

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

OFFICER-INVOLVED SHOOTING – 098-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Outside City	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, 1 month
Officer B	13 years

Reason for Police Contact

Officers transported the Subject to the hospital for medical clearance for booking. While at the hospital, the Subject became combative, fighting with the officers. The Subject attempted to take one of the officer's duty weapon, resulting in an officer-involved shooting (OIS).

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

Incident Summary

On the date noted, officers responded to a radio call of a vandalism suspect throwing glass bottles. During the course of their investigation, the officers made contact with the suspect, who physically assaulted one of the officers. A back-up request was broadcast. The officers became involved in an altercation with the Subject, which resulted in a Carotid Restraint Control Hold (CRCH).¹

Uniformed Police Officers A and B were in a black and white police vehicle, when they responded to the backup request at the vandalism call.

Upon their arrival, a broadcast that the incident had been resolved (Code Four) was issued. While at scene, Officer B heard that the suspect had punched an officer in the face, attempted to take an officer's pistol and a CRCH had been applied to the Subject. Officer A also learned that the CRCH had been applied to the Subject and believed he had been tased.

A Rescue Ambulance (RA) was requested for the Subject, and Los Angeles Fire Department (LAFD) personnel transported him to the hospital for treatment. Officer A rode in the back of the RA with the Subject, and Officer B followed in their police vehicle. While being transported to the hospital the Subject breathed heavily, clenched his fists, and rattled the handcuffs that were secured to the gurney. The Subject never made any statements to Officer A about the aforementioned use of force and his subsequent arrest.

The Subject was brought into the ER and was placed in a bed lying on his back and with each wrist handcuffed to the bed rail. According to both officers, the Subject was cooperative and calm while at the hospital. Other than asking Officer A to loosen his right handcuff, the Subject did not speak to the officers. At one point, the officers escorted the Subject to undergo a computerized axial tomography (CAT) scan that required the removal of his handcuffs. The Subject did not resist and complied with the officers' directions. After the CAT scan was completed, the officers reapplied the handcuffs to the gurney and escorted him back to his room.

While the officers were waiting for the Subject to be cleared for booking, other officers came to the ER to conduct an unrelated investigation. The officers spoke to Officer B in the hallway, outside of the Subject's room, when medical personnel advised Officer B that the Subject was medically cleared for booking.

Witness A, who assisted with the Subject's discharge process, stated that just prior to leaving the Subject's room, he "was thanking us and he seemed very calm and nice to us anyways." Only seconds later, the Subject would become violent with the officers.

¹ For a summary of the CRCH, a separate categorical use of force (CUOF) incident, please see Force Incident No. 097-15.

Witness B was the primary nurse assigned to the Subject. She had just finished drawing the Subject's blood and had removed his intravenous catheter before he became violent with the officers. She stated that the Subject was cooperative and calm during his stay at the hospital.

Officer B un-handcuffed the Subject's left arm from the hospital bed railing while Officer A stood at the doorway of the room. The Subject lay in the bed with his left arm behind his back and Officer B walked to the other side of the bed to remove the handcuff from his right arm. Meanwhile, Officer A entered the room and stood on the left side of the Subject while Officer B un-handcuffed his right wrist. Officer B advised the Subject that when he un-handcuffed his right wrist, he was to swing his legs to the left and put both of his hands behind his back while remaining seated on the gurney.

Officer B erroneously believed that the other responding officers were still in the hallway or in the general vicinity of the Subject's room, in case the Subject did not comply, but unbeknownst to Officer B, the officers had left the ER.

Immediately after Officer B removed the handcuff from the Subject's right wrist, the Subject jumped off the bed and stood next to it. Officer A moved within approximately two feet of the Subject and ordered him to sit down and to put his hands behind his back. The Subject did not comply. He grunted and looked Officer A up and down several times. Officer A stated, "...he looks at me and he's just looking at my face and he's looking at my chest area and he's looking at my gun belt. He did it multiple times, two to three times." The Subject then picked up a metal stool and held it above his head with both of his hands. Officer B ordered him to put the stool down. Officer A had his arms in front of his body with his palms facing the Subject. The Subject threw the metal stool, which struck and injured Officer A's left hand.

Witness C heard the Subject say, "Get away from me, mother fucker." Witness D heard the officers order the Subject to calm down. Witness E heard the officers order the Subject to stop. Witness F heard the officers say, "Stop it, TASER." Witness G heard the officers order the Subject to stop. Witness H stated she heard the officers order the Subject to stop throughout the incident. Witness A believed the stool hit Officer B.

Officers A and B backed into the hallway to create distance between them and the Subject. The Subject picked up the stool again and raised it above his head and charged toward the officers from a decreasing distance of approximately 10 feet. Both officers unholstered their TASERs as Officer A yelled, "TASER," and ordered the Subject to get on the ground two to three times. The Subject did not comply, and Officer A deployed the light on the TASER, aimed it at the Subject's stomach and activated the TASER. Officer B, who was standing to the left of Officer A, also activated his TASER. Simultaneously, the Subject threw the stool at the officers, while he yelled and grunted. The stool did not strike either officer. The TASER activations did not appear to have an effect, and both officers were unsure if their respective TASER darts

made contact with the Subject. The Subject exited the room and continued to charge toward the officers.

According to Officer A, the Subject entered the hallway and pinned Officer B's back against the east wall of the hallway. Officer B's TASER fell to the floor. Officer B slid down the wall onto his buttocks, due to the force used by the Subject. Officer A was behind the Subject and observed him bend at the waist and, with both hands, touched Officer B's pistol and attempted to take it.

Officer B wore his holster on the right side of his equipment belt. According to Officer B, the Subject used his body weight to take him to the ground.

Witness G believed there were three officers in the hallway during the altercation, and that only two officers engaged the Subject.

Officer A took ahold of the Subject's shirt with his left hand and pulled the Subject toward him, away from Officer B. Officer A did not use the TASER at this point, because previously it had no effect on the Subject when both he and his partner had tased him. The Subject lost his footing as Officer B got up from the floor. Officer A still had a hold of the Subject's shirt and, with assistance from Officer B, took him to the floor. According to Officer A, as the Subject was going to the floor, he threw punches toward Officer B's upper body; however, Officer A was unsure if the punches made contact with Officer B. Once he was on his stomach, the Subject continued to fight with the officers.

Officer B yelled for help, believing other officers were still in the ER. Officer B fell to the floor, then got up and put his body weight on the left side of the Subject's back. Officer A was on the right side of the Subject and put his left knee on his back. The Subject continued to resist the officers and with both of his hands, pushed his upper body off of the ground, forcing the officers off his back. To prevent him from standing, Officer A stomped on the Subject's right hand two times with the front of his right foot. The stomping did not have an effect on him, and the Subject attempted to get up off of the floor. Officer A then kicked the Subject two times in the face with his right foot, in an attempt to disable him. The kicks did not appear to have an effect on the Subject.

The Subject continued to fight and Officer A activated the TASER, which did not appear to have an effect on the Subject. Officer A removed the cartridge from the TASER and momentarily pressed the TASER onto the left side of his neck. Officer A did not activate the TASER, because he knew it was out of policy to tase a suspect in the neck area, and he placed the TASER in between the shoulder blades of the Subject's back and drive stunned him two to three times.

Several witnesses believed that the officer tased the Subject on the neck. According to Witness I, when she observed an officer put a TASER on the Subject's neck, she yelled, "Don't tase him in the neck."

The drive stun activations appeared to be ineffective; however, the Subject relaxed his body as if he were going to comply. Officer A moved the TASER to his left hand and he took hold of the Subject's right arm to handcuff him. Officer B was also attempting to take ahold of the Subject's right hand when the Subject pulled away from the officers and began to fight with them again.

The altercation moved farther north in the hallway until the Subject was on the floor on his back. According to Officer B, he attempted to turn the Suspect onto his stomach when the Subject used both of his legs and kicked Officer B in the chest, knocking the wind out of him and causing him to fall to the floor, onto his side.

According to Witness H, it seemed like the Subject was getting the upper hand on the officers, the TASER activations did not affect him, and he seemed unstoppable.

According to Officer B, he was able to get on top of the Subject momentarily; however, he and the Subject rolled around on the floor facing each other and at one point, the Subject grabbed Officer B's legs in a bear hug and pulled himself up Officer B's legs toward his gun belt. Believing that the Subject was attempting to disarm him, Officer B turned to his right side and with both of his hands covered his pistol to prevent the Subject from taking it. Officer B was tired due to the Subject attempting to take his pistol from his holster. After being kicked in the chest Officer B was winded and frightened the Subject would take his pistol and kill either him or his partner.

According to Witness A, the Subject kept grabbing Officer B's leg, up by his thigh and very close to his gun. According to Witness B, the Subject kept grabbing Officer B's belt and pants in the area of his gun as Officer B was turning onto his right side.

According to Officer A, after the altercation moved farther north in the hallway, the Subject stood up and faced Officer B, who was in the process of standing up. The Subject bent forward at the waist and extended both arms toward Officer B's equipment belt. Believing that the Subject was attempting to take Officer B's pistol, Officer A moved behind the Subject, took hold of the left side of the Subject's shirt and pulled him approximately two to three feet away from Officer B. The Subject turned to his left and faced Officer A. With his arms outstretched in front of his body, the Subject reached and tugged at the top of Officer A's holster.

Officer A stated he could not request back-up during the fight, because he was fighting with the Subject and there was no reception inside the hospital.

Officer A had the TASER in his right hand and with his left hand pushed down on the Subject's right shoulder, causing him to bend at the waist. Officer A put his right leg back to prevent the Subject from taking his pistol and dropped the TASER. He unholstered his pistol with his right hand, and with his finger on the frame, he held the pistol in a close contact position to control it and prevent the Subject from taking it. Officer A observed Officer B in the process of standing up. The Subject moved his body

upward and reached his arms and hands toward Officer A again and touched the slide of Officer A's pistol.

Officer A moved his pistol back and away from the Subject, and with his left hand, pushed down on the Subject's right shoulder again toward the floor. Officer A ordered the Subject, indicating, "Stop or I'll shoot. Stop or I'll shoot." Officer B stood approximately one and a half feet to the rear and left of the Subject. The Subject reached up with both arms and hands toward Officer A's pistol for the third time. According to Officer A, in defense of life, he pushed down on the Subject's right shoulder again and fired one round in a downward direction, into the upper left side of his back. Officer A believed the muzzle of his pistol was approximately one and a half feet from the Subject's back. Officer A explained, "If I - - say if he gets my gun, he's going to shoot me or my partner or even the staff that were there."

Officer A stated his left hand immediately hurt and became swollen when he was struck with the stool. During the fight with the Subject, it hindered his ability to subdue and control him. Officer A was not in a position to use a CRCH, and did not use other less lethal options due to the Subject being too strong, slippery and due to his hand being injured. Officer A specifically stated he did not use OC spray due to the close quarters and it would have incapacitated him and his partner, ensuring that the Subject would have been able to take his pistol.

Both Officers A and B stated that the Subject had the opportunity to flee; however, he did not. Both officers believed the Subject's intent was to disarm and kill them. When Officer A unholstered his weapon it was because he believed the Subject would remove it from his holster and kill either himself, his partner, or the medical staff. He believed deadly force was the only way to stop the Subject because he felt the Subject was going to overpower him and he needed to prevent him from hurting everyone who was present.

According to Officer B, while he was still on the floor, he saw the Subject reach for his partner's gun belt and then heard a single gunshot. According to Witness C, just before the gunshot occurred, the Subject was reaching with both hands on both sides of Officer A's belt. According to Witness E, the Subject was reaching with both hands toward Officer A's waist. According to Witness G, the Subject made a move with his hand toward Officer A's waist area before he was shot. According to Witness B, the Subject was attempting to take Officer B's weapon.

Witnesses E heard an officer say something to the effect of, "You are going to get shot." Witness A heard Officer A state, "Stop fighting or I'm going to shoot you," followed by a gunshot. Witness H heard an officer state, "I'm going to shoot."

When asked if he believed the Subject had the ability to take his pistol, Officer A stated, "Of course. I think he did. He was a strong guy. He was - - I don't know what he was on, but he was just real strong. I'm not a light guy. I weigh like 260, 270, and I had all my weight on him and he was throwing me off. Not only myself, my partner too."

Witness B called the Los Angeles Sheriff's Department (LASD), housed at the hospital, to request help to the ER and the call was recorded. Witness B stated that she needed the Sheriff's Department to respond to the emergency area due to a patient being tased. Witness B made the call to LASD while the altercation continued in the hallway outside of the Subject's assigned ER room. In the background of the call, a struggle can be heard. Forty-six seconds into the recording, a gunshot could be heard. Seven seconds before the gunshot, a voice is heard yelling, "You're gonna get shot!" Two additional calls to LASD of a similar nature were made by medical personnel and were recorded.

According to Officer A, the Subject stopped struggling and moved his left hand slightly. According to Officer B, the Subject continued to scream and fight with them and eventually his breathing slowed.

Due to poor reception, Officer B was unable to broadcast on his radio inside the hospital. He yelled to Officer A that he was going around the corner to get help and then ran outside of the ambulance entrance to broadcast the shots fired call. As Officer B ran out of the ambulance entrance, he made contact with a security guard and advised him to find the other officers and have them come into the hospital.

Officers C and D were in the rear parking lot of the hospital when the security guard approached them and advised that officers needed help inside.

Officers C and D entered the ambulance entrance of the hospital and observed Officer B outside. The officers continued to the emergency room, where they observed the Subject face down on the hallway floor, with Officer A standing next to him. According to Officer C, Officer A spontaneously stated that, "he had shot the suspect." Officer A further stated that, "the guy just went off." According to Officer D, Officer A stated, "He reached for my gun and I shot him."

Officer D immediately approached the Subject's feet and applied the HRD to his ankles, believing Officer C was going to handcuff him. Once the HRD was applied, Officer D observed the Subject had not been handcuffed. Officer D then handcuffed him.

Medical personnel approached the Subject with a gurney and immediately rendered aid less than one minute after he was shot. They wheeled him to the trauma room and Officer D followed. The Subject was eventually taken to an operating room for surgery, but failed to respond to medical treatment and was pronounced dead.

Force Investigation Division (FID) Detective A, was in the parking lot of the hospital when he heard the "shots fired" broadcast. He ran inside the ER and observed Officer A in the hallway with a frightened look on his face. Officer A stated, "They just wheeled him into trauma." Detective A believed Officer A was talking about Officer B. As Detective A went to the trauma area, he looked toward the ambulance entrance and observed Officer B in the parking lot, broadcasting on his radio. Detective A

approached Officer B and remained with him until additional supervisory personnel arrived.

The Harbor Patrol Division Watch Commander heard the help call and responded to the hospital.

Upon arrival, the Watch Commander and Sergeant A entered the ambulance entrance of the hospital. The Watch Commander made contact with Officer A and determined he had been involved in an OIS. Sergeant A obtained a Public Safety Statement (PSS) from Officer A, and Detective A obtained a PSS from Officer B.

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, made the following findings:

A. Tactics

The BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

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

E. Lethal Use of Force

The BOPC found Officer A's use of 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. Handcuffing an Arrestee

Officer B removed the handcuff from the Subject's right wrist rather than removing the handcuff from the bed rail.

The Department allows officers discretion in how and when to apply handcuffs to felony suspects. In this case, the investigation revealed that the Subject had been calm and cooperative each time the officers had previously removed one or both of the handcuffs from the Subject's wrist for medical personnel.

According to Officer B, the handcuff was tangled on the bed rail making it difficult for him to remove the handcuff without first releasing the Subject's right wrist. He observed that the Subject was complying with his commands after he removed the handcuff from his left wrist, so he decided to remove the handcuff from the Subject's right wrist in order to put the handcuffs on him properly.

Based on the totality of the circumstances, the BOPC determined that Officer B's decision to remove the handcuff from the Subject's right wrist was reasonable and did not represent a substantial deviation from approved Department tactical training.

- The BOPC also considered the following:

1. Required Equipment

The investigation revealed that Officers A and B both left their batons in the vehicle when they went into the emergency room. The officers are reminded to have all their required equipment on their person while performing field patrol duties.

2. Simultaneous Commands (Non Conflicting)

The investigation revealed that Officers A and B gave simultaneous commands to the Subject during the incident. Although the commands were non-conflicting, the officers are reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

3. Simultaneous TASER Deployment

The investigation revealed that Officers A and B simultaneously deployed their TASERS at the Subject. In this instance, the officers were confronted with a rapidly unfolding tactical situation when the Subject charged at them while holding a metal stool above his head. Although they were both attempting to address the immediate threat at hand, the officers are reminded that simultaneous deployment of the TASER limits their ability to deploy other force options.

4. Maintaining Control of Equipment

The investigation revealed that Officers A and B lost control of their TASER while attempting to control the Subject. The officers are reminded of the importance of making every attempt to maintain control of their equipment, as it increases the likelihood of tactical success during incidents such as this.

These topics will be discussed during 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.

In conducting an objective assessment of this case, the BOPC found Officers A and B's actions to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- According to Officer A, the Subject continued to resist and reach toward his service pistol. So he threw his TASER onto the ground and with his right hand, drew his service pistol, and held it at the close-contact position against the right side of his [Officer A's] body.

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

Therefore, the BOPC found that Officers A's drawing and exhibiting of a firearm to be in policy, No Further Action.

C. Non- Lethal Use of Force

- According to Officer A, he was positioned behind the Subject and used his left hand to pull the Subject off of Officer B and take the Subject to the ground. While on the

ground, the Subject continued to resist, and Officer A used body weight, firm grips, and physical force in an effort to control the Subject.

According to Officer A, he used his right foot to stomp on the Subject's right hand twice, in an attempt to stop the Subject from pushing himself off the ground. The stomps appeared to be ineffective, so he used his right foot to kick the Subject in the face two times to prevent him from standing up. However, his kicks were also ineffective, and the Subject was able to stand up.

According to Officer A, the Subject continued to struggle and resist the officers' efforts to take him into custody. As they were struggling to control the Subject, Officer A observed the Subject grab Officer B's service pistol. As the struggle continued, he and Officer B fell to the ground along with the Subject.

According to Officer A, he observed the Subject continuing to reach for Officer B's service pistol. While holding the TASER in his right hand, he grabbed the back of the Subject's shirt with his left hand and pulled him off Officer B.

According to Officer A, the Subject stood up and turned toward him, then reached out with his left hand and touched his service pistol. He immediately moved his gun leg back while simultaneously placing his left hand on the Subject's back and pushing the Subject down toward the ground and onto his knees.

According to Officer B, while on the ground, he used firm grips and physical force in an attempt to gain control of the Subject.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, while faced with similar circumstances, would believe this same application of non-lethal force would be reasonable to overcome the Subject's resistance, prevent his escape, and effect an arrest.

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

D. Less-Lethal Use of Force

- **Officer A** – (TASER, two five second activations in probe mode, from an approximate decreasing distance of 10 feet to one foot. Three five second activations in drive stun mode)

First TASER Activation

According to Officer A, he drew his TASER and ordered the Subject to "get on the ground" several times. The Subject ignored his commands and charged at him with the metal stool above his head. Fearing that the Subject was going to throw the

metal stool at him and his partner, Officer A deployed the TASER at the Subject to stop the threat.

Second TASER Activation

According to Officer A, after taking the Subject to the ground, he activated his TASER a second time to overcome the Subject's resistance.

Third, Fourth, and Fifth TASER Activations

According to Officer A, he observed the Subject reaching for Officer B's service pistol. In an effort to stop the Subject, he removed the cartridge from the TASER, placed the TASER directly against the Subject's back just below his neck and applied three five-second bursts in drive stun mode.

The investigation reflects that Officer A's TASER was activated a total of five times with each activation lasting for five seconds.

- **Officer B** – (TASER, one five second activation in probe mode, from an approximate distance of 10 feet)

The Subject exited the hospital room while holding a stool above his head. According to Officer B, he drew his TASER and ordered the Subject to drop the stool. The Subject ignored his commands and threw the stool at him and his partner. Simultaneously, Officer B deployed the TASER at the Subject to stop the threat.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, while faced with similar circumstances, would believe the application of the TASER to stop the Subject's actions was objectively reasonable.

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

E. Lethal Use of Force

- **Officer A** – (pistol, 1 round)

According to Officer A, the Subject ignored his commands and continued to *grab* his service pistol. Fearing that the Subject was going to take his service pistol and use it to shoot him, his partner, or even the staff present, Officer A fired one round at the Subject to stop his actions.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe that the

Subject's actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would be objectively reasonable.

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