

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

**LAW ENFORCEMENT-RELATED INJURY – 046-14**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Pacific	8/7/14		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	7 years, 3 months
Officer B	11 years, 4 months
Officer C	5 years, 4 months
Officer D	5 years, 2 months
Officer E	3 years
Officer G	11 years, 6 months
Officer H	6 years
Officer K	7 years, 10 months

**Reason for Police Contact**

Officers contacted a subject who was engaged in illegal vending on the beach. They attempted to cite the subject, who refused to sign the citation. The subject was subsequently placed under arrest but refused to submit to the arrest and physically resisted, resulting in a law enforcement-related injury (LERI).

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject: Male, 52 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 June 23, 2015.

### **Incident Summary**

On the date of this incident, Officers A and B were assigned the beach detail. The officers were walking to a radio call in the area, when they observed a male (the Subject) sitting in a chair near an umbrella lying across a public bench, in violation of the Los Angeles Municipal Code. This violation was not related to the officers' radio call. Officer A approached the Subject, who was preaching his religious beliefs, and warned him that he needed to remove the umbrella and other property that was on the public bench.

Officers A and B continued to walk toward the location of the radio call and were backed up by Officers C and D. When the officers arrived at the location of their radio call, they found that the Subject was gone. The officers left the location and walked back toward the Subject.

The officers observed that the Subject had not removed the umbrella and was sitting in a chair on the concrete facing east, away from the ocean, preaching. The officers broadcast they had arrived at the location. Officers E and F responded to the location to back the unit. Officer A advised the other officers that he was going to make contact with the Subject. Officer D advised Officers A and B that he had been involved in a use of force with the Subject a week before in which the Subject resisted arrest. Officer D suggested they request a supervisor to respond to the location. Officer C requested a supervisor and Sergeant A advised he was en route.

As the officers waited for Sergeant A's arrival, Officers A and B approached the Subject and stood to the north of his chair. Officer D stood to the south of the chair along with Officer C. Officer A asked the Subject to remove the umbrella and his property from the public bench and told him that if he refused to do so he would be given a citation. The Subject ignored the officers and continued to preach. Officer C moved the umbrella and other property that was around the Subject and repositioned himself approximately 10 feet behind the Subject.

Upon Sergeant A's arrival, Officer A advised his of his intention to cite the Subject for the Municipal Code violation and also advised his of the use of force with other officers a week prior. Sergeant A advised Officer A to issue the citation. Sergeant A advised the Subject that he was going to be cited and that signing a citation was not an admission of guilt, just a promise to attend court. The Subject looked at Sergeant A and raised his arms up and yelled to the crowd regarding his religious beliefs.

Officer A completed the citation, approached the Subject and twice requested he sign the citation. The Subject refused. Officer A asked him for a third time and the Subject

shook his head. Sergeant A advised the Subject he was going to be arrested, but the Subject refused to sign the citation.

Prior to Sergeant A's arrival, a tactical plan had been formed in the event that the Subject did not sign the citation and he needed to be taken into custody. Officers A, B and D would be responsible for contact, and Officer C would utilize less-lethal options, including the TASER if necessary. Sergeant A advised the officers to take him into custody. The officers asked the Subject to stand up, but he ignored the officers and continued to preach.

Officer C removed the TASER from its holster and held it in a low-ready position. Officers A and B took hold of the Subject's left arm and Officer D took hold of his right arm in an attempt to handcuff him. The Subject immediately tensed his arms, clenched his fists, crossed his arms in front of his body, and aggressively swayed from right to left in an attempt to break free from the officers.

The officers attempted to guide the Subject to the ground and placed him on his stomach, but the Subject struggled with the officers. The Subject went to the ground with his back on the concrete. The Subject still had his arms crossed over his chest and the officers were unable to put his arms behind his back, due to the Subject's resistance. Officer C observed the Subject's exposed abdomen and pressed the TASER against the Subject's bare skin, pulled the TASER approximately two inches away from his skin to get a wider spread of the darts and activated the TASER.

The Subject did not physically react to the TASER activation, but Officer B could see by the look on the Subject's face that he felt the activation. The Subject continued to struggle with the officers. Officers E and F observed the Subject struggling with the officers and went to assist. The officers continually ordered the Subject to stop resisting and to comply with their commands.

Officer C warned the Subject if he did not comply with the officers' commands he would be tased again. The Subject continued to resist and Officer C activated the TASER a second time. The Subject continued to struggle and Officer C put the TASER against the Subject's left chest area and activated the TASER for a third time. Officer D observed the Subject attempt to remove the darts and took hold of the Subject's right hand and pushed it away from the prongs. Officer E helped the officers roll the Subject onto his stomach, by placing his hands on his right shoulder area.

Officer E held the Subject's legs down with his hands. Officer A, who was then on the Subject's right side, attempted to get the Subject's right arm behind his back. Due to the Subject refusing to comply with the officers' commands, Officer C activated the TASER for a fourth time. Officer A had come into contact with the TASER wires, felt the shock of the second activation and let go of the Subject.

To minimize the TASER wires from contacting other officers, Officer C removed the cartridge from the TASER and threw it on the ground. According to Officer D, Officer E

assisted him with the Subject's right arm. Officer D observed the Subject flailing his legs and released the Subject's right arm and attempted to control his legs with his bodyweight. Officers A and E attempted to pull the Subject's right arm, which was now under his body. Officer E could not get a good grip on the Subject's right arm because the Subject was shirtless and sweaty.

Officer B, who was to the left side of the Subject's head, put his left knee in the Subject's upper back area in an attempt to control him. Officer B leaned over the Subject's body to assist the officers with the Subject's right arm. Officer D observed the Subject attempt to take hold of Officer B's equipment belt, near his weapon, with his left hand, but the Subject suddenly grabbed Officer B's shirt instead. Officer D observed the TASER to be ineffective. Because the Subject was still combative, Officer D, with a closed right fist, struck the Subject on the left side of his chin, which caused the Subject to let go of Officer B's shirt.

The Subject's hands were now both underneath his body and he was moving his body in resistance. Officer C observed Officer A and other officers attempting to pry the Subject's right arm out from underneath his body with a collapsible baton and a PR-24 (a different type of baton). Officer C deployed a direct stun with the TASER to the Subject's right shoulder area, which did not have an effect on him. Officer C repositioned the TASER to the Subject's mid upper back area and activated a direct stun with the TASER. Officers A and E were able to free the Subject's right arm, handcuffed it and placed it onto his lower back.

Officer E observed officers attempting to free the Subject's left arm and he walked over to the Subject's left side and assisted them. At one point Officer E advised that the Subject had grabbed and had a hold of his hand and would not let it go. The Subject was still resisting and Officer D, with a right closed fist attempted to strike the Subject in the chin area, but the Subject moved and Officer D struck him in the back of the head. Officer D, with a closed right fist, struck the Subject on the left chin area, enabling Officer E to free his hand.

Officers G, H, and K responded to a backup request by Sergeant A. Officer G observed officers attempting to get the Subject's arms behind his back and observed the Subject flailing his legs. Officer G, who was at the Subject's feet, took hold of the Subject's legs. Officer K, who was on the right side of the Subject's body, helped Officer G control the Subject by placing his hands and knees on the Subject's legs. Officer G requested a hobble restraint and Officer H gave him his. Officer C observed Officer G attempting to place the hobble on the Subject's legs, but the Subject had kicked his leg up, getting it caught in Officer G's shirt. Officer C conducted a direct stun with the TASER on the Subject's calf. Officer G was able to wrap the hobble around the Subject's legs and then cinch it. Officer G held onto the strap in order to control the Subject's legs.

Officer D got onto the Subject's back and straddled his waist area, in an attempt to control him. Officer H observed officers attempting to get the Subject's left arm behind his back. Officer H took a PR-24 and placed it under the Subject's shoulder area, past

his elbow, down to his wrist. Officer D observed Officer H using a PR-24 to pry the Subject's left arm out from under him. Officer D deployed his collapsible baton and placed it into the inner elbow area of the Subject's left arm. As Officer C observed the officers attempting to pry the Subject's left arm free, he deployed a direct stun once to the Subject's left shoulder area and once to the Subject's back. Officer H leaned forward and was able to free the Subject's left wrist from his abdomen area. The officers placed his left arm behind his back and Officer E handcuffed his left wrist. Each wrist was handcuffed with a separate pair of handcuffs, which were connected together, which completed the handcuffing.

While the officers were taking the Subject into custody, other officers responded to a "help call" and coordinated responding officers to control a large hostile crowd of people that had gathered. Once the Subject was in custody, Sergeant A advised the officers to remove the Subject from the area to de-escalate the situation. Officer A took ahold of the Subject's right arm, Officer E took hold of the Subject's left arm, and Officer G had ahold of the Subject's legs. The officers carried the Subject to a black and white police vehicle which was parked in the adjacent parking lot. The Subject, who was still combative and verbally aggressive, was placed in the rear of a police vehicle on his back with the hobble restraint secured under the door. Sergeant A broadcast then that the incident had been resolved.

Officers G and L transported the Subject to the station. Officer L requested a Rescue Ambulance (RA) to respond to the parking lot to the rear of the station, as a result of the Subject being tased. Officer G advised the Watch Commander that the Subject was in the parking lot. The Watch Commander attempted to interview the Subject, but the Subject refused to comply.

The RA responded to the station and transported the Subject to the hospital, where he was subsequently admitted due to his injuries and the possibility of kidney failure.

### **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 most cases, 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, made the following findings:

#### **A. Tactics**

The BOPC found Sergeant A's, along with Officer A, B, C, D, E, G, K and H's tactics to

warrant a Tactical Debrief.

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

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

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

The BOPC found Officer C's less-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 consideration:
  1. TASER Deployment

Officer C deployed and utilized the TASER in an effort to assist his fellow officers, as they attempted to take the Subject into custody. Officer C activated his TASER 11 times in close proximity to the Subject and the other officers involved in the physical altercation.

The first TASER deployment by Officer C was approximately one to two inches from the Subject's abdomen with the cartridge. This caused both probes to make contact with the Subject. During subsequent activations, Officers A and B both reported feeling the effects of the TASER.

The BOPC discussed the distance that Officer C initially deployed the TASER in probe stun mode with the cartridge. Although the BOPC understood the optimal range for the TASER deployment is seven to 15 feet in probe mode, they took into consideration that Officers A, B and D were in physical contact with the Subject at the time the TASER was deployed and thus an increase in the distance would have proven problematic during the altercation. Additionally, the BOPC noted the most effective way to use the TASER is in the probe mode in order to potentially achieve neuromuscular incapacitation of the subject.

Although Officer C's distance was only inches away from the Subject, it created enough space for a small spread of both probes to possibly achieve the goal of neuromuscular incapacitation of the Subject. Additionally, the BOPC looked at Officers A and B's reports of feeling the effects of the TASER as it was being deployed by Officer C. Furthermore, the BOPC noted Officer C's reactions following the officers' reports, as he immediately removed the TASER cartridge and transitioned to the drive stun mode without the cartridge.

The BOPC also expressed concern regarding the number of TASER activations applied by Officer C. The recorded TASER data documented a total of 11 TASER activations, each between five to eight seconds in duration for a total of 61 seconds. Although the TASER activations were repeated 11 times, each of those activations were short in duration with no prolonged usage, as Officer C assessed the TASER's effectiveness.

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

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

After a thorough review of the incident, regarding Sergeant A's, along with Officer A, B, C, D, E, G, K and H's tactics, the BOPC determined the identified areas for improvement neither individually nor collectively substantially deviated from approved Department tactical training.

In conclusion, the BOPC found Sergeant A, along with Officers A, B, C, D, E, G, K and H's tactics to warrant a Tactical Debrief and ensure the specific identified topics be covered.

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

- **Officer A** – Team Takedown, Firm Grip, Physical Force
- **Officer B** – Team Takedown, Baton Assisted Joint Lock, Firm Grip, Bodyweight, Physical Force
- **Officer C** – Bodyweight
- **Officer D** – Team Takedown, Baton Assisted Joint Lock, Firm Grip, Bodyweight and Punches (Four)
- **Officer E** – Firm Grip, Bodyweight, Physical Force
- **Officer G** – Physical Force
- **Officer H** – Baton Assisted Joint Lock
- **Officer K** – Bodyweight

After the Subject failed to sign the citation and ignored Officer A's order to stand up, Officer C removed his TASER from its holster and held it in a low-ready position. Officers A and B grabbed the Subject's left arm, while Officer D attempted to go for his right wrist. In response, the Subject immediately tensed his arms, placed his clenched fists against his chest and began moving his body from side to side. Unable to overcome the Subject's resistance and place his arms behind his back,

Officers A, B and D forced the Subject to the ground. The Subject fell onto his back as he landed onto the concrete.

Officer C responded by deploying the TASER multiple times on the Subject in an effort to overcome his resistance, gain control and to turn him over into a prone position for handcuffing.

The officers continued to struggle with the Subject, and with the combined efforts of Officers A, B and D, the Subject was successfully turned over into a prone position. Once the Subject assumed a prone position, he placed both hands under his body.

Officer E indicated that he utilized either his hands or legs to hold down the Subject's legs, while Officer A attempted to control the Subject's right arm and Officer B attempted to control his left arm. Officer D took control of the Subject's legs, which, according to Officer E, allowed him to assist Officer A with the Subject's right arm. Officer E grabbed the Subject's right bicep with both hands and attempted to pull his arm out from underneath his body. As this proved unsuccessful, Officer C applied the TASER in drive stun mode with the cartridge and without the cartridge.

Meanwhile, Officer B was located to the left side of the Subject's head and put his left knee in the Subject's upper back area in an attempt to control him. Officer B leaned over the Subject's body to assist Officers A and E with the Subject's right arm. In the process, Officer B reported feeling the effects of the TASER activation, causing him to jump off the Subject.

With the Subject's right arm secured in a handcuff manacle and under the physical control of Officer A, Officer E went to the left side of the Subject to provide assistance.

Officer D then heard Officer E say, "He has my hand." Fearing for the safety of his fellow officer, Officer D attempted to deliver a punch to the Subject's chin; however, the Subject moved, resulting in Officer D striking the Subject in the back of the head. Consequently, Officer D delivered another punch to the Subject's chin and the Subject released his hold on Officer E's hand.

Officer D unsuccessfully utilized his collapsible baton in an effort to pry the Subject's left arm from underneath his body. Officer H then utilized his side-handle baton to successfully pry the Subject's left arm from underneath him, with the aid of Officer C's two additional drive stun TASER activations along with the assistance with Officer E's physical force.

With the combined efforts of the aforementioned officers, the Subject's left arm was removed from underneath his body. Upon seeing the left arm removed, Officer C placed his right knee on the Subject's right shoulder area while Officer E placed a second pair of handcuffs on his left wrist. The two pairs of handcuffs were then connected together, thereby completing the handcuffing procedure.



Meanwhile, Officer G observed the officers struggling to control the Subject and noted he was kicking and waving his feet back and forth. Officer G crossed the Subject's legs and took hold of them, while Officer K simultaneously placed his knees on the Subject's legs. At the direction of Sergeant A, Officer G requested a hobble and wrapped it around the Subject's legs.

After a thorough review of the incident, the BOPC determined that an officer with similar training and experience as Officers A, B, C, D, E, G, K and H would believe the application of non-lethal force would be reasonable to overcome the Subject's resistance to prevent further injury and/or escape.

In conclusion, the BOPC found Officer A, B, C, D, E, G, K and H's non-lethal use of force to be objectively reasonable and in policy.

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

- **Officer C** – (TASER – nine to ten activations)

**Note:** The TASER activation history recorded the TASER was activated 11 times on the date of the incident.

When the Subject refused to sign the citation, Officers A, B and D grabbed the Subject's arm in order to handcuff him. The Subject became rigid, resulting in a physical struggle with the officers as the Subject went from a seated position to the ground in a supine position with his back against the concrete. As the officers struggled to handcuff the Subject, Officer C believed he deployed the TASER nine to ten times.

#### **First TASER Activation (Probe Mode)**

Officer C indicated that he did not have the opportunity to give a verbal warning before deploying the TASER, due to the physical contact with the Suspect happening so quickly.

#### **Second TASER Activation (Probe Mode)**

The Subject, still lying on his back, appeared to be unaffected by the activation as he continued to resist the officers' attempt to take him into custody. In response, Officer C verbally warned the Subject he was going to be tased a second time if he continued to resist. With the cartridge still inserted in the TASER and the probes imbedded in the Subject's skin, Officer C activated the TASER. Officer C estimated it to be another five-second burst.

#### **Third TASER Activation (Drive Stun)**

With no effect noted as the Subject continued to resist the officers' efforts to take him into custody, Officer C conducted a drive stun to the Subject's upper chest area while the cartridge was still inserted in the TASER and the probes imbedded into his skin.

#### **Fourth TASER Activation (Probe Mode)**

According to Officer C, the officers were able to slowly roll the Subject into a prone position. In this prone position, the Subject tucked his arms underneath the center of his body and used his body weight to keep his arms from being removed by the officers as they attempted to handcuff him. In response, Officer C pressed the trigger and activated the TASER with the cartridge still inserted in the TASER and the probes imbedded in the Subject's skin, activating the TASER.

#### **Fifth and Sixth TASER Activations (Drive Stuns)**

After the fourth activation, Officer C heard an officer complain that he was feeling the activation. Believing an officer was feeling the effects from either the TASER wires or an area in close proximity to the probes, Officer C removed the TASER cartridge.

At this juncture, Officer C observed officers attempting to utilize a baton to pry the Subject's right arm out from underneath his body. To assist the officers, Officer C conducted two additional drive stuns, one to the Subject's right shoulder area and then a second to the middle of his back.

#### **Seventh TASER Activation (Drive Stun)**

After the sixth TASER activation, Officer C noticed the Subject was more compliant. With progress achieved with the right arm, Officer C noted Officer G was struggling to apply a Hobble Restraint Device to the Subject's legs. Accordingly, Officer C applied one drive stun to one of the Subject's calves.

#### **Eight and Ninth TASER Activations (Drive Stun)**

With the hobble successfully applied, Officer C repositioned himself to the left of the Subject. In order to facilitate the removal of the Subject's left arm from underneath his body, Officer C applied two final drive stuns to the Subject.

**Note:** None of the TASER activations occurred after the Subject was handcuffed.

The BOPC's evaluation of the TASER usage by Officer C, took into consideration a number of factors. First, they noted Officer C had knowledge of the use of force incident that occurred one week prior involving the Subject which resulted in minor injury to his partner, Officer D.

Second, the BOPC noted the Subject's actions throughout the incident toward the involved personnel escalated from non-compliance, to actively resisting the officers to being aggressive at times as he attempted to go on the offensive with two of the officers. Officer B believed the Subject attempted to grab his utility belt but grabbed a hold of his shirt instead as he began pulling Officer B toward him during the struggle. Also Officer E reported that the Subject grabbed his right hand during the struggle in an attempt to control it with his elbow and bicep. On each occasion, Officer D responded by delivering punches to different portions of the Subject's body.

The BOPC further considered Officer C's use of the TASER demonstrated his clear knowledge of its nomenclature and the recommended best practice by the Department of its use for maximum effectiveness when in close proximity of a subject.

Finally, the BOPC took into account that Officer C utilized the TASER in various locations while continuously evaluating its effectiveness. Officer C's methodical and deliberate use of the TASER was completed and was specific to assist his fellow officers in the arrest of the Subject. Granted the individual activations of the TASER did not render the desired immediate effect. The accumulation of the different and varied applications helped to facilitate the Subject's gradual compliance, resulting in the completion of the handcuffing process.

Department policy states that the decision to use force must be judged through the perspective of a reasonable officer under similar circumstances. The BOPC determined that an officer with similar training and experience would reasonably believe that the application of less-lethal force to stop the Subject's aggressive actions was reasonable and would have acted in a similar manner.

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