

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

**IN-CUSTODY DEATH – 033-13**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Rampart	04/04/13		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Sergeant A	25 years, 10 months
Officer A	12 years, 10 month
Officer B	10 months

**Reason for Police Contact**

Officers responded to a substance abuse facility and encountered a subject who appeared to be under the influence and had been involved in a traffic collision. When the subject attempted to leave while the officers were conducting their investigation, a use of force occurred. The subject subsequently went into medical distress and died.

<b>Subject(s)</b>	<b>Deceased (X) Wounded ( ) Non-Hit ( )</b>
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Subject: Male, 50 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 BOPC; 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 March 25, 2014.

## **Incident Summary**

The Subject drove his vehicle into the front parking area of the substance abuse treatment center. The Subject exited his vehicle, entered the front sliding glass doors and sat on a bench to the left of the front doors. The bench is used by the facility staff members for intake interviews.

Shortly thereafter, the Subject approached the on-duty desk employee, who requested that the Subject write down his name and date of birth on a piece of paper. According to the desk employee, the intake process always began with a background check by the in-house legal department that required the name and date of birth of the person requesting to enter the program. As the Subject wrote his name, the desk employee observed that the Subject's hands were shaking, causing him to believe that the Subject was under the influence of narcotics. The Subject returned to and sat on the intake bench while the desk employee followed the facility protocols and telephoned the legal department to conduct the background check.

Facility employees, Witnesses A and B, responded to the lobby to speak with the Subject. As the intake coordinator, Witness A asked the Subject when he last used narcotics. The Subject replied that he last used narcotics one day prior. Witness A stated that the Subject's eyes shifted back and forth and he appeared to be "stuck" on his words, which caused him to believe that the Subject was under the influence of a stimulant.

The substance abuse treatment center protocol was to terminate the intake process when the person requesting entry into the program is under the influence of alcohol or drugs at the time of the intake interview.

The Subject stated that before he arrived at the facility, he was involved in a hit and run traffic collision where he struck another vehicle. Since the Subject admitted to being involved in a hit and run traffic collision, Witness A advised him that he was not allowed to remain at the facility. If the Subject did not leave, he would be trespassing and the police would be called. The Subject did not verbally respond or leave the property. Witness B then telephoned the police.

Witness C, an employee at the facility, arrived in his vehicle and observed a vehicle (later determined to belong to the Subject) parked in front of the facility and noted the front passenger side traffic collision damage. Some unidentified residents of the facility were out front and advised Witness C about the Subject entering the facility and asking for an interview for acceptance. As Witness C walked into the facility, he observed the Subject sitting on the bench. Witness B spoke with Witness C and informed him the police had been called. Witness C proceeded to walk by the Subject and encouraged him to be patient and assured him the staff members would be with him shortly. Witness C perceived that the Subject was calm; however, he believed the Subject was under the influence of narcotics because his eyes were "darting all over the place."

**Note:** According to Witness C, he spoke with residents of the facility who informed him that the Subject admitted to them that he was under the influence of methamphetamine.

After being dispatched to the call, Officers A and B arrived and parked their police vehicle approximately 10 to 15 feet south of the front entrance. Witness C approached the officers and informed them that the Subject entered the facility to seek assistance for alcohol and drug addiction and was seated on the intake bench inside the facility. Witness C also advised that the Subject stated he was involved in a traffic collision and his vehicle was parked in front of the police vehicle. According to Witness C, he also advised the officers that the Subject admitted he ingested drugs earlier that morning.

As Officers A and B approached the front entrance, they observed what appeared to be traffic collision damage to the right front portion of the vehicle that Witness C had identified as the Subject's vehicle. Officers A and B proceeded into the lobby and observed the Subject sitting on the intake bench.

Officers A and B approached the Subject and requested he produce his identification, which he was unable to provide. Officer B obtained the Subject's first and last name as well as his date of birth as he completed a Field Interview (FI) card. According to Officer B, the Subject displayed no evidence of physical injuries. Officer B conducted a warrant check on the Subject that returned with negative results.

The Subject stated he drove from his residence and believed he was involved in a traffic collision elsewhere. The Subject was neither able to provide a description of the other involved vehicle nor the specific location of occurrence. Officer A contacted CD to inquire whether a traffic collision had been reported in the area. There were none identified. Since it could not be determined where the traffic collision occurred, Officer A started to complete a traffic statement form to document the incident as depicted by the Subject.

**Note:** Since the Subject reported being involved in a traffic collision, Officer A offered to request a Rescue Ambulance (RA) for the Subject but he declined.

Officer B believed the Subject appeared paranoid because he was shaking and constantly looking around. Officer A stated the Subject had watery and bloodshot eyes and appeared nervous, looking around while holding his hat in his hands. According to Officer A, the Subject spoke with slurred speech and appeared to take time to process questions and then provided answers that often did not match the question asked.

According to Officer B, Officer A asked the Subject what he had ingested, to which the Subject replied he had drunk alcohol. Officer A then inquired if there was anything else he ingested. The Subject at first did not respond, but eventually replied that he had.

When Officer A asked if he meant heroin or cocaine, the Subject did not verbally respond but nodded his head in what was perceived to be in an affirmative manner.

Officer B asked the Subject if his identification was in his vehicle, to which he replied he did not know. Officer A then asked the Subject for his vehicle keys to obtain access to the interior of his vehicle to look for the Subject's identification and vehicle registration. The Subject stated he did not know where his keys were; however, Officer B observed them inside a hat the Subject had on his lap. The Subject was initially hesitant but relinquished his keys after being persuaded by Witness C. Officer A asked the Subject if he would like to accompany them to his vehicle, but the Subject declined.

Officer B walked outside and located the vehicle registration in the glove compartment, copied the information and gave it to Officer A after Officer B returned to the lobby area. Witness C advised that the Subject's vehicle could not remain where it was parked but identified a parking area where it could be parked.

At approximately this time Sergeant A arrived and met with Officer A, who briefed him as to the circumstances of the incident and the status of the investigation.

Sergeant A spoke to the Subject and inquired whether he had been drinking or ingested any drugs. The Subject denied ingesting drugs but admitted drinking. Sergeant A asked the Subject if he needed an ambulance, to which he declined. In an effort to find someone to care for the Subject, Sergeant A asked him whether he had a wife or children. The Subject replied that he had a wife and she could be contacted. During this interaction, the Subject indicated that he had a cellular telephone inside his vehicle. Officer B returned to the Subject's vehicle and located the cellular telephone but determined the battery needed to be charged for the telephone to be operational. Attempts were made to charge the battery but met with negative results, and no contact information was retrieved.

Witness C had developed a rapport with the Subject, who provided him with his wife's telephone number. Witness C called the number but received no answer. As Witness C interacted with the Subject, Sergeant A discussed tactical considerations with Officers A and B. It was determined that Officer B would deploy the Thomas A. Swift Electronic Rifle (TASER) in the event the Subject did not cooperate and the situation escalated to the point where force was necessary.

Due to the circumstances, it was determined that the Subject would be transported to another substance abuse recovery services facility. Sergeant A advised Witness C that the Subject might resist efforts to transport him in the police vehicle. According to Sergeant A, he recognized the rapport that Witness C had with the Subject. Thus, he requested that Witness C advise the Subject that his vehicle would remain there while he was transported to the other treatment center and that arrangements could be made at a later time for him to receive treatment at this substance abuse treatment center.

The officers advised the Subject that they would complete a traffic statement form and then transport him to the other treatment center. Officer A explained to the Subject that although he was not in police custody, he would be searched and handcuffed before being placed in the police vehicle for transportation.

While officers were still conducting their investigation, the Subject abruptly stood up and proceeded toward the front door. Officer B stood in front of the Subject and advised him that their investigation had not yet been completed. According to Officer B, the Subject screamed, "Help, these are not the police." Officer B used his right hand and grabbed the Subject's upper left arm while using his left hand to grab the Subject's left forearm/wrist area. The Subject pulled his left arm toward the rear and his elbow upward, causing Officer B to lose his grip and nearly strike him in the face.

Officer A moved to the right of the Subject and used his right hand to grab the Subject's right wrist. Officer A placed the Subject's right hand behind his back and pulled back on his fingers to conduct a finger flex while placing his left hand on the Subject's right elbow. The Subject continued to move forward through the foyer and toward the exterior doors. Sergeant A moved to the left of the Subject to assist Officer B. Sergeant A used his right hand and grabbed the Subject's left forearm while Officer B continued to hold the Subject's left arm.

Officer A continued to verbalize with the Subject telling him to stop resisting. The Subject continued forward, yelling, "Help, these are not the police," while attempting to swing his arms back and forth. Officer A requested a pair of handcuffs that he obtained from Sergeant A. Officer A attempted to place a cuff on the Subject's right wrist while Officer B and Sergeant A struggled to maintain control of the Subject's left arm.

The struggle continued beyond the exterior doors and out onto the driveway area. Officer A decided to trip the Subject to get him onto the ground. Officer A verbalized to Officer B and Sergeant A regarding his intent to take the Subject to the ground, but not specifically about tripping him. Officer A placed his right foot in front of the Subject's right foot, stopping his momentum and causing the Subject to fall. Sergeant A began to place his right foot in front of the Subject's left foot but noticed that Officer A moved his leg and realized that if he continued, the Subject would fall on him.

The Subject fell on his front upper torso and was unable to brace his fall with his hands. Officer B fell to his knees while maintaining control of the Subject's left arm and remaining to the left of the Subject. Officer A fell to his knees near the Subject's right hip area, while maintaining control of the Subject's right arm. Officer A then moved slightly toward the Subject's chest area. Sergeant A fell to his knees and lost control of the Subject's left arm. Officer A continued to verbalize to the Subject to place his hands behind his back. The Subject did not comply and continued to flail his arms.

**Note:** Sergeant A stated that he did not know if the Subject's face or head struck the ground.

During the struggle, Officer A was able to place a cuff onto the Subject's right wrist but was unable to place the Subject's arm behind his back. The Subject attempted to place his arms under his body, into his front waistband area, while rolling his body left to right. At this same time, the Subject placed his legs under his body before lying back onto his stomach. Sergeant A believed that the Subject may overpower the officers and requested back-up. After Sergeant A's broadcast, the Subject knocked the radio from his hand. Officer A used his body weight to push the Subject to the ground into a prone position. The Subject's haunches came up off the ground but his upper torso was still down. Officer A used his right knee and delivered one knee strike to the Subject's abdomen area. Officer A was then able to gain control of the Subject's right arm and placed it behind his back.

Officers continued to struggle with the Subject as Officer B placed his right knee on the Subject's lower back and pulled on his left arm to remove it from under his body, while keeping his left knee on the ground. Officer B verbalized to the Subject to calm down and give officers his other arm. Meanwhile, Sergeant A believed that back-up units were taking too long to respond, and made a second request for back-up.

In response, several additional officers responded.

Prior to the arrival of assistance, Sergeant A directed Officer B to tase the Subject. Officer B stood, unholstered his TASER, removed the cartridge and dropped it on the ground. Officer B then provided a TASER warning to the Subject.

As the Subject continued to struggle, Officer B placed the TASER on the Subject's right calf, over his jeans, and initiated a direct stun. The direct stun did not have an effect on the Subject, who continued to move around. Officer B again advised the Subject to stop resisting. The Subject failed to comply, and Officer B again placed the TASER on the Subject's right calf, over his jeans, and initiated a second direct stun. Again, the direct stun did not have an effect on the Subject as he continued to struggle with officers. Officer A maintained control of the Subject's right arm while Sergeant A held onto the Subject's left arm. During the struggle, the Subject's shirt lifted, exposing the skin of his upper torso. Sergeant A directed Officer B to use the TASER against the Subject's exposed area. Officer B placed the TASER against the Subject's exposed right lower flank area and issued another warning. When the Subject still refused to comply, Officer B initiated a direct stun. The Subject continued to scream and struggle and there was no change to the resistance demonstrated by the Subject. Again, Officer B placed the TASER against the Subject's exposed right lower flank area and initiated another direct stun. According to Sergeant A, there was still no change in the resistance demonstrated by the Subject. Officer B placed the TASER against the Subject's exposed right lower flank area a third time and initiated a direct stun. After the last TASER direct stun, Sergeant A was able to place the Subject's left arm behind his back and Officer A completed the handcuffing.

The investigation determined there were five TASER activations.

Subsequent to handcuffing the Subject, several additional officers arrived to assist. Sergeant A then broadcast that the Subject was in custody. A laceration was noted on the Subject's face and a Rescue Ambulance (RA) was requested.

Prior to the arrival of the RA, Fire Department personnel arrived and observed the Subject leaning against a police vehicle. A Firefighter attempted to obtain the Subject's blood pressure, but he was uncooperative. Firefighters asked the officers if they could turn the Subject around so they could examine him. Having heard the firefighters' request, the Subject stood and turned himself around. Although the Subject turned himself, he still was not cooperative with Fire Department personnel and they were unable to obtain vitals, medical history or personal information. Fire Department personnel then asked the Subject to sit on the ground while awaiting the RA.

When Firefighter/Paramedics arrived, the Subject was seated with his back leaning against a police vehicle. As they approached, it appeared that the Subject might not be breathing, and they inquired if the Subject had a pulse. A Firefighter checked for and obtained a pulse on the Subject. Another Firefighter/Paramedic directed other fire personnel to place the Subject on a gurney while he prepared equipment in the Rescue Ambulance for transport. As Fire Department personnel prepared the Subject for transport, he stopped breathing, and they began life saving measures. They then placed the Subject in the Rescue Ambulance and transported him to the hospital. The Subject failed to respond to medical treatment and was pronounced deceased at the hospital.

### **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 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's and Officers A and B's tactics to warrant a Tactical Debrief.

#### **B. Non-Lethal Use of Force**

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

## **C. Less-Lethal Use of Force**

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

### **Basis for Findings**

#### **A. Tactics**

- In their analysis of this incident, the BOPC identified the following tactical consideration:

##### 1. Handcuffing

The decision to utilize handcuffs depends on the specific circumstances of each case. In this instance, the Subject was cooperative and did not show signs of physical aggression toward the officers during their investigation. Therefore, the officers opted to not handcuff the Subject.

##### 2. Command and Control

Sergeant A arrived and was met by Officer A, who advised him of the unfolding incident. Based on the officers' hit and run investigation, Officer A started to complete a Traffic Statement Form.

The Subject appeared to have objective symptoms of being under the influence of an intoxicant, and the officers offered the Subject several different medical treatment solutions, which did not include an arrest.

Based on the Department's policies and procedures related to transporting a person in a police vehicle and the Subject's reaction, Sergeant A advised Officer B to have the TASER ready for use. During the physical altercation, Sergeant A observed the TASER to be ineffective in the targeted locations. Sergeant A directed Officer B to apply the TASER to an area where the Subject's skin was exposed. The Subject finally complied and was taken into custody.

In the BOPC's review of Sergeant A's actions as they pertain to Command and Control, the BOPC determined that Sergeant A's actions were consistent with the Department's protocol.

##### 3. Additional Unit Request

When the officers perceived a change in the Subject's mannerisms, an additional unit request may have benefited the officers; however, back-up units began to arrive within five minutes of the initial back-up request from Sergeant A.

#### 4. TASER

Officer B utilized the TASER five times in the drive-stun mode. Officer B was reminded that the TASER is most effective in the probe mode, and although the officers were in close proximity with each other, the probes could have been used. This would have caused the desired neuromuscular incapacitation of the Subject to maximize this force option.

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.

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 addition, the physical contact with the Subject was reasonable, as their intent was to assist the Subject with treatment rather than arrest him. Therefore, 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 with the objective to improve the overall organizational and individual performance.

In conclusion, the BOPC found the tactics of Sergeant A and Officers A and B to warrant a Tactical Debrief.

#### **B. Non-Lethal Use of Force**

- **Officer A** – Firm Grip, Physical Force, Takedown, Knee Strike and Bodyweight.
- **Officer B** – Firm Grip and Bodyweight.
- **Sergeant A** – Firm Grip and Physical Force.

After a thorough review of the incident and involved officers' statements, the BOPC determined that Department personnel with similar training and experience as Sergeant A, and Officers A and B would reasonably believe the application of non-lethal use of force would be reasonable to overcome the Subject's resistance in an effort to prevent injury to themselves, prevent further injury to the Subject and to prevent his escape.

In conclusion, the BOPC found that Sergeant A, and Officers A and B's non-lethal use of force was in policy.

#### **C. Less-Lethal Use of Force**

- **Officer B** – five drive-stun TASER activations.

The standard set forth in Department policy dictates that the decision to use force must be judged through the perspective of a reasonable officer with similar training and experience and in a similar circumstance. The BOPC determined that an officer with similar training and experience would reasonably believe that the application of the less-lethal use of force, as a pain compliance technique to stop the Subject's aggressive behavior, was reasonable.

- **Sergeant A – directed use of force**

Upon observing a portion of the Subject's shirt rising up and exposing skin, Sergeant A directed Officer B to discharge the TASER in drive-stun mode upon the Subject.

The BOPC found Sergeant A's and Officer B's less-lethal use of force to be objectively reasonable and in policy.