

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

**LAW ENFORCEMENT RELATED INJURY – 102-11**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On (X) Off ( )</u></b>	<b><u>Uniform-Yes (X) No ( )</u></b>
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Northeast	11/15/11		
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<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
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Officer A	6 years, 8 month
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**Reason for Police Contact**

The Subject was arrested for domestic violence and was being transported by a Rescue Ambulance (RA) to the hospital when he became disruptive and banged his head against the side of the interior of the RA. Officer A used his TASER to control the Subject and prevent him from injuring himself.

<b><u>Suspect</u></b>	<b><u>Deceased ( )</u></b>	<b><u>Wounded (X)</u></b>	<b><u>Non-Hit ( )</u></b>
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Male, 25 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 and addenda items); the 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, the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on October 16, 2012.

## **Incident Summary**

Patrol Division uniformed Police Officers A and B responded to a call regarding a domestic violence subject located at a particular location. After several requests for further information to Communications Division the officers made contact with Victim A, who stated that her boyfriend, identified as the Subject, 25 years of age, had been drinking, and had struck and choked her.

Officers A and B observed the Subject riding a bicycle and ordered him to stop. The Subject continued north and then east into a construction site.

The officers followed the Subject in their black and white police vehicle, broadcast that they were on a follow-up response, and observed the Subject turn west toward the rear of the parking lot. Officer A believed that the Subject could not continue because his bicycle got stuck between a parked white truck and metal pipes on the ground.

The officers exited their police vehicle, and Officer A ordered the Subject to get off of his bicycle. The Subject did not comply, and Officer A approached him and ordered him to get off the bicycle again. As the Subject attempted to get off the bicycle, Officer A placed his left hand on the Subject's back. As he did so, the Subject, who was intoxicated, lost his balance and fell to a seated position, into a mud puddle. Officer A ordered the Subject to get up, but he refused and became verbally abusive to the officers. Officer A removed his Oleoresin Capsicum (OC) spray, showed it to the Subject and told him if he did not comply he would spray the Subject and that it would hurt. The Subject complied, and the officers handcuffed him and took him into custody without further incident.

Prior to the officers placing the Subject into the rear of the police vehicle, the Subject again became argumentative, and Officer B advised him that he had a TASER and that if he had to use it, it would hurt. The Subject complied and was placed in the rear of the officers' vehicle. The officers responded back to the original location, where the phone call had been placed and continued their contact with Victim A.

While the Subject was seated in the back seat, Officers A and B observed that he had bruising to his face and eyes. Officer A asked the Subject how he obtained those injuries, and the Subject stated that he had been involved in an altercation earlier in the day. Officer A was approached by Witness A, who advised he was a friend of the Subject and lived nearby. Witness A indicated that he had observed the injuries to the Subject's face prior to the officers' arrival. Officer B contacted uniformed Sergeant A, via his cellular telephone and requested that he respond to their location, in the event that the Subject accused them of causing his injuries.

Sergeant A arrived and spoke to the Subject, who was seated in the rear of the police vehicle crying. Sergeant A observed that the Subject had two black eyes and asked the Subject how he obtained the injuries. The Subject advised Sergeant A that he been involved in an altercation with someone either a few days earlier or the same day. The

Subject did not allege that the officers caused his injuries. Sergeant A did not take photographs of the Subject.

Sergeant A spoke to Witness B, also a neighbor who lived nearby, who stated that the Subject was his friend and that he had observed the injuries on the Subject's face earlier in the day, prior to the officers' arrival. At that time, the Subject advised Witness B that he had been in an altercation a day ago, when he was in jail. Sergeant A then went to the construction site where the Subject was taken into custody and spoke with an unidentified worker. This individual advised Sergeant A that he observed the Subject ride his bicycle onto the construction site and saw that he had black eyes.

As the officers completed their investigation with Victim A, she indicated that she was not feeling well and the officers requested a Rescue Ambulance (RA). Los Angeles Fire Department (LAFD) personnel arrived and transported Victim A to a local hospital. The officers asked the Subject if he wanted a RA for his injuries, and he refused. The officers arrested the Subject for cohabitation abuse.

The officers transported the Subject to the police station. Once they arrived at the station, the officers walked the Subject to the prisoner holding area. The Subject's hands were handcuffed behind his back, and Officer A ordered the Subject several times to sit on the bench before he complied. While seated on the bench, the Subject became belligerent and yelled that he was going to hurt himself. He did not want to go back to jail since he had just been released that morning.

As the Subject remained handcuffed and seated, Officer A stood to his right, toward the Subject and approximately seven feet away, while Officer B stood to the Subject's left. While seated, the Subject continued his threats to harm himself. The Subject stated, "See that wall?" and Officer B moved closer to the Subject. The Subject then stood up, lunged forward, striking his face or head on a trash can. This caused the Subject to land face first on the floor of the holding area. Officers A and B moved toward the Subject in an attempt to stop him from falling forward, but they could not stop the Subject from falling. Officer A, with both hands, took a hold of the Subject's left upper arm area, and Officer B took his right side to assist the Subject into a seated position. As the officers did so, the Subject yelled to them not to touch him or he would hurt himself. Officer A stated that they left the Subject lying on the floor on his right side, with his legs bent. The officers observed that the Subject had blood on his lip, and a RA was requested.

Uniformed Lieutenant A, heard the commotion in the holding area, and as he walked toward the noise, he observed a trash can in the hallway. When Lieutenant A arrived at the holding area, he observed the Subject on the floor laying on his right side, in a fetal position, with his hands handcuffed behind his back and his face to the side. The officers were standing to the rear of the Subject, who was yelling about continuing to hurt himself. Lieutenant A observed that the Subject had a cut on his lip that was bleeding. While Lieutenant A continued to monitor the incident, the Subject hit his head against the floor. At this time, the officers took hold of the Subject's shoulders to

prevent him from continuing. When the officers touched the Subject, he threatened to hurt himself, so the officers stood by and made sure the Subject did not cause any further injury to himself.

Lieutenant A attempted to ask the Subject three questions required during intake, but he refused to answer and yelled, "If you come near me, I am going to f'ck myself up!"

Prior to transporting the Subject to the hospital, Officer A, who was going to ride in the rear of the RA, checked his TASER to make sure it was functional. The TASER did not work properly and he advised Officer B that he needed to go back into the station and check out another TASER. Officer B stayed with the Subject at the RA, which was parked in front of the police station, while Officer A went back into the station and checked out another TASER. Officer A obtained the TASER and entered the rear of the RA, along with Firefighter/EMT A. Officer A sat on the bench to the left of the Subject and removed the TASER from his left pant pocket, put it in his right hand and removed the darts. He then placed the TASER next to him on the bench. Fire Department personnel transported the Subject to the hospital, while Officer B followed the RA in his police vehicle.

**Note:** Firefighter/EMT A stated that Officer A had warned the Subject prior to leaving the police station that he would be tased if he became combative during transport.

While enroute to the hospital, the Subject was on a gurney, which was locked into place in the rear of the RA. The gurney was elevated at the head. Officer A was seated on a bench to the left of the Subject, and Firefighter A was seated behind the Subject. The Subject became belligerent, yelling profanities and simulated vomiting. He stated that he was going to vomit, urinate and hurt himself. Although both of the Subject's hands were handcuffed to the gurney, his left hand was closer to his body. The Subject unfastened the button on his pants and placed his left hand under his underwear. Officer A, due to the Subject's threats, believed that the Subject was going to urinate in Officer A's direction and all over the back of the RA. Officer A, with his left hand, took hold of the left sleeve of the Subject's jacket, and pulled his arm away from his body.

The Subject became belligerent, again stating that he wanted to kill himself. The Subject began to strike his head against the rails located on the right side of the gurney. Officer A stood up to the left of the Subject, wrapped his right arm behind the Subject's back and took hold of his upper right arm, near his shoulder with his right hand. Officer A gave multiple commands to the Subject to stop, but he continued to strike his head on the rails. Officer A leaned back, while he continued to hold onto the Subject's upper arm and shoulder area, to create distance between the Subject's head and the rails. Officer A attempted to deescalate the situation by speaking to the Subject and advised him to comply with his commands.

As the RA pulled into the parking lot of the hospital, the Subject repeated, "A few seconds to showdown." Immediately, the Subject leaned forward in a seated position and violently and began to strike the right side of his head against the wall of the RA.

According to Officer A, the Subject struck his head so hard, that the walls of the RA vibrated. There was a glass cabinet next to where the Subject struck his head and Officer A believed that the Subject was going to strike his head against the glass window and shatter it, causing further injury to his head or face. Officer A ordered the Subject two to three times to stop striking his head, but the Subject continued to rapidly and violently strike his head against the wall of the RA. Officer A observed blood on the Subject's lip and, due to the confined area, was concerned that the Subject would spit on him. Officer A was unable to maintain proper balance because of the confined space. Using his right hand, Officer A took hold of the TASER and dry stunned the Subject once on the mid to upper back area, over his jacket and t-shirt, to stop the Subject's actions. The Subject stopped striking his head but indicated he had not been hurt by the dry stun.

Meanwhile, as Officer B parked the police vehicle, he heard someone yell, "Stop," but was unsure who said it. He walked to the rear of the RA and observed both firefighters standing at the rear and Officer A and the Subject inside the RA. Officer A advised Officer B to contact a supervisor, because he had tased the Subject. Sergeant B responded to the hospital to investigate a non-categorical use of force.

The Subject was admitted to the hospital for Rhabdomyolysis, which is a muscle breakdown as a result of electric shock.

### **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 revolver 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 that Officer A's tactics warranted a Tactical Debrief.

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

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

## **Basis for Findings**

### **A. Tactics**

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

#### 1. Verbal Warning Requirement

In this instance, Officer A did not recall providing the less-lethal force warning immediately preceding the use of the TASER, however the investigation revealed that the warning had been given several times throughout the incident. Additionally, per Firefighter/EMT A, Officer A warned the Subject throughout the transportation that if he didn't stop his combative behavior, the TASER would be used.

Although the less-lethal force warning given to the Subject did not include the fact that the TASER may cause injury, the Subject was warned earlier during the incident "if we TASER you, it's gonna hurt." Based on the totality of the circumstances, including the fact that repeated warnings were issued that the TASER would be utilized, the BOPC found that although the topic of issuing a less-lethal warning would be worthy of discussion at the Tactical Debrief, Officer A's actions did not substantially deviate from approved Department tactical training. This topic be discussed 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. 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 Officers A's actions to warrant a Tactical Debrief.

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

- In this instance, the Subject failed to comply with Officers A's continuous verbal commands to stop his violent behavior. The Subject continued to bang his head against the inside wall of the RA. Officer A activated his TASER in a drive stun mode, causing the Subject to stop banging his head.

Officers with similar training and experience would reasonably believe that the Subject's actions of banging his head against the wall represented an imminent threat of serious bodily injury and that the use of less-lethal force would be a reasonable option.

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