

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

LAW ENFORCEMENT-RELATED INJURY – 060-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Central	7/17/15		

Officer(s) Involved in Use of Force	Length of Service
Sergeant A	19 years, 8 months
Officer A	10 years, 10 months
Officer B	2 years, 6 months
Officer C	5 years, 6 months
Officer E	19 years, 1 month
Officer G	8 years, 10 months
Officer H	7 years
Officer I	2 years, 6 months
Officer J	5 years, 3 months

Reason for Police Contact

Officers responded to a radio call of a violent male with mental illness, who had assaulted a maintenance worker. Upon arrival, the officers observed the Subject armed with two sticks which he refused to drop. The Subject ignored the officers' verbal commands to drop the sticks, and a use of force occurred with an officer firing his beanbag shotgun and another officer utilizing a Taser, resulting in a Law Enforcement-Related Injury (LERI).

Suspect	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 43 years old.

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 7, 2016.

Incident Summary

Witness A was cleaning a sidewalk when he observed broken glass near a male, later identified as the Subject. The Subject was sitting in a wheelchair, and was holding a broken stick. Witness A proceeded to sweep up the broken glass when the Subject said "My diamonds, my diamonds, get away from it," and, "I'm going to get you." The Subject then swung his stick at Witness A. Witness A blocked the Subject's attempt to hit him and struck the Subject in the face with a metal dustpan, which caused the Subject to stumble backwards. Witness A requested safety officers respond via his handheld radio.

Note: Witness A indicated that the Subject was standing up approximately 6 to 7 feet away from him when he began to swing his stick.

Safety Officers A and B responded to the scene. Safety Officers A and B attempted to deescalate the situation by asking the Subject to back away and calm down. Additional safety officers responded to the location, but the Subject continued to behave violently by swinging his stick at them. The Subject then held the stick with both hands and broke it into two pieces over his knee. LAPD was requested to respond.

Communications Division (CD) assigned Officers A and Officer B a radio call for a violent male mental who had swung a pipe at a maintenance worker. The officers acknowledged the call and responded. Due to the comments of the call, Officers C and D notified CD that they would also respond to the call.

Officers A and B arrived at the location and observed the Subject bleeding from his face. The Subject was armed with a stick and was standing on the sidewalk. Officer A parked their police vehicle north of the Subject behind a vehicle that was parked along the west curb, and Officer B notified CD that they had arrived at the scene. Both officers exited their vehicle and in order to provide cover for himself and his partner, Officer B stood behind his ballistic door panel, unholstered his weapon and ordered the Subject to drop the stick. Based on his distance, cover, and observation that the Subject was not advancing toward him, Officer B holstered his weapon, unholstered his TASER, and continued to order the Subject to drop the stick.

Note: Officers A and B indicated that the Subject was pacing back and forth on the sidewalk. Officer A described that the Subject was approximately 10 feet south of his wheelchair and that he did not appear

to have any problems walking. Digital In-Car Video footage corroborated the officers' account.

After briefly speaking with Safety Officer A, Officer A walked south and stood behind a large planter located between himself and the Subject, and asked the Subject for his name. The Subject replied, "Jesus." Officer A told the Subject that he was there to help and asked him to drop the stick. The Subject refused to drop the stick and called Officers A and B liars. The officers repositioned themselves behind the trunk of the parked vehicle, and Officer A requested additional units. As this occurred, the Subject walked to his wheelchair and sat down.

Officers C and D arrived at scene. Officer C retrieved a beanbag shotgun from the trunk of his vehicle. Officer C chambered a round and triangulated on the suspect by standing to the south of Officers A and B, using the parked vehicle as cover. Officer C shouldered the beanbag shotgun in a right-handed shooting position, pointed it at the Subject, and ordered him to drop the stick.

While the Subject was seated in the wheelchair, he continued to yell at the officers and tell them that he was not going to put the sticks on the ground. The Subject then retrieved a wire from some part of his wheelchair and used it to secure one of the sticks to his left hand.

Sergeant A arrived at the scene. He assumed the role as Incident Commander (IC), and was briefed by Officer A. Officers E and F, and Sergeants B and C also arrived at the scene.

Sergeant A directed Officer A to locate Witness A and determine if a crime had occurred. In an attempt to deescalate the situation, Sergeant A directed Officer C to bring his shotgun down to a low-ready position and then introduced himself to the Subject. The Subject was unresponsive to Sergeant A and continued to yell at the officers. Sergeant C and Officer A located Witness A and determined that he was the victim of an Assault with a Deadly Weapon (ADW) and obtained a signed Investigative Report (IR).

Sergeants A, B, and C discussed the situation and formulated a tactical plan to take the Subject into custody. An arrest team was formed with Officers A, C, D, F, G, H, I, J and Sergeant B. As the arrest team waited to approach, Officer J provided Officer F with a hobble restraint device (HRD).

The plan called for the Subject to be warned that if he did not drop the sticks, he would be shot with a beanbag. If the Subject failed to drop the sticks, Officer E would then deploy the beanbag. The arrest team would then approach, and if the Subject still continued to hold his sticks, Officer B would deploy the TASER.

Officer E shouldered the shotgun in a left-handed shooting position and stood at the rear of the parked vehicle. The plan was initiated and Sergeant A announced, "Stand by beanbag." The Subject buckled himself into the wheelchair with an affixed seatbelt

and yelled at the officers. Officer E warned the Subject that he would be shot with the beanbag if he did not drop the stick and that he could be injured. The Subject refused to comply, maintained control of the sticks and stated, "If you shoot me with that you will be dead."

Note: As mentioned above, the Subject had tied the stick to his hand with a wire. According to Sergeant B, "Even though he couldn't physically drop it, he made no effort to try and get it or drop it down to his side."

Officer E announced, "Beanbag ready." Sergeant A warned the Subject a second time that he would be injured if he was to be shot with a beanbag. The Subject refused to drop the sticks and Sergeant A announced, "Beanbag stand by." Officer E said, "Sir, drop the stick." When the Subject did not drop the sticks, Officer E aimed at the Subject's stomach and fired two rounds from a distance of approximately 15 feet, striking the Subject in the torso. The Subject maintained control of the sticks, remained seated in his chair, and screamed incoherently. Approximately eight seconds later, after the Subject refused to drop the sticks or comply with officers' directions, Officer E fired a third beanbag round at the Subject's stomach, striking him in the torso.

The Subject slowly turned his body to the west and began to wheel south on the sidewalk, away from Officer E. Sergeant C directed Officer E to lower the beanbag shotgun and the arrest team began their approach. Sergeant C repositioned himself behind Officer B, and the two approached with the arrest team.

As the officers approached the Subject, Sergeant A directed Officer B to deploy the TASER. Officer B discharged the TASER, but the probes did not deploy. Officer B reengaged the TASER's safety, adjusted the TASER cartridge, attempted to fire the TASER a second time, and experienced a second malfunction.

Officer I observed Officer B's TASER malfunction, unholstered his TASER, and announced, "Taser, Taser, Taser." Sergeant A warned the Subject that he could be hurt if he was shot with the TASER. Officer I discharged his TASER and struck the Subject in the mid-section from an approximate distance of six to seven feet. Officers A, B, and G approached the Subject on his right side and grabbed his right arm, and Officers H and J grabbed the Subject's left arm. The Subject brought his arms in front of his chest and continued to resist the officers, not allowing them to remove the sticks from his hands. As Officer B was attempting to maintain control of the Subject's arm with his left hand, he attempted to conduct a drive stun on the Subject's right shoulder blade with the TASER cartridge in place, and experienced a fourth malfunction as it failed to deploy. Officer B then holstered his TASER.

Officer I observed that the Subject was continuing to resist the officers and told him that if he did not stop resisting he would be tased again. The Subject continued to maintain control of the sticks and continued to resist the officers by bringing his hand toward his chest. Officer I activated his TASER a second time. That deployment appeared to have an effect on the Subject, and Officers C and G were able to remove the stick from the Subject's right hand, while Officers H and J removed the stick from his left hand.

As officers were taking the Subject into custody, Officer E leaned his beanbag shotgun against the wall behind Sergeant A and communicated that he was doing so. Officer E then put protective gloves on, stood to the Subject's left, and placed his right arm across the back of the Subject's shoulders.

Officer D unbuckled the Subject's seatbelt, and Sergeant A directed the officers to guide the Subject to the ground. Officers A, E, G, H, J and Sergeant A lifted the Subject out of his wheelchair, guided him to the ground, and laid him on his stomach. Officers B, C, and E held the Subject on the ground using their body weight as Officers G, H, and J handcuffed him. Officer F and Sergeant B then placed an HRD on the Subject's legs. Sergeant B announced that the Subject was hobbled and Officer F requested a Rescue Ambulance (RA). Officers A, B and C placed the Subject in a right lateral recumbent position and Officer G double-locked the handcuffs. The Subject was then held on his right side and monitored until the RA arrived.

Sergeant D arrived on scene and began a Non-Categorical Use of Force (NCUOF) investigation.

Los Angeles Fire Department (LAFD) personnel arrived at the scene and provided medical treatment to the Subject. The Subject was transported to a hospital. Officer K rode in the back of the RA while his partner, Officer L, followed in their police vehicle. The Subject made no intelligible statements to paramedics or Officer K while being transported. The Subject was treated by a doctor for a lacerated liver, an open wound to his face, batteries in his digestive system, contusions to his lung, chest wall, and abdomen wall, and unspecified psychosis and delirium. The Subject was transferred to the Jail Medical Ward, where he was admitted to the hospital for a liver laceration and the ingestion of batteries.

Sergeant D notified Watch Commander Lieutenant A, advising him that the Subject was admitted to the hospital and directed all involved personnel to respond to the office. Sergeant D admonished all involved personnel not to discuss the incident, began the monitoring process and ensured that the involved officers were properly separated and monitored.

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/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC made the following findings.

A. Tactics

The BOPC found Sergeant A, Officers A, B, C, E, G, H, I and J's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting of a Firearm

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

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

The BOPC found Officers E and I'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 considerations:
 - Effective Encounters with Mentally Ill Persons – Prior to the Use of Force, the Subject displayed behavior that was consistent with a person suffering from mental illness. Sergeant A had the presence of mind to realize that the Subject was likely suffering from some type of mental illness and went to great lengths to maintain a verbal dialogue with him throughout the incident in an effort to calm him down.
 - TASER Deployment – The investigation revealed that Officer B had experienced four malfunctions with the TASER. Officer B is reminded of the importance of transitioning to another force option after experiencing several malfunctions.
 - Optimum TASER Target Area – According to Officer I, he was aiming at the Subject's chest area when he discharged the TASER. Officer I is reminded that the optimum target area for the TASER when in probe mode is the back or navel area for optimal effectiveness.
 - Initiating Physical Contact While Holding a TASER – Officer B grabbed the Subject's right arm with his left hand, while holding the TASER in his right hand. Officer B is reminded that an officer's hands should be free of equipment when initiating physical contact with a suspect as it may inhibit an officer's ability to fully engage the suspect.

- Maintaining Equipment – The investigation revealed that Officer E placed the beanbag shotgun against the wall prior to applying physical force on the Subject. Officer E is reminded of the importance of maintaining control of your equipment and utilizing the beanbag shotgun sling during tactical incidents.
- Tactical Team Roles – Officer E was designated as a less-lethal officer with the beanbag shotgun. After discharging three rounds at the Subject, Officer E involved himself in the non-lethal use of force with the Subject. Officer E is reminded of the importance of maintaining the integrity of your predesignated role whenever tactically feasible.
- Required Equipment – Officers B, H, I were not equipped with a Hobble Restraint Device (HRD). Officers A, B, I and J did not have a collapsible ASP on their equipment belt and their batons were in their police vehicle. Officers are reminded to have all required equipment on their person while performing field patrol duties.
- Firearm Safety Rules – Officer C indicated he had his beanbag shotgun aimed at the Subject’s belly button, with the safety off and his finger on the trigger. Firearm Basic Safety Rules would require the officer to keep his finger off the trigger until he intends to shoot.
- Beanbag Target Area – Officer E stated during his interview that his intended target when firing his beanbag rounds was “the suspect’s solar plexus area -- the area underneath the chest cavity.” A statement form completed by Officer E for the non-categorical use of force investigation indicated that all three of his beanbag rounds struck the suspect’s “center mass (in the chest).” According to Use of Force - Tactics Directive 6.2 - Beanbag Shotgun, “The primary target area is the navel area or beltline. [...] The sock round may cause serious or fatal injuries is fired at the head, neck, spine, chest, groin or kidneys.”
- 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. In this case, there were identified areas where improvement could be made and 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.

In conclusion, the BOPC found Sergeant A, Officers A, B, C, E, G, H, I and J’s tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- Upon arriving at the scene, Officer B observed the Subject armed with a stick in each hand and that one of the sticks had a metal nipple or sharp object at the tip. Officer B exited the vehicle, assumed a position behind his ballistic door panel and drew his service pistol.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B, while faced with a similar circumstance, would reasonably believe there was a substantial risk the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Officer B's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

- **Sergeant A** – Physical Force, Takedown
- **Officer A** – Physical Force, Takedown
- **Officer B** – Physical Force, Bodyweight
- **Officer C** – Bodyweight
- **Officer E** – Physical Force, Takedown, Bodyweight
- **Officer G** – Physical Force, Takedown
- **Officer H** – Physical Force, Takedown
- **Officer J** – Physical Force, Bodyweight

Officers A, B and G approached the Subject on his right and grabbed his right arm, while Officers H and J grabbed the Subject's left arm. The Subject brought his arms in front of his chest and continued to resist while maintaining hold of the stick in his left hand.

Officer I observed that the Subject was continuing to resist the officers and conducted a second activation with the TASER. The Subject continued to maintain control of the sticks and resist the officers' efforts to take him into custody by bringing his hand toward his chest.

Note: Immediately following the second activation, Officer C was able to remove the stick from the Subject's hand.

Officer D unbuckled the seatbelt. Sergeant A then directed the officers to guide the Subject to the ground. Sergeant A placed his hands on the back of the Subject's collar to assist the officers, as Officers A, E, G, H, J and Sergeant A lifted the Subject out of his wheelchair and guided him to the ground, onto his stomach.

Officers B, C and E held the Subject on the ground with bodyweight as Officers G, H and J handcuffed the Subject. Officer F and Sergeant B then placed an HRD on the Subject's legs.

After a review of the incident and involved officers' statements, the BOPC determined that officers with similar training and experience as Sergeant A, Officers A, B, C, E, G, H and J would reasonably believe the application of non-lethal force would be reasonable to overcome the Subject's resistance, prevent his escape and take him into custody.

In conclusion, the BOPC found Sergeant A, Officers A, B, C, E, G, H and J's non-lethal use of force to be in policy.

D. Less-Lethal Use of Force

- **Officer E** – (Beanbag Shotgun, three sock rounds)

Officer E advised the Subject that he would be shot with the beanbag shotgun if he did not drop the stick and that he could be injured. The Subject refused to comply and maintained control of the sticks. Sergeant A warned the Subject a second time that he would be injured if he was shot with a beanbag. The Subject refused to drop the sticks. Officer E aimed at the Subject's stomach and fired two rounds from the beanbag shotgun, striking the Subject in the torso.

Officer E recalled, "The suspect responded with verbiage that indicated that he was unwilling to listen to or comply and so after the beanbag ready command was given twice I believe Sergeant A issued the command, beanbag standby, at which time I fired one round from approximately 15 feet at the suspect's solar plexus area -- the area underneath the chest cavity."

Officer E recalled, "A second round followed almost immediately because after the first round was fired the suspect was unwilling to release the seatbelt for lack of a better word or the belt that he had used to secure himself to the wheelchair prior to this happening; instead he recoiled, clenched tightened and made sounds that indicated that he was going to power through it; at least that's how I would describe it."

The Subject maintained control of the sticks and remained seated in his wheelchair. Officer E fired a third beanbag round at the Subject's stomach, striking him in the torso.

Officer E recalled, "After the second round the assessment was made the suspect still refused to drop the sticks. He refused to undo the seatbelt or however the -- whatever it might it been called that secured him to the wheelchair so I fired a third round."

- **Officer I** – (TASER, two activations)

An arrest team was formed that included Officer B designated with the role of less-lethal with the TASER. Officer I recognized Officer B's TASER malfunction. Officer I unholstered his TASER, moved forward and discharged the TASER at the Subject in an effort to stop his resistance.

Officer I recalled, "So right after the warning that the sergeant gave and the suspect coming toward me armed with a stick and being aggressive and combative I shot him with my TASER."

Officer I conducted a second TASER activation on the Subject after the Subject continued to ignore the officers' commands and refused to drop the stick after the first activation.

Officer I continued, "The -- the TASER appeared to have no effect because he continued resisting so I gave him another warning [...] to quit resisting or he was going to be tased again which I did another five seconds and then, yeah, the officers kept struggling with him until they finally took him into custody."

In conclusion, the BOPC determined that an officer with similar training and experience as Officers E and I, when faced with similar circumstances, would believe that attempts to subdue the Subject with other tactics would likely be ineffective; and the Subject's actions created a situation where it was unsafe for officers to approach.

In conclusion, the BOPC found Officers E and I's less-lethal uses of force to be in policy.