

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

CAROTID RESTRAINT CONTROL HOLD – 097-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Harbor	12/19/15		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	10 years, 5 months
Officer B	8 years, 8 months
Officer C	1 year, 3 months

Reason for Police Contact

Officers responded to a radio call of a male causing a disturbance and vandalizing a parking area of an apartment building. When the officers encountered the Subject, a struggle ensued, resulting in the use of non-lethal force, less-lethal force, and a carotid restraint control hold.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 26 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 November 22, 2016.

Incident Summary

The incident began when a Los Angeles Police Department (LAPD) Emergency Board Operator (EBO) received a 911 call from Victim A. Victim A called Communications Division (CD) reporting that a subject who had earlier thrown bottles into the parking area of her apartment building had returned. She informed the EBO that a vandalism report was made, and she had just witnessed the same person throwing more bottles. A short time later, someone from another city transferred a 911 call to CD. The caller was Victim A's mother, Victim B. Victim B reported having an on-going vandalism problem at her apartment building. She stated that an unknown suspect had been throwing bottles over the back wall into her apartment's parking area, striking vehicles and causing an unsafe condition. Victim B reported seeing a subject that day throwing a rock into her apartment's parking area. She described the subject as a male, approximately 20 years old, black cap with red color, and black and yellow jersey, on a skate board. She indicated that the suspect was actually located on the street behind her apartment building. Victim B also added that the suspect possibly had a mental illness or a drug problem.

CD created the non-coded vandalism call. The comments of the call listed Victims A and B as contact people who could direct officers to the suspect. The comments further listed the suspect's activity as someone who continuously throws glass bottles at their vehicle. The comments of the call described the suspect as a male, approximately 20 years of age, wearing a black cap with red on it, and a black and yellow jersey. The suspect was further listed as riding a skate board, and possibly has a mental illness.

After the second telephone call to CD, the call for service was upgraded from a non-coded call to a Code-2 call. Uniformed Police Officers A and B were at the police station preparing to start their patrol shift. The officers were in a marked black and white police vehicle. Officer A advised CD over the police radio that he and Officer B would handle the call for service.

The officers arrived and notified CD of their status and location (Code-Six) via their Mobile Digital Computer (MDC). Officers A and B spoke to Victims A and B as well as other residents of the apartment building. The residents told the officers that for the past three to four months they had had an on-going problem with someone throwing objects (bottles, rocks and a metal pole) into their apartment's parking area, striking vehicles, and on at least one occasion, breaking an apartment window. Two separate Los Angeles Police Department Investigative Reports of vandalism were previously taken.

Victim B told the officers that on a prior occasion, she drove around the block in an attempt to find out who was throwing the objects. Victim B observed a male, sitting in front of an apartment and asked if he knew who was throwing the objects over the wall. The male denied any knowledge of who it was and denied throwing the bottles himself. Victim B noticed a glass bottle similar to the ones she had seen broken behind her building sitting next the male. The male's mother exited the apartment and told Victim B to leave her son alone.

Victim B stated to the officers that this male was the same person she and Victim A observed throw a glass bottle over the back wall earlier in the day, causing them to call 911.

While Officers A and B were talking to Victims A and B in the parking area, Officer B looked over the brick wall dividing the apartment buildings and noticed a male matching the description given to them by CD riding a bicycle in the driveway. Officer B asked Victim B to describe the person she saw throw the glass bottle. Victim B, unable to see over the wall, described the person Officer B was observing.

The officers instructed Victims A and B to stay in their apartment while they drove around the block to locate and talk to the subject. Officers A and B discussed what options they had in regards to handling the vandalism. They discussed identifying the subject and making an arrest or completing an Investigative Report (IR), and addressing the possibility the subject might have a mental health condition.

As the officers approached the location, Officer B observed the person he had seen riding the bicycle sitting on a step in front of the apartment. In front of Subject was the bicycle, now upside down in front of him. The door to the apartment faced north onto the street.

Officer A advised CD via the radio that they were on a follow-up to the call. Officer A stopped their patrol vehicle in the roadway facing west, in front of the apartment building's driveway. Officer B exited the patrol vehicle and walked up the driveway, while Officer A exited the patrol vehicle on the driver side and approached the Subject from the gate, approximately 17 feet west of the driveway.

According to Officer A, the Subject jumped up as they approached and let out a roar-like yell, while clenching his fists and looking back and forth. It appeared to Officer A that the Subject might be looking for a direction to run. Officer A didn't want the Subject to go to a neighbor's house or get involved with other people because they didn't know what they were dealing with at that point.

The officers deployed in a triangulated manner on the Subject. Officer B told the Subject that they needed to speak with him. Officer B ordered the Subject to walk toward him. The Subject did not comply and instead continually asked, "What for, why, for what?" Officer B repeated they needed to talk to him and needed the Subject to come to him. The Subject continued to ask "why" and was not cooperating. Officer B ordered the Subject to place his hands behind his back, but he did not comply.

Officer B requested a backup over the police radio due to the Subject's lack of cooperation and aggressive behavior (e.g. clenched fists and yelling). Officer A removed his TASER from the holster, pointed it at the Subject, and warned, "Don't make us do this. We just want to talk to you. You know, relax. We just need you to calm down. Put your hands on your head and just face the wall and we'll be out of here." It appeared to Officer A that the Subject was going to comply; he put his hands

on his head and faced the wall. As Officer B was attempting to put his radio back into its holder, he observed the Subject "lunge" at Officer A with his hands clenched into fists.

Officer A recounted that as he walked forward toward the Subject, he lowered the TASER as if he was going to holster it, but kept it out in case the Subject began to resist again. As Officer A stepped closer, he noted that the Subject was much taller than him as he was standing on the stoop in front of his apartment's front door. He ordered the Subject to his knees. The Subject placed his hands behind his head with his fingers interlaced. The Subject turned his head and looked back at Officer A over his shoulder, through his bicep and forearm area. Officer A stopped and was about to step back when the Subject spun around and kicked the TASER out of Officer A's hand. The Subject followed that kick with a forward kick to Officer A's chest, which according to Officer A, "crippled him" and caused him to bend over.

While Officer A was bent over, the Subject kicked him again on the chin. According to Officer A, he felt dazed and felt he was going to lose consciousness. Officer A observed his partner broadcasting and moving around to the Subject's back. Officer A has a wrestling background and, not knowing where his TASER was, he decided to wrestle the Subject to the ground. Officer A also reasoned that being on the ground would neutralize the reach the Subject's longer arms gave him.

Officer A covered his head and face by bringing his arms up to the sides of his head. Even though he had covered up, he absorbed three to four punches to the face as he closed the distance. The Subject's last punch missed and Officer A was able to grab the Subject. Officer B attempted to get a grip of the Subject's arm or some part of his upper body to keep his partner from being punched, but within seconds they went to the ground.

Officer A explained that in his effort to take the Subject to the ground, he was able to use his arms and grab ahold of the Subject's head and one of his arms. From here he locked the Subject's arm out straight and stepped in with his left foot while rolling toward his back and lowering himself down. The two landed on the ground with their heads oriented to the west and their bodies parallel to the fence which stopped short their momentum. Officer A began working on obtaining top control. The Subject was almost, but not quite, on his stomach.

At this time, Officer B, observing that Officer A was on the Subject's upper body, moved to control the Subject's legs. The Subject was kicking and Officer B lost his grip and was kicked more than once on the back of his head. The Subject eventually kicked Officer B off to the side. He reengaged and again attempted to hold the Subject's legs. In an attempt to gain compliance, Officer B punched the Subject three times in the rib area.

During this period, the Subject reached with his right hand and grabbed ahold of Officer A's holstered pistol. Officer A pushed the Subject's hand away and yelled, "He's got my gun."

Officer B broadcast over the police radio, "Officer needs Help." Communications Division acknowledged, and broadcast the help call.

Officer B looked up at Officer A's gun. He was able to observe the Subject's hand on the grip of his partner's pistol. Officer B stated to investigators, "...I did think about drawing out and firing my weapon. But when I kind of looked at the whole situation real quick, I didn't have a lot of space, I didn't have a lot of the suspect's body visible. It was very small space, and I did not want to shoot my partner in the back from the suspect kicking or bucking..." Officer B unholstered his TASER, removed the cartridge, and conducted "several" drive stuns on the Subject's left thigh area and one on his left rib area. During the deployment of the TASER, Officer B discovered that he may have inadvertently engaged the safety. Once he realized this, he disengaged the safety, and applied the TASER to the Subject in drive stun mode two more times.

Meanwhile, the Subject, who had grabbed the butt of Officer A's gun and unsnapped the holster's thumb clasp on its double retention system, was attempting to pull the gun out of the holster. Officer A capped the Subject's hand with his left hand, and made the decision to unseat the pistol's magazine. Officer A made the following analysis and took the subsequent action; "I have a Smith and Wesson 4506. It has a safety feature on it to where, if you pop the magazine out, it shouldn't, quotation, fire. It should cause a malfunction of the weapon, which to me was a lesser of two evils at this point in time, so I unseated my own magazine in order not to either have him get control of my gun and exhaust all my resources before I, ultimately, was going to have to shoot him, because at this point in time, I knew he was trying to kill me." With his magazine unseated, Officer A's left hand was then able to gain control of the Subject's right wrist.

The Subject was now face down. Officer A then used his right arm and began to position it around the Subject's neck. He first extended his arm in front of the Subject's face. At that point, the Subject bit Officer A's right index finger. Officer A freed his finger from the Subject's mouth and again attempted to put his arm under the Subject's chin. The Subject bit Officer A's bicep. Officer A freed his right bicep from the Subject and was then able to position his arm under the Subject's chin.

Officer A positioned the Subject's chin into the crook of his arm with his right palm facing up, reaching through to his left shoulder. As Officer A applied pressure with his right arm, he heard the Subject say, "I can't breathe," which according to Officer A, signaled to him that he had his arm in the right spot.

According to Officer A, he felt confident since his magazine was unseated to use his left hand and bring it up behind the Subject's neck and complete the carotid restraint hold. Officer A stated, "...I felt comfortable enough to move my body in closer to him to kind of spread him out with my legs and complete the choke which actually brought my left hand over on top of his head to the crown of his head here. You push it down into your own V that you create with your arm, finishing the choke in that point in time."

Officer A tightened his forearm and bicep against the Subject's neck, causing pressure around his neck. Officer A watched the Subject's face, and he noticed him going unconscious, at which point Officer A released the hold on the Subject. Officer A shifted positions and got ahold of the Subject's left hand and placed it behind the Subject's back.

Officer B was attempting to control the Subject's legs and was not aware a Carotid Restraint Control Hold (CRCH) had been deployed. His focus was on the Subject's lower extremities. Officer B first learned that a CRCH had been utilized when a responding supervisor began separation and monitoring him.

Uniformed Police Officer C advised CD that he had arrived at the location. By now, the Subject was conscious again following the CRCH application. Officer B instructed Officer C to assist him with the Subject's legs because he was continuing to kick. Officer C took control of the Subject's legs by applying his body weight to the feet while he grabbed the ankles.

Officer A heard Officer B yell that he couldn't get a hold of the Subject's right hand. Officer B explained that the Subject was non-compliant during the handcuffing procedure and continually pulled his right hand back toward the fence they were up against. This is the fence that surrounded the apartment building's front yard area and was opposite the Subject's apartment's front door. Officer A explained, "I realize that he's holding onto the fence, so I used an elbow strike to his ear, hoping that he would reach up and try to protect his ear."

After the elbow strike, the Subject released his grip on the fence. With the assistance of Officer A, Officer B was able to take control of the Subject's right hand. Officer B forced the Subject's right hand back and completed the handcuffing procedure.

Officer B feared that the Subject may continue kicking the officers and, with the assistance of Officer C, Officer B placed a Hobble Restraint Device (HRD) around the Subject's legs at his knees. The Subject was then placed in a seated position and offered water.

The Subject's mother heard her son shouting outside as if he were fighting or arguing. She exited their apartment and saw the Subject on the ground against the fence next to the gate. She saw an officer (Officer A) with his knee on the Subject's back just below his neck striking him with his fist "three or four times on the face and head." She also saw another officer (Officer B) utilizing the TASER twice on the right back area just above the Subject's waistline.

According to the Subject's mother, both the Subject's hands were behind his back but, un-handcuffed. They were being held by Officer B's left hand, while Officer B's right hand was operating the TASER. It was her perception that the Subject was not struggling, and his only movements, were because of the TASER use and because Officer A was punching his face and head.

The Subject's mother stated to investigators that, at some point another officer (Officer C) arrived and used his body weight on the Subject's legs while he held them. The Subject's mother surmised, "I think he was not resisting already 'cause they already him [sic] on the ground. They already had him with his hands in the back." She felt that because the Subject was on the ground, the punches and the use of the TASER were for "no reason."

The Subject's sister was asleep when she heard screaming. She recognized her mother screaming, "Let him go. Let him go. He's not doing anything." She then ran to the front door. She observed the Subject face down on the ground by the front fence, and an officer on his upper body (Officer A) with one knee on his back and the other knee on the ground. She observed another officer (Officer B) on the Subject's lower body.

According to the Subject's sister, the Subject's right arm was behind his back and in handcuffs. She heard the officers asking for his other arm. She believed that the Subject couldn't get his left arm back because Officer A's knee was on his arm and body. She also stated that she observed Officer B utilize the TASER one time on "one of his (the Subject) legs." She also observed Officer A strike the Subject with his fist on his head and back. Both officers were saying "Stop resisting." A short time later other officers arrived and the Subject was then handcuffed.

As other backup officers arrived on scene, Officer A asked them to broadcast that the incident had been resolved (Code Four).

CD was contacted with a request that the Los Angeles Fire Department (LAFD) send a Rescue Ambulance (RA) for the Subject and another RA for the officers. The LAFD received the alarm to respond to the scene.

Two supervisors and the Watch Commander arrived at the scene. The Watch Commander made contact with Officer A, who was seated in a patrol vehicle awaiting the RA. Officer A advised the Watch Commander that he had applied an upper body control hold during the struggle with the Subject. The Watch Commander directed a supervisor to monitor and obtain a Public Safety Statement (PSS) from Officer A. The Watch Commander then directed another supervisor to monitor and obtain a PSS from Officer B.

LAFD personnel arrived at scene and transported the Subject to the hospital where on-duty emergency room personnel examined him. He was treated for superficial abrasions on his chest and right knee. His neck was examined. No bruising around the neck and no hoarse voice were noted by the physician. He complained of mild tenderness to his abdominal region.

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 Officers A, B, and C's tactics to warrant a Tactical Debrief. The BOPC found the Watch Commander's actions to warrant Administrative Disapproval.

B. Non-Lethal Use of Force

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

C. Less-Lethal Use of Force

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

D. Use of Lethal Force

The BOPC found Officer A's lethal use of force to be out of policy.

Basis for Findings

A. Tactics

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

1. Tactical Communication and Planning

Officers A and B did not formulate a tactical plan and did not communicate with one another prior to approaching the Subject.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. A sound tactical plan should be implemented to

ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this case, Officers A and B discussed their enforcement options but did not communicate their observations with each other or work as a team to formulate a tactical plan to approach and detain the Subject. As a result, Officer A drew his TASER, gave the Subject commands and then took a couple steps toward the Subject to take the Subject into custody, while Officer B did not want to walk up on the Subject because of the miscellaneous items on the ground and remained some distance back, while requesting a back-up.

- The BOPC also considered the following:

1. Required Equipment

The investigation revealed that Officers A and B left their batons in their police vehicle at the time of the incident. The officers are reminded to have all their required equipment on their person while performing field patrol duties.

2. Proper Use of TASER in Drive Stun Mode

The investigation revealed that Officer B removed the TASER cartridge prior to activating his TASER in drive stun mode. Officer B is reminded that for maximum effectiveness, the cartridge should remain attached to the TASER when the TASER is applied in drive stun to an area of the body away from the probe impact site.

3. Effective Encounters with the Mentally Ill

The investigation revealed that Officers A and B responded to a radio call in which the subject was being reported as possibly suffering from mental illness.

- 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 the individual actions that took place during this incident.

In conducting an objective assessment of this case, the BOPC found that the Watch Commander's decision not to send a supervisor to the hospital with the transporting officers to provide oversight and monitor the Subject after the Subject had already attempted to disarm Officer A was a substantial deviation without justification from

approved Department tactical training, thus requiring a finding of Administrative Disapproval.

In conclusion, the BOPC found Officers A, B, and C's tactics to warrant a Tactical Debrief. Additionally the BOPC found the Watch Commander's actions to warrant Administrative Disapproval.

B. Non-Lethal Use of Force

- **Officer A** – Firm grips, takedown, body weight, physical force, and elbow strike.
- **Officer B** – Firm grips, takedown, body weight, physical force, and punches.
- **Officer C** – Firm grips, body weight, and physical force.

According to Officer A, he closed the distance between him and the Subject. He was then able to get his arms around the Subject's upper body. The Subject landed on his side next to the fence. He used his body weight in an attempt to control the Subject's upper body as Officer B used firm grips and bodyweight in an attempt to control the Subject's legs.

According to Officer A, he then used firm grips and physical force to turn the Subject onto his stomach, face down on the ground. He observed that the Subject was holding onto the wrought iron fence with his right hand so he used his left elbow to strike the Subject on his right ear in an attempt to overcome his resistance.

According to Officer B, he observed the Subject lunge at Officer A and they began to fight. He went to help Officer A and together they were able to take the Subject to the ground.

According to Officer B, he used firm grips and body weight in an attempt to control the Subject's legs. The Subject was kicking his legs wildly, causing him to lose his grip on the Subject's legs. The Subject then kicked him a couple times in the head, which caused him to fall off to the side of the Subject. In an attempt to overcome his resistance, he punched the Subject three times in the rib area.

Officer B placed the HRD around the Subject's legs with the assistance of Officer C to prevent him from kicking the officers.

According to Officer C, he used both hands to grab the Subject's ankles and placed his body weight on top of the Subject's ankles to control his legs, then assisted Officer B with placing the HRD around the Subject's legs.

After Officer B handcuffed the Subject, he assisted Officer B with placing the HRD around the Subject's legs to prevent him from kicking the officers.

After a thorough review of the incident and involved officers' statements, the BOPC determined that officers with similar training and experience as Officers A, B, and C

would reasonably believe that the application of non-lethal force was reasonable to overcome the Subject's resistance, prevent his escape, and take him into custody.

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

D. Less-Lethal Use of Force

- **Officer B** (TASER, one, three-second activation and two, five-second activations in drive stun mode)

According to Officer B, he heard Officer A yelling, "He's got my gun. He's got my gun," and observed the Subject's fingers on Officer A's service pistol, near the handle.

He drew his TASER, removed the cartridge, and activated it three times in drive stun mode; once each to the Subject's left leg, left thigh, and rib area.

Department policy states 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 less-lethal force to stop the Subject's actions during this incident was reasonable and would have acted in a similar manner.

In conclusion, the BOPC found Officer B's less-lethal use of force to be in policy.

E. Lethal Use of Force

- **Officer A** (Carotid Restraint Control Hold)

According to Officer A, he capped the Subject's hand with his left hand and unseated the magazine from his service pistol so the Subject would not be able to fire the weapon in the event that he was able to gain control of his service pistol. He used firm grips and physical force to turn the Subject face down on the ground then utilized his right arm to apply a CRCH around the Subject's neck.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would not reasonably believe that the Subject's actions presented an imminent threat of death or serious bodily injury at the time Officer A applied the CRCH and therefore, the use of lethal force would not be objectively reasonable.

Therefore, the BOPC found that Officer A's lethal use of force was out of policy.