to Witness B, the officers were attempting to hold the Subject down as he crawled away from them. A review of the restaurant video determined that Officer B was on top of the Subject as he moved out of the restaurant.

According to Officer A, as he exited the restaurant, the Subject's back was toward him; the Subject took a step forward then turned to face the officers. The Subject appeared as if he was going to attempt a front kick. Officer A raised the TASER, aimed it at the Subject's mid torso and discharged it from a distance of approximately five feet. Officer

A activated the TASER for one five-second cycle. The TASER darts contacted the Subject's mi- torso area. The TASER appeared to have a momentary effect, because the Subject's body locked up and he screamed. As the TASER was activated, the Subject hunched over with his hands in front of him, immediately reached for the TASER wires with both hands, and pulled the wires away from the TASER darts.

The Subject immediately turned away from the officers and continued down the handicap ramp. To stop the Subject from going into the street, Officer B grabbed the Subject's right wrist with his right hand and his right elbow with his left hand.

Note: According to Witnesses A and B, who remained inside the restaurant once the Subject and officers exited the restaurant, they observed Officer A Tase the Subject and the Subject then pull wires out of the TASER darts.

As Officer B and the Subject continued down the ramp, Officer A believed that since the Subject had pulled the wires from the TASER darts, it was now useless. Officer A also believed he had to assist his partner immediately to prevent the Subject from running into the street, where he would possibly be struck by a vehicle. Officer A dropped the TASER on the ground and moved down the ramp to assist Officer B. Officer A grabbed the Subject's left arm and attempted to place a wrist lock on the Subject's left arm by grabbing the Subject's left wrist with his left hand and the Subject's left elbow with his right hand.

The officers continued to struggle with the Subject as they moved to the bottom of the handicap ramp. The Subject and the officers moved around the ramp's metal railing. As the officers and the Subject moved around the railing, and faced toward the restaurant, the officers pinned the Subject against it. Officer B released his hold on the Subject's right arm, reached around the Subject's body and immediately grabbed the metal railing with both hands. Officer B used his bodyweight against the Subject's back and pinned him against the metal railing while Officer A continued to hold the Subject's left arm. Officer B released his right hand from the railing, reached for his handheld police radio with his right hand and, without removing the radio from the holster, pressed the transmission button and requested backup.

The LAPD Air Unit responded to the original radio call and arrived over the scene. The Air Unit saw the officers struggling with the Subject and immediately requested backup. The observer further broadcasted to responding units that the officers were outside the restaurant and were fighting with the Subject. The Air Unit remained over the incident until additional officers arrived and the Subject was taken into custody.

As the officers continued to struggle with the Subject against the railing, the Subject slowly dropped his bodyweight down. The officers and the Subject dropped down to the ground, and the Subject ended up on his stomach. Officer B held the Subject down on the ground by applying bodyweight with his chest over the Subject's back. Officer A continued to hold the Subject's left arm. The Subject continued to resist, and attempted

to stand up by bracing his upper body with his right arm. Officer B swung his right leg over the Subject's body and obtained a mounted position over the Subject's hips to prevent him from turning or standing up. Officer B reached for the Subject's right arm, and pulled it behind the Subject's lower back. The Subject tried to bring his left arm closer to his body in order to push himself up. Officer A placed his right hand on the Subject's right shoulder and used his left hand to grab the Subject's left arm to prevent the Subject's actions.

According to Officer A, a male dressed in what he believed to be a Los Angeles County Sheriff's Department (LASD) uniform, later identified as Witness C, approached them from the side of the parking lot and asked if they needed help. Officer A asked Witness C if he had handcuffs. Witness C stated that he did, and Officer A requested that Witness C assist them in handcuffing the Subject. Witness C knelt, grabbed the Subject's left arm and assisted Officer A in guiding the Subject's left arm to the lower back. While the officers held the Subject's arms behind his back, Witness C removed his handcuffs and handcuffed the Subject. Once the Subject was handcuffed, Witness C stood up and stepped away from the officers.

Note: Force Investigation Division detectives obtained Witness C's handcuffs from Officer A and returned the handcuffs to him.

The Subject continued to resist by kicking his legs and attempting to stand up, even though he was handcuffed. Officers A and B maintained their positions on the Subject's upper back to keep the Subject on the ground and prevent him from standing up.

The following details recount the actions of those officers who used force during the incident. The incident was unfolding rapidly and the officers' actions, although depicted in a certain order, occurred simultaneously.

Uniformed Police Officers C and D heard the initial radio call and, due to the nature of the radio call, decided to respond to the location. Officer D advised CD via radio that they were responding to the call. As Officers C and D drove to the location, they heard the Air Unit request backup for the officers. According to Officer C, several units advised CD over the radio that they were responding Code Three from the station. Officers C and D elevated their response to Code Three and advised CD. According to Officer C, as they responded, he advised Officer D that he would assume the role of contact officer and be responsible for non-lethal use of force options, while Officer D would assume the role of cover officer and be responsible for lethal use of force options.

Officer D used the Mobile Digital Computer (MDC) to advise CD he and Officer C had arrived at the location (Code Six).

Officers C and D were the first officers to arrive at the backup request location. The officers exited their vehicle, approached Officers A and B, and observed the Subject handcuffed but still kicking and moving his upper body and attempting to stand up.

Officer C directed Officer D to hobble the Subject. The officers grabbed the Subject's feet and placed them together. Officer D retrieved his HRD from his left side sap pocket and began to put it on the Subject. Officer C assisted Officer D by lifting the Subject's feet off the ground. Officer D placed the HRD through the Subject's feet and secured it above the ankles. Officer D held the hobble strap, but the Subject continued to move his feet attempting to kick. Officer D placed his knees and bodyweight on the Subject's feet to prevent him from kicking. Officer D continued to apply bodyweight on the Subject's feet until he was placed onto the gurney and transported to the hospital.

Note: According to Officer A, he asked Officer D to hobble the Subject.

According to Officer C, once the Subject was hobbled, he moved over to assist Officer A. Officer C stated that Officer A looked winded and advised Officer A to step back. Officer C then took Officer A's position at the Subject's left side. To prevent the Subject from standing up, Officer C applied his left knee on the Subject's left shoulder and his right knee on the Subject's lower back. Officer C also placed his left hand on the Subject's upper back to keep him down until the Subject was placed onto the gurney.

Note: Officer D stated the officers were unable to sit the Subject up after he was hobbled because he remained combative throughout the incident.

Uniformed Police Officers E and F were at the station when they heard the Air Unit broadcast the backup request for additional officers.

According to Officer F, he advised CD that he and Officer E were responding with emergency lights and sirens (Code Three). Prior to arriving at the scene, the officers heard a Code Four broadcast, that the incident had been resolved. Officer F advised CD that he and Officer E were Code Six via their MDC.

According to Officer E, he exited the driver side of his vehicle, observed the Subject handcuffed and lying face down with a few officers attempting to control him. The Subject appeared agitated, strong, and was attempting to break free from the officers. To help control the Subject, Officer E walked over and placed his hands and right knee on the Subject's right upper back area. According to Officer E, due to fatigue, he switched between his hands and his right knee when he applied bodyweight on the Subject. Officer E kept the Subject's right upper body down until he was placed onto the gurney and transported to the hospital.

Uniformed Police Officers G and H were at the police station when they heard the Air Unit request backup for the officers. Officers G and H began driving to the backup request and Officer G advised CD via the MDC that they were responding Code Three. Prior to arriving at scene, Officer G heard a Code Four broadcast. Officer G advised CD via radio that the officers were at the scene. Communications Division acknowledged that the officers were at the scene.

Officer G exited his car and observed the Subject attempting to get to his feet, even though three officers were trying to subdue him. Officer G observed there were no officers on the Subject's left side. The Subject was attempting to raise the left side of his body. Officer G approached, placed his right knee over the Subject's left shoulder area, and applied bodyweight to keep the Subject down. Officer G remained in that position until the Subject was placed onto the gurney and transported to the hospital, where he received medical treatment.

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 made the following findings.

A. Tactics

The BOPC found Officers A, B, C, D, E, and G tactics to warrant a Tactical Debrief.

B. Non-Lethal Use of Force

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

C. Less-Lethal Use of Force

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

Basis for Findings

Detention

- Officers responded to a Code Three radio call of an "Ambulance 459 Suspect There Now" at the fast-food restaurant. Upon arrival, the officers observed the Subject inside the location, involved in a struggle with two employees and detained him. The officers' actions were appropriate and within Department policies and procedures.

Tactical De-Escalation

- In this case, the officers responded to a radio call and observed two employees struggling with the Subject inside the restaurant. When the officers entered the location, the Subject ignored commands to assume a prone position and place his hands behind his back.

In an attempt to de-escalate the situation, Officer B indicated that he used a calm tone in an attempt to calm the Subject. Both officers also repeatedly verbalized with the Subject in an effort to gain compliance. When the officers initiated physical contact to take the Subject into custody, he resisted. The officers then utilized less-lethal and various non-lethal uses of force to overcome the Subject's resistance and take him into custody.

A. Tactics

- In its analysis of this incident, the BOPC identified the following tactical considerations:

1. Back-Up Request

Officers A and B attempted to broadcast a back-up request but were unsuccessful due to radio traffic.

In this case, the officers arrived at the scene and observed two employees actively struggling with a Subject inside the location. The officers attempted to broadcast a back-up request but indicated that they were unsuccessful because of the ongoing radio traffic.

According to the officers, they knew that their efforts were likely unsuccessful, and felt that it was imperative to make entry to minimize the threat to the public and safeguard the lives of the employees inside the restaurant.

Based on the totality of the circumstances, the BOPC determined that the officers' actions were reasonable and were not a substantial deviation from approved Department tactical training.

2. Maintaining Control of the TASER

According to Officer A, he dropped his TASER to assist Officer B with controlling the Subject.

Officers, when faced with a tactical incident, improve their overall safety through their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. The ability to adjust to a tactical situation ensures minimal exposure to the officers.

In this case, when the Subject grabbed the TASER wires and pulled them out, Officer B reengaged and grabbed his right arm. Officer A believed that his TASER was useless, dropped the TASER, and then grabbed the Subject's left arm, attempting to control the Subject as they moved down the ramp.

- The BOPC also considered the following:

1. Non-Conflicting Simultaneous Commands

The investigation revealed that Officers A and B issued simultaneous commands to the Subject during the incident.

2. Initiating Physical Contact While Holding a TASER

In an attempt to assist Officer B with rolling the Subject over into a prone position, Officer A grabbed the Subject's right leg with his left hand, while holding the TASER in his right hand.

3. Stepping on Suspect's Limbs

The investigation revealed that Officer A placed his right foot on the Subject's foot to prevent him from crawling towards the doorway.

4. Optimal Target Areas of the TASER

According to Officer A, when he deployed the TASER he was aiming at the Subject's mid-torso area.

5. Required Equipment

The investigation revealed that Officers A and B did not have their batons on their person.

These topics were to be discussed 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 also 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 the officers' individual actions that took place during this incident.

The BOPC found Officers A, B, C, D, E, and G tactics to warrant a Tactical Debrief.

B. Non-Lethal Use of Force

- Officer A – Firm grips, Physical Force and Bodyweight.
- Officer B – Firm grips, Physical Force and Bodyweight.
- Officer C – Physical Force and Bodyweight.
- Officer D – Physical Force and Bodyweight.
- Officer E – Bodyweight.
- Officer G – Bodyweight.

According to Officer B, when the Subject failed to comply with the TASER warning or any commands, he advised Officer A, “I’m going to roll him over.” He then reached down and grabbed the Subject’s right arm with both hands, attempting to roll the Subject over.

According to Officer A, he grabbed the Subject’s right pant leg with his left hand to assist in rolling the Subject over.

According to Officer B, the Subject attempted to pull away, then assumed a position on his hands and knees and started crawling towards the door. Officer B then held onto the Subject, with his chest on the Subject’s back, attempting to maintain control and stop him from going towards the door.

According to Officer A, with little to grab because his partner was on the Subject’s back, he utilized his right foot to step on the Subject’s right foot in an attempt to prevent the Subject from crawling towards the door.

According to Officer B, Officer A deployed the TASER, and the Subject immediately reached down and pulled the TASER wires out. Believing that the TASER was completely ineffective, Officer B closed the distance between him and the Subject and grabbed onto the Subject’s right arm.

According to Officer A, after the Subject grabbed both wires from the TASER darts and pulled them out, he dropped his TASER to the ground and grabbed the Subject’s left arm.

According to Officers A and B, as they continued to struggle to control the Subject, they moved down to the bottom of the handicap ramp, then around the ramp’s metal railing. With the Subject facing toward the restaurant, they utilized their body weight and pinned the Subject against the railing.

According to Officer B, while he had the Subject on the ground, he assumed a full mounted position on top of the Subject to maintain control of him. He then obtained control of the Subject’s right arm and pried it out from under his body.

According to Officer A, the Subject continued to resist and was still trying to crawl around on the ground. He then placed his right arm over the Subject's right shoulder and applied bodyweight, while simultaneously utilizing his left hand to keep the Subject's left arm out so he couldn't put it underneath him.

According to Officer A, as they struggled to place the Subject's hands behind his back, Witness C approached and offered his assistance. Officer A held onto the Subject's left wrist while Witness C grabbed the Subject's elbow or triceps area and assisted in pulling his arm towards his back. Witness C then handcuffed the Subject.

According to Officers C and D, when they arrived, the Subject was already handcuffed, but was kicking his legs while being held down on the ground by officers. They went to assist the officers by grabbing the Subject's feet.

According to Officer C, he relieved Officer A on the upper left portion of the Subject's body and applied bodyweight. According to Officer D, once the HRD was applied, he put his knees and bodyweight on the Subject's feet as he continued to kick.

According to Officer E, when he arrived, the Subject was moving around and attempting to escape from the officers who were holding him down on the ground. He applied bodyweight to the Subject's right upper back, alternating between his right knee and hands.

According to Officer G, when he arrived at the scene, the Subject was handcuffed and there were three officers holding him down on the ground. The Subject was resisting the officers, trying to get up, and the officers were having a hard time holding him down. He then placed his right knee and a hand on the Subject's left shoulder area to keep him face down.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, C, D, E, and G, while faced with similar circumstances, would believe that the same application of non-lethal force would be reasonable to overcome the Subject's resistance.

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

C. Less-Lethal Use of Force

- **Officer A** – (TASER, one activation, in probe mode)

According to Officer A, the Subject refused to comply and continued to struggle with his partner. He advised Officer B to let the Subject go and delivered one, five-second, TASER activation to the Subject.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would believe the application of less-lethal force options to stop the Subject's actions were objectively reasonable.

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