

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

LAW ENFORCEMENT-RELATED INJURY – 034-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Hollywood	05/01/15		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	7 years, 11 months
Officer B	3 years, 8 months

Reason for Police Contact

Officers responded to a domestic violence call. On arrival the Subject was combative with officers, and 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 March 29, 2016.

Incident Summary

Witness A was alone inside her apartment. She had finished taking a shower and heard noises in her apartment. She became scared and ran toward the front door. As she proceeded through the single room living space, she observed her couch lift up as if someone were hiding underneath it. After Witness A exited the front door, she looked back inside the apartment and observed her ex-boyfriend emerge from behind the couch.

While on the exterior front door landing, Witness A called the police on her cellular telephone to report the incident. The operator maintained the open line with Witness A throughout the transfer of the call for service. Witness A told the operator that the Subject was in her house with a knife and that she had a restraining order against him.

The Subject approached Witness A as he held a knife in his hand and told her she could not call police. Subject then exited the apartment and punched Witness A on the right side of her face, which caused her to drop her cellular telephone. The Subject pulled Witness A down to the ground, grabbed her by the hair, and dragged her approximately two to three feet into the apartment.

Communications Division (CD) broadcast, the request for assistance and advised officers that the Subject was armed with a knife.

Officers A and B advised CD they would respond to the call. On arrival at the venue, Officer B broadcast his and Officer A's status and location (that they were Code Six). The officers parked their police vehicle and approached the location on foot. The apartment complex provided unobstructed access to the units. Officers A and B located the apartment on the ground level. The curtains to the window adjacent to the front door were partially open.

Officer A looked inside the apartment and observed Witness A sitting on a bed in the living room area, near the front door. The Subject did not have a knife or any other weapon in his hands as he paced back and forth in the apartment. There were no obvious signs that either party was in medical distress or had sustained an injury. Officer A informed Officer B of his observations. In addition, no yelling or arguing could be heard by either officer.

Officer A knocked on the door, while Officer B positioned himself on the ground level behind Officer A. Due to the comments of the radio call, which indicated that the Subject was armed with a knife, Officer A unholstered his pistol with his right hand and held it in a two-handed, low-ready position with his finger along the frame. Officer A then observed Witness A stand up and approach the front door. Simultaneously, the Subject retreated further into the apartment.

Witness A opened the door and ran out of the apartment. At this time, Witness A was crying and appeared to be frightened. She pointed at the Subject, who was still inside of the apartment, and stated in English, "That's him, that's him."

The Subject then walked toward the front door and stopped one to two feet just inside the threshold with a can of beer in his hand. Officer A directed the Subject to exit the apartment, but he refused. Officer A continued to verbalize with the Subject, directing him multiple times to exit the apartment. Again, the Subject refused. Officer A could see that the Subject was holding a can of beer and was not holding a knife. According to Officer A, the Subject cursed at the officers and appeared to be under the influence of alcohol as evident by his slurred speech and the presence of multiple empty beer cans scattered throughout the apartment.

As the Subject remained standing in the threshold of the door, Officer A holstered his pistol because he did not appear to be armed. Although the Subject appeared not to be armed, Officer A perceived him to be a threat because of the comments of the radio call that indicated he was armed with a knife. Officer A wanted to handcuff the Subject to secure him.

Officers A and B entered the apartment because of the Subject's continued refusal to exit. Their intent was to effectively detain the Subject to further investigate the reported domestic violence-related incident. Officers A and B approached the Subject, who was facing the officers. Officer A applied a firm grip to the Subject's left arm. Simultaneously, Officer B applied a firm grip to the Subject's right arm. According to Officer B, the Subject was stiffening up trying to make it hard on them. The officers conducted the rear arm twist lock, but the Subject tried to pull away and struggle to break free from their hold.

The Subject pulled his left arm away from Officer A, causing him to lose his grip. Officer A re-applied the firm grip to the Subject's left arm and regained control. Officer B, who had applied the right rear arm twist lock, did so by placing his left hand on the Subject's right elbow, his right hand on the Subject's right wrist, and placing the Subject's right arm behind his lower back. The Subject pulled himself forward in an attempt to break free. The Subject's momentum caused him to fall forward, facedown onto the bed, which caused Officer A to again lose his grip on the Subject's left arm. Officer B maintained control of the Subject's right arm and held it in place behind the Subject's lower back.

After losing his grip on the Subject's left arm, Officer A requested back-up assistance.

As Officers A and B attempted to gain control of the Subject, he rolled onto his left side and tucked his left arm underneath his body, near his waistband area. Officer A told the Subject to give him his left hand. The Subject did not comply. Officer B, who still had control of the Subject's right arm, observed his left hand in a fist and believed the Subject was going to punch him.

Officer A, aware that the comments of the radio call indicated that the Subject was armed with a knife, believed the Subject could be attempting to arm himself because he was reaching for his waistband area. Officer A believed the most effective way to gain immediate compliance from the Subject and avoid the possibility of injury to him or his partner was to strike the Subject in the face with his right fist. Officer A struck the Subject twice on the jaw area with his right fist. According to Officer A, the strikes were effective and caused the Subject's body to soften up. Officer A then gained control of the Subject's left hand and placed it behind his back.

Since the bed was an unsteady platform, the officers removed the Subject from the bed by pulling him down to the floor. The Subject landed facedown onto the carpeted floor and continued to resist the officers by moving his body in what was perceived to be an attempt to stand up. The Subject's resistance caused Officer B to briefly lose control of the Subject's right arm. Officer B reapplied a rear twist lock to the Subject's right arm and placed his arm behind his back. Officer A maintained control of the Subject's left arm, which Officer A had already placed behind the Subject's back. Officer A placed his right knee onto the Subject's left shoulder area and utilized body weight to effectively control the Subject. Officer B took out his handcuffs and cuffed the Subject's right wrist. Together, the officers controlled the Subject's left wrist and handcuffed him.

Officer A broadcast and advised responding units that the Subject was in custody.

Officers A and B assisted the Subject to a standing position, at which time the Subject became rigid. According to Officer B, the Subject was dropping his weight trying to make himself heavy like deadweight. Officers A and B maintained control of the Subject's left and right arm, respectively, and escorted the Subject out of the apartment.

As they walked the Subject down the driveway toward their police vehicle, the Subject looked over his left shoulder at Officer A, leaned forward, and then violently threw his head backward toward Officer A's face in an attempt to head-butt him. In order to avoid being struck and to redirect the motion of the Subject's head, Officer A moved his body to the left and struck the Subject's face with his left fist. The Subject's head came within inches of striking Officer A in the face.

Officer B observed the assault on Officer A and pulled down on the Subject's right arm in an attempt to deflect the Subject's strike. Although Officer B did not intend to take the Subject down to the ground, a combination of everyone's simultaneous movements caused them to fall. The Subject fell forward, landing facedown on the sidewalk, while Officer B fell onto the sidewalk next to him.

Witness B observed the incident that occurred in the driveway from a second floor balcony. According to Witness B, the Subject pushed the officers and threw himself head first to the ground. Witness B did not observe the officers strike the Subject nor did they fall with him. Witness B's view was unobstructed.

Officers A and B assisted the Subject to a standing position. The Subject, who was still irate, continued to threaten the officers.

A Rescue Ambulance (RA) was requested, which responded to the scene and the Subject was transported to the hospital for medical treatment. Due to the Subject's injuries resulting from the use of force, the Subject was admitted for further observation and the incident was upgraded to a Categorical Use of Force.

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 Officers A and B's tactics to warrant Administrative Disapproval.

B. Drawing and Exhibiting

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

C. Non-Lethal Use of Force

The BOPC found, Officer A's third punch to be out of policy. The BOPC also found Officer A's firm grip, punch one and two, physical force, and takedown to be in policy. The BOPC also found Officer B's, firm grip, twist lock, takedown, physical force and bodyweight to be in policy.

Basis for Findings

A. Tactics

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

1. Tactical Plan

Officers A and B entered the residence without additional personnel and initiated physical contact with a Subject possibly armed with a knife.

Officers are given discretion regarding the appropriate time to broadcast for resources based on the ongoing tactical situation. In this instance, the officers were confronted with a Subject who was reported to be armed with a knife, and who was exhibiting signs of intoxication and refusing to comply with the officer's commands to exit the residence.

With the victim no longer in the residence and the Subject not posing an immediate threat to himself, the public or the officers, the BOPC noted there was no exigency to make entry. The BOPC concluded that the officers' failure to request additional resources, await their response and devise a tactical plan to include less-lethal force tools compromised the safety of the officers and placed them in a distinct tactical disadvantage.

- The evaluation of tactics requires 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.

In conducting an objective assessment of this case, the BOPC found that the tactics utilized by Officers A and B substantially and unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

B. Drawing/Exhibiting

- Officer A and his partner responded to a radio call of a Violation of a Restraining Order. As the officers responded to the scene, they received additional information that the Subject was inside the apartment armed with a knife.

Based on 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 reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officer A's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

Inside the Residence

- **Officer A** – Firm Grip, Punches, and Takedown
- **Officer B** – Firm Grip, Twist Lock, and Takedown

According to Officer A, after observing that the Subject was holding a beer in one hand and had nothing in his other hand, he holstered his service pistol, stepped inside the apartment and grabbed the Subject's left arm. Officer B stepped into the apartment behind Officer A and grabbed the Subject's right arm. Officer B applied a rear arm twist lock on the Subject's right arm in an effort to control his arm and place him into handcuffs. The Subject struggled to break free from the officers' grasps and fell onto a bed adjacent to the front door in a prone position. Officer A lost control of the Subject's left arm during the fall, while Officer B maintained the Subject's right arm in the twist lock behind his back.

According to Officer A, the Subject rolled onto his left side as he attempted to regain control of the Subject's left arm. According to Officer A, the Subject tucked his left hand into his center mass or waistband area. Unaware if the Subject had a knife in his left hand or was attempting to retrieve one, Officer A punched the Subject twice in the jaw area of his face, which allowed him to regain control of the Subject's left arm and placed it behind his back.

The officers then used a takedown to move the Subject onto the floor in a prone position. Officer A placed his right knee on the Subject's left shoulder and utilized his bodyweight to hold the Subject down on the floor. Officer B momentarily lost his grasp on the Subject's right arm, and the Subject moved his right arm in front of his body. Officer B quickly regained control of the Subject's right arm, re-applied a rear twist lock to get his arm behind his back, and the Subject was handcuffed.

The BOPC determined, that an officer with similar training and experience as Officers A and B would reasonably believe the application of non-lethal force to overcome the Subject's resistance and effect detention inside the residence were reasonable and would have acted in a similar manner.

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

Outside the residence (In the Driveway)

- **Officer A** – Punch
- **Officer B** – Physical Force and Bodyweight

As the officers approached the sidewalk with the Subject, he threw his head backwards in an attempt to head-butt Officer A. Officer A maneuvered to his left and punched the Subject in the face with his left hand.

Officer B saw the Subject attempting to head-butt Officer A and simultaneously pulled on the Subject's right arm to prevent him from striking Officer A. According to Officer B, a combination of everyone's momentum resulted in the Subject falling forward, landing face down on the driveway. Officer B fell onto one knee next to the Subject. Officer B then got on top of the Subject to gain better control and not have him move around. Appearing to be dazed, the officers once again assisted the Subject to a standing position and escorted him to their police vehicle.

During the BOPC's analysis of the applications of non-lethal force on the driveway, it was noted the Subject was handcuffed and that the officers were positioned on both sides of him. The BOPC also noted that the Subject was intoxicated and had been previously resistive toward the officers. As such, Officer A had an obligation to maintain control of a handcuffed subject, in a manner that would have limited his movement and decreased his ability to harm the officers or himself.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as that of Officer A, while faced with the same or similar circumstances, would not reasonably believe that punching a handcuffed Subject, in the face was reasonable or would have acted in similar manner.

The BOPC further determined that a reasonable officer with similar training and experience as Officer B would reasonably believe the application of non-lethal force to defend his partner from the Subject's aggressive actions while on the driveway was reasonable and would have acted in a similar manner.

In conclusion, the BOPC found Officer A's non-lethal use of force, with respect to his third punch, to be out of policy. With regard to Officer B, the BOPC found his non-lethal use of force on the driveway to be objectively reasonable and in policy.