

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

LAW ENFORCEMENT-RELATED INJURY – 021-13

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Pacific	02/28/13		
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Officer(s) Involved in Use of Force	Length of Service
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Sergeant A	22 years, 4 months
Officer A	10 years, 9 months
Officer B	6 years, 4 months
Officer C	5 years, 4 months
Officer D	5 years, 4 months

Reason for Police Contact

Witness A requested police assistance in dealing with the Subject on behalf of the Subject's parents, who had a temporary restraining order against the Subject. A use of force occurred when the Subject was taken into custody.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 46 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 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 February 11, 2014.

Incident Summary

Communications Division (CD) received a telephone call from Witness A, requesting a police presence at a residential address. Witness A was at the location to serve a Temporary Restraining Order (TRO) on the Subject, at the behest of the Subject's parents, both of whom are friends with Witness A. Witness A advised CD that the Subject's mother, Witness B, and stepfather, Witness C, had informed him that the Subject slept on a mattress located on the floor of the family room where he kept a baseball bat and a knife on either side of his bed.

As CD generated the radio call, it was discovered that the residence was listed in the Premise Hazard File as a Premise Hazard Special Instructions (PHSI) location. Although the residence contained specific instructions to have a supervisor accompany any patrol units dispatched to the location, there was no further information as to the reason.

Two minutes later, CD assigned the radio call to uniformed Police Officers A and B. Upon reading the comments of the radio call, Officer A telephonically contacted the Watch Commander, Lieutenant A, who was listed as the supervisor approving the PHSI. Lieutenant A informed Officer A that there had been multiple calls for service at the location as well as multiple complaints generated against officers as a result of those calls for service, and therefore, the location was flagged as a PHSI location.

Per the PHSI instructions, a supervisor, Sergeant A, was dispatched to the radio call.

Officers A and B notified CD of their arrival on scene as they met with Witness A and his employee, Witness D. Witness A informed the officers that he possessed a valid TRO. The TRO was approved by a judge and listed Witness B as the Protected Elder or Dependent Adult and named the Subject as the Restrained Person. In addition, the TRO contained a Stay Away Order as well as a Move Out Order. Witness A requested that the officers remain at the location, in order to keep the peace, while he and Witness D served the TRO. Upon the arrival and briefing of Sergeant A, Witness A and Witness D entered the front door of the residence, triggering the security alarm. As Witnesses A and D were inside the residence, the officers could hear arguing from within the residence as they waited outside.

Witnesses A and D exited the residence and the Subject, from the threshold of the front door, began to question the legality of the TRO with the officers. Sergeant A advised the Subject that he had been legally served and was required by law to vacate the premises. Sergeant A also advised that if he was still present when his parents returned home, he would be in violation of the TRO and, therefore, subject to arrest.

Sergeant A and Officers A and B cleared from the location and responded to an unrelated call, two blocks away.

CD received a telephone call from Witness C requesting a police response at his residence. Witness C stated that the Subject, who had previously been served with a TRO and a Move Out Order, was still within the residence refusing to leave. Witness C also stated that the Subject had not taken his medication for a mental health condition, and that he had previously been in possession of both a knife and a bat. CD broadcast a radio call of a "Male with Mental Illness, Restraining Order on File," and Sergeant A along with Officers A and B responded back to the residence.

Upon arrival, the officers met with Witnesses B, C and D in front of the residence. Witness C confirmed that the Subject was still inside the residence refusing to leave. The Subject, who was now peering out the front window, again began to question the legality of the TRO. The officers observed the Subject to be visibly agitated toward his parents and in an attempt to deescalate the situation, requested for them to wait around the corner of the block while they spoke with their son. Prior to leaving the location, Witnesses B and C provided Sergeant A with a key which unlocked both the front and rear doors of the residence and gave their permission for the officers to enter if it became necessary.

Sergeant A and Officer A stood outside of the residence and began to verbalize with the Subject through the front window. Sergeant A advised the Subject that it was necessary for him to vacate the premises and allotted him 15 minutes to pack his personal items. The Subject continuously expressed his intent to remain at the location while he paced back and forth in front of the window. After several minutes of being advised that he may be arrested, the Subject opened the front door. Officer A observed the Subject to be agitated and upset. Having knowledge that the Subject had access to a baseball bat, and possibly knives, and believing the situation could rise to a level where force might become necessary, Officer A retrieved his Department-approved bean-bag shotgun from his police vehicle.

Sergeant A requested an additional unit to respond and uniformed Officers C and D arrived on scene. Officers C and D were advised that the Subject had been provided an allotted amount of time to vacate the premises but had yet to comply with the officers' requests. Sergeant A provided Officer D with the rear door key and directed him and his partner to take a position to the rear of the residence. Sergeant A further instructed Officers C and D to obtain a visual of the rear interior of the residence and, if the Subject were to walk out of the view of the officers in the front, to monitor his activities.

Approximately 20 minutes after first being instructed to vacate the residence, the Subject still failed to comply. Sergeant A noted that the Subject had not threatened nor posed a physical threat to anyone, nor had he been observed to be in possession of any weapons. However, Sergeant A believed that it could turn into a barricaded suspect situation and opted to enter the residence with the intent of arresting the Subject for violation of the court order.

Sergeant A took a position on the front walkway to the residence, which allowed him to see the interior of the house through the open front door and the front window.

Sergeant A directed Officers A and B to move toward the front door and as he observed the Subject standing in the hallway, redeployed behind his officers. As Sergeant A advised the Subject it was time to leave, Officers A and B entered the residence.

Note: Prior to deploying on the front door, Officer A, in anticipation of being a contact officer, had transferred possession of the bean-bag shotgun to Sergeant A, who slung it over his shoulder.

Officer A observed the Subject standing near the end of the hallway. As he neared the Subject's location, the Subject turned away from him and darted into a family room. Officer A believed the Subject would possibly arm himself with a weapon, and quickly approached the Subject from the rear.

Sergeant A, observing the Subject suddenly lunge for an unknown object, immediately advised the officers to "Grab him!" Officer A, who had made his way into the family room, observed the Subject reach for a backpack. Officer A, fearing the backpack may contain a weapon, continued to advance on the Subject in an effort to deny him the opportunity to open it. Officer A, from behind, wrapped his arms around the Subject's upper torso near the triceps area in an attempt to immobilize his arms. In response, the Subject immediately tensed his body and began to resist Officer A's effort to restrain him.

Sergeant A, who had advanced behind the officers, heard Officer A ordering the Subject to "stop resisting" and observed the Subject violently throwing himself from side to side trying to get free. As Officer A tried to maintain control of the Subject, they both fell to the floor. As they fell, Officer A lost his hold on the Subject's upper body. The Subject landed on his back and Officer A landed on his left side between the Subject and the fireplace located on the east wall of the family room.

Officer A continued to order the Subject to stop resisting as the Subject began to punch and kick him. Officer B, who had entered behind Officer A, immediately straddled the Subject's upper torso and attempted to gain control of his arms while Sergeant A attempted to control the Subject's legs. The Subject continued to flail his arms at the officers as Officer A attempted to stand up.

Simultaneously, Officers C and D, from the rear of the residence, heard the commotion and upon peering into the residence, observed Officer A attempting to gain control of the Subject. The officers, unable to make entry through the rear French doors, immediately ran toward the front of the residence.

Officer A, from a kneeling position, attempted to support himself with his left arm while he utilized his right arm to deflect the Subject's punches. Officers C and D entered through the open front door and made their way to the family room. Upon observing Sergeant A trying to control the Subject's legs, Officers C and D relieved him of his position.

Officer D observed that the Subject was clutching a backpack in his right hand and wrested it away from him. Officer D placed the backpack out of the Subject's reach and then, in an effort to control the Subject's legs, grabbed hold of his right leg as Officer C grabbed hold of his left leg.

Note: The backpack was later searched and an approximate 8-inch folding knife with a 4-inch blade was recovered from within.

Officer A, realizing the Subject was ignoring repeated commands to stop resisting and continuing his assault, clenched his right hand and punched the Subject once on the right side of his face. The Subject continued to resist the officers by flailing his arms in their direction. Officer B, observing a baseball bat lying to the left of the Subject, feared he could grab it because he saw the Subject moving his fist, and the Subject notified the other officers of his observation.

Officer A, in an attempt to stop the Subject's continued aggressive behavior, with his right hand clenched, punched the Subject a second time on the right side of his face. The Subject slowed his assault on the officers and Officer A, utilizing his hand-held radio, requested a back-up and for the deployment of the TASER which Sergeant A, upon observing the close proximity of the officers to the Subject, opted against deploying.

Note: Officer A stated he recalled requesting a TASER at some point during the struggle, but the Subject ceased his aggressive behavior prior to it being deployed.

Sergeant A stated that the close confines of where the struggle with the Subject occurred precluded the use of the TASER, OC spray or impact devices.

Officer A rose and stood over the Subject's head area, facing his feet. Officer A then grasped the Subject's shirt along the shoulder area as Officer B, who was still straddling the Subject, took control of his left arm. With the assistance of Officers A, C and D, Officer B rolled the Subject onto his stomach. With Officer B still in control of the Subject's left arm, Officer A took hold of his right arm. The officers positioned the Subject's arms behind his back where Officer D was able to handcuff him without further incident.

A Rescue Ambulance (RA) was requested by Officer B and an additional supervisor was requested by Sergeant A. Officer A observed that he was bleeding from his right hand and exited the residence to obtain an alcohol swab to clean his wound.

Sergeant A exited the residence with Officer B and instructed Officers C and D to remain with the Subject until the RA arrived. Upon their arrival, RA personnel treated the Subject for an injury to his right jaw. The Subject was transported by RA to a local hospital. Officer C rode with the Subject in the RA as his partner, Officer D, followed behind in the police vehicle.

Officer A was examined at scene by RA personnel for cuts to his right hand. Officer A was then transported by his partner to the hospital for treatment.

Sergeant B responded to the Subject's residence and, at the request of Sergeant A, was tasked with conducting a Non-Categorical Use of Force (NCUOF) investigation.

The Subject was subsequently released from the hospital and cleared for booking into a LAPD facility. The Subject was transported to the Area station, where the arrest report was completed, and then transported to the jail for housing.

After being examined by Jail Division Dispensary personnel, the Subject was transported to a hospital for additional X-rays to determine if he suffered any fractures to the facial bones or nose.

The Subject was subsequently admitted to the hospital due to a hairline fracture to his right jaw and separated clavicle.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a 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 Sergeant A and Officers A, B, C and D's tactics to warrant a Tactical Debrief.

B. Non-Lethal Use of Force

The BOPC found Sergeant A and Officers A, B, C and D's non-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. Punches to the boney area

Officer A utilized a closed fist to punch the boney portion of the Subject's face. As a result, Officer A received injuries to his right hand and was subsequently placed on Injured On Duty (IOD) status. Punches to boney areas are discouraged to prevent injury to an officer's hand and to minimize the risk of serious injury to the subject.

2. Backup / Help Requests

Sergeant A instructed Officer A to put out a Backup request when the struggle with the Subject went to the ground. It may have been beneficial to request Help rather than a Back-up based on the aggressive behavior of the Subject.

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.

The BOPC evaluated the facts and circumstances of this case and understood how service and enforcement of TROs can be challenging and potentially volatile. After a thorough review of the incident, the BOPC determined that the identified areas for improvement neither individually nor collectively substantially deviated from approved Department tactical training.

In conclusion, a through Tactical Debrief will occur, to include tactical issues surrounding TROs, as well as Emergency Protective Order service and enforcement. A Tactical Debrief is the appropriate mechanism for the significantly involved personnel to evaluate the events and actions that took place during the incident and assess the identified tactical considerations to better handle a similar incident in the future.

B. Non-Lethal Use of Force

- **Officer A** – Two Punches, Physical Force, Takedown and Firm Grip.
- **Officer B** – Firm Grip and Bodyweight.
- **Sergeant A** – Firm Grip and Bodyweight.
- **Officer C** – Firm Grip.

- **Officer D – Firm Grip and Physical Force.**

Sergeant A, along with Officers A and B responded to a radio call of “Male with mental illness, Restraining Order on file.” Officers A and B had previously responded to the location during their shift. Sergeant A developed a tactical plan utilizing Officers A, B, C and D to contain the location and compel the Subject to leave. However, the Subject refused to leave the location at which time Sergeant A instructed Officers A and B enter the residence.

Officer A approached the Subject as he stood motionless in the hallway. Suddenly, the Subject quickly entered the adjacent family room and lunged for a backpack. Fearing that the Subject may be arming himself, Officer A utilized physical force and grabbed the Subject from the rear, wrapping his arms around the Subject’s upper torso near the triceps. The Subject tensed his body and attempted to escape Officer A’s grasp. Officer A and the Subject fell to the floor where Officer A landed on his left side between the Subject and the fireplace. Officer A issued verbal commands to stop resisting. The Subject failed to comply with Officer A’s verbal commands and began to punch and kick at Officer A.

Officer A recalled believing that he was going to arm himself with a weapon so he went up behind him and gave him a what would be a bear hug from behind. Officer A grabbed him, immobilizing his arms so he couldn’t access the backpack.

Officer B entered the room and utilized bodyweight to straddle the Subject’s upper torso. Officer B utilized firm grip in an attempt to control the Subject’s arms.

Officer B recalled the Subject was laying on his back and punching his fists towards him and his partner. Officer B got on top of the Subject and tried to grab his arms to try and control him.

Sergeant A observed the Subject punching and utilized a firm grip to hold the Subject’s legs while simultaneously utilizing bodyweight to control him.

Sergeant A placed his left hand across both his legs to keep him knelt down and to keep him from thrashing his arms around but he was still punching at the officers. Sergeant A couldn’t let his legs go, so he pinned them down.

Officers C and D entered the room and observed Sergeant A along with Officers A and B struggling to control the Subject on the ground. Officer C utilized a firm grip and held the Subject’s left leg. At the same time, Officer D utilized a firm grip and held the Subject’s right leg. Consequently, Sergeant A was able to disengage the Subject and assume command and control responsibilities.

Officer C recalled that he grabbed the Subject’s right leg. He was on the floor with his back to the ground and struggling, still trying to move and try to get away from the officers. Officer C grabbed a hold of his right leg and tried to pin it down.

Officer D observed the Subject clutching a backpack in his right hand. Officer D utilized physical force to pull the backpack from the Subject's grasp.

Officer A continued to issue verbal commands to the Subject to stop resisting with negative results. Officer A observed the Subject punching and kicking while resisting being taken into custody. As a result, Officer A punched the Subject once on the right side of his face in an attempt to overcome the Subject's resistance and gain compliance. However, the Subject continued to resist, at which time Officer A administered a second punch to the Subject's face to overcome his resistance and gain compliance.

Officer A recalled being on his knees and supporting his body with his left hand and avoiding the Subject's punches. Officer A punched the Subject one time in the right side of his face like he was trying to stop him from punching and kicking. The Subject continued his actions, and Officer A punched the Subject one more time and then slowed down. Officer A put out a backup request.

Consequently, the Subject ceased his combative behavior and was handcuffed and taken into custody without further incident.

Based on the totality of the circumstances, officers with similar training and experience as Sergeant A, Officers A, B, C, and D 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 Sergeant A, Officers A, B, C, and D's application of non-lethal Force to be objectively reasonable and in policy.