

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

**LAW ENFORCEMENT RELATED INJURY – 47-13**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Central	05/29/13		
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<b>Officers(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	10 years
Officer B	8 months
Officer C	3 years
Officer D	1 year, 2 months

**Reason for Police Contact**

Officers were booking the Subject in the jail when the Subject assaulted Officer B, resulting in a use of force.

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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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 Los Angeles Police Department Command Staff presented the matter to the Chief 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 May 6, 2014.

## **Incident Summary**

On the date of this incident, uniformed Officers A and B responded to a radio call for a "male with mental illness" at a gas station. The Subject was described as a male, wearing a black baseball hat, grey shirt, and dark grey shorts.

Communications Division (CD) updated the radio call and broadcast that the person reporting (PR) stated that the Subject was afraid someone was going to shoot him and may be suffering from a mental illness. Officers A and B arrived on scene and observed the Subject running down an alley close to the gas station. The officers used their respective door-mounted spotlights to illuminate the Subject in order to better observe him. The Subject stopped running, turned and approached the police car. As the Subject approached, the officers exited their vehicle and contacted the Subject. The officers noticed that the Subject's hands were visible and shaking; he spoke rapidly, and was making erratic statements. The Subject told the officers that people were chasing him and were trying to kill him. The Subject also stated that people were firing gunshots nearby.

**Note:** A review of all 911 calls for the time period covering this incident revealed no reported "shots fired" calls in the area.

Officer B questioned the Subject as to who was chasing him, and he replied the "Mexican Mafia." Officer B completed a field identification card. Officer A conducted a wants and warrant check via the Mobile Digital Computer and determined that the Subject had two misdemeanor warrants.

**Note:** Officer B was a certified medical technician and an ambulance driver for four years prior to joining the Los Angeles Police Department (LAPD). Based upon his prior training and experience as a medical technician, combined with the Subject's statements and actions, Officer B believed the Subject was exhibiting symptoms of drug or alcohol withdrawal and was experiencing hallucinations.

The Subject told the officers that he wanted to be arrested for his own safety. Officer B then handcuffed the Subject without incident, and the officers subsequently transported him to the police station. The officers noted that the Subject had no visible or complained of injuries.

Officers A and B transported the Subject to a jail facility, without incident. During the preliminary medical screening that was completed at the station, the Subject had indicated that he had a stomach ache. Upon arrival at the jail, he was escorted to the medical dispensary area for treatment. While the Subject waited outside the dispensary area, he told the officers that he was hearing voices and that the voices wanted to hurt him. As the Subject waited outside the medical dispensary, officers observed the Subject speaking coherently with another arrestee.

The officers entered the medical dispensary area with the Subject. The Subject refused treatment and told medical staff that he drank about a fifth of vodka every day and that unless they were willing to treat his condition with alcohol, he was refusing any treatment. During the medical evaluation, the officers noticed that the Subject was visibly shaking. Medical dispensary staff advised the Subject that they did not treat alcohol withdrawal with alcohol.

Officer B then escorted the Subject to the booking window for processing and stood to the left of the Subject while he completed the required booking forms. As part of the booking process, Officer B removed the Subject's handcuffs to obtain his signatures. Officer B noticed that while the Subject was holding the pen, the Subject started to sway back and forth and was unsteady. According to Officer B, the Subject then swung his body toward him, and they were now facing each other. The Subject thrust his right knee toward Officer B, striking him in the groin area, while simultaneously swinging a punch with his right fist, which missed. Officer B took a half step back in an attempt to absorb the Subject's knee strike, and to avoid the punch. Officer B placed both his hands up, in a closed fist position, in order to defend himself. The Subject backed away and pulled his forearms up with his hands open towards his face and guarded his upper body and face.

Officer B, using his left hand, grabbed the Subject's left wrist, spun the Subject around while he placed his right hand on the Subject's upper back and simultaneously pulled him down to the ground. The Subject landed on his right side; face down, with his left arm tucked underneath him and his right arm loose along his body.

Officers C and D were at the jail booking other arrestees when they heard a scuffle at a nearby booking window.

**Note:** Officer D had just finished booking an arrestee and was around the corner from the booking window, which was out of his sight. Officer C was waiting in the receiving area, away from booking window when the use of force initially started.

As the Subject landed on the ground, Officer A stood to his right side and grabbed the Subject's right arm. Officer A straddled the Subject, placing his right leg along the Subject's right side, and his left leg along the left side of the Subject's body. Officer A added pressure inward with both his legs while simultaneously squatting down and controlling the Subject's right hand.

Officer's C observed Officers A and B struggling with the Subject and assisted by using his right hand and placing his left knee on the Subject's upper back, pushing down with his body weight in order to prevent the Subject from thrusting forward. When Officer C started to assist, Officer A had control of the Subject's right hand, but Officer B was still struggling with the Subject's left hand. The Subject was resisting by tucking in his left arm underneath his body and not complying with Officer B's commands to put his hands behind his back. Officer A moved his left leg over the Subject's right side and was able to handcuff the Subject's right hand. Officer D placed his right arm underneath the

Subject's legs, then took his left arm and wrapped it around the legs. Officer D placed the left side of his body on the ground, his head tucked in for self-defense, when he took control of the Subject's legs. The Subject continued resisting custody by kicking at Officer D in order to escape.

While Officer C got on top of the Subject's back, Officer B instructed the Subject to loosen his left arm that was tucked underneath his chest and to put his hand behind his back. The Subject was uncooperative and continued to ignore the officers' commands. As Officer B continued to verbalize commands, the Subject loosened his left arm, allowing Officer B to gain control of his left hand, and Officer A was able to handcuff it. Officer D let go of the Subject's legs as Officers A and B directed the Subject to stand up in order to walk him to a nearby holding cell. The Subject complied with the officers' commands, stood up on his own and was escorted into a nearby cell. As they entered the cell, Officer B switched to the right arm while Officer A held the Subject's left arm. The officers walked the Subject into the cell and ordered him to stand along the wall to control his movements and prevent further confrontation. The Subject complied without further incident.

**Note:** The Subject admitted that he used his right knee to strike Officer B in the groin. During this incident, the Subject sustained an abrasion to his left forehead area. The Subject was examined by a doctor and medically cleared for booking at the jail.

Medical staff conducted a follow-up with the Subject, who complained of left shoulder pain. The medical staff determined that the Subject required further treatment at a hospital for evaluation of his injuries. The Subject was subsequently admitted to the hospital for alcohol withdrawal and a possible left shoulder fracture.

### **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 and 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 unanimously made the following findings.

#### **A. Tactics**

The BOPC found Officers A, B, C and D's tactics to warrant a tactical debrief.

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

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

### **Basis for Findings**

#### **A. Tactics**

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

##### **1. Persons with Mental Illness**

Officer A and B effectively communicated with the Subject, as he displayed signs of mental illness. As a result, Officer B remained calm and the incident de-escalated.

Officers encounter a variety of people on a daily basis. During their contacts the officers must continually evaluate their communication skills and tactics to ensure that their duties and responsibilities are conducted in a safe and professional manner. In this circumstance, Officers A and B spoke with the Subject in a calm manner and acknowledged his concerns which put him at ease. Consequently, the Subject was then able to communicate with Officers A and B and advise them of his request to be taken into custody for his protection. Officer B recalled that Officer A asked the Subject if he wanted to kill himself or if he wanted to hurt himself and the Subject replied no. According to Officer B, the Subject stated that he had been eating and was fine. Officer B advised the Subject that he had two warrants for his arrest and the Subject requested to be taken into custody. According to Officer B, the Subject was very compliant at that time.

Officers A and B's professional demeanor and expertise led to a successful and effective investigation and detention, thus the Subject was taken into custody without incident.

Although the philosophy behind a Tactical Debrief is to enhance future performance by discussing areas where improvements could be made, often times, discussions pertaining to positive aspects of the incident lead to additional considerations that would be beneficial in future incidents. Therefore, the topic of Effective Encounters with Mentally Ill Persons will be discussed during the Tactical Debrief.

##### **2. Taking Persons with a Mental Illness into Custody**

Officers A and B did not notify the Mental Evaluation Unit (MEU) prior to the Subject being booked for misdemeanor arrest warrants.

Officers are required to notify MEU when a person with a suspected mental illness has been taken into custody for a criminal offense prior to being booked. In this circumstance, Officer B was previously employed as a medical technician and ambulance driver for four years. As such, Officer B surmised that the Subject was experiencing hallucinations as a result of drug or alcohol withdrawal. Additionally, Officer A conducted a preliminary mental evaluation survey to determine if he was a danger to himself or other. The Subject indicated that he was able to care for himself. Lastly, while being treated at the dispensary, the medical staff documented his medical condition with *ETOH* which is a medical abbreviation for ethanol, the substance found in alcoholic beverages, as the final diagnosis.

Although it would have been prudent for Officers A and B to notify MEU prior to the Subject being booked, the BOPC found that their decision was justified based on their belief that the Subject was not mentally ill, but rather suffering from drug or alcohol withdrawal. Nonetheless, this will be a topic of discussion at the Tactical Debrief.

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

Each tactical incident merits a comprehensive debriefing. 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 of improving overall organizational and individual performance.

The BOPC found Officers A, B, C, and D's tactics to warrant a tactical debrief.

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

- **Officer A** – Physical Force and Bodyweight.
- **Officer B** – Physical Force and Takedown.
- **Officer C** – Physical Force and Bodyweight.
- **Officer D** – Physical Force.

Officer B was completing the booking process with the Subject and subsequently removed the handcuffs. Moments later, the Subject turned and thrust his right knee toward Officer B, striking him in the groin area. Simultaneously, the Subject attempted to punch Officer B with his right hand. Consequently, Officer B utilized his left hand to grab the Subject's left wrist while simultaneously placing his right hand on his upper back. Consequently Officer B conducted a takedown of the Subject. Officer B, while being assisted by Officers A, C and D, utilized physical force to handcuff the Subject. Officer B recalled that the Subject turned towards him and swung his body, striking him in the groin with his knee. Officer B recalled stepping back to absorb the blow. Officer B recalled grabbing the Subject's left wrist with his

left hand and placed his right hand towards his upper back, spun him and pulled him to the ground.

Officer A observed Officer B taking the Subject to the ground and moved into a position to assist. Subsequently, Officer A utilized physical force and bodyweight to take the Subject into custody. Officer A recalled that he observed a knee and what appeared to be a hand coming up towards Officer B. Officer A recalls that Officer B grabbed the Subject by his left hand and started to push him down to the ground. At that point, Officer B physically placed his hands on the Subject and ended up on the ground straddling him. Officer A recalled pulling the Subject's right hand back and meeting with little resistance.

Officer C observed Officers A and B struggling with the Subject and responded to assist. Consequently, Officer C placed his right hand and left knee on the Subject's upper back and utilized his body weight in an effort to control his actions. Officer B recalled that he heard a scuffle by the booking area and when he looked over, he observed an officer grabbing the Subject and taking him down to the floor. Officer C recalled going over to assist and placing his knee on the right side of the Subject's back, grabbing his right arm and assisting with the handcuffing.

Officer D heard Officers A and B struggling with the subject while on the ground. Consequently, Officer D responded and utilized physical force to assist taking the Subject into custody. Officer A recalled that he heard a scuffle so he ran around the corner and saw the Subject on the ground on his stomach. Officer D recalled seeing one officer with the Subject's left arm, and two additional officers attempting to gain control of the Subject. Officer D recalled seeing the Subject attempting to get up on his knees, like trying to flail his knees upwards, so Officer D grabbed his legs and held on until the other officers were able to get him in custody.

Based on the totality of the circumstances, officers with similar training and experience as 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.

The BOPC found Officers A, B, C and D's application of non-lethal force to be objectively reasonable and in policy.