

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

IN-CUSTODY DEATH – 014-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Central	2/24/11		

Officer(s) Involved in Use of Force	Length of Service
Officer A	6 years, 2 months
Officer B	2 years, 7 months
Officer C	4 years, 7 months
Officer D	4 years, 7 months
Officer E	3 years, 7 months
Officer F	4 years, 1 month
Officer G	4 years, 11 months
Officer H	8 years, 6 months
Officer I	3 years, 2 months

Reason for Police Contact

Officers responded to a radio call of a man with a gun, and attempted to take the suspect into custody, resulting in an in-custody death.

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
Subject: Male, 38 years of age.			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command Staff presented the matter to the Chief and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on January 31, 2011.

Incident Summary

Witnesses A and B observed the Subject, who seemed very agitated and appeared to be under the influence of some type of intoxicant. The Subject was also trying to conceal an object in his hand that Witness B believed was a gun. Witness A told the Subject that he was not allowed to enter the business, but the Subject ignored him, ran past the witnesses and climbed into a courtyard. The witnesses followed the Subject as he ran east on the walkway of the courtyard. As they chased the Subject, they called out for help and warned others that the Subject had a gun. Witness C heard the request for help and joined Witnesses A and B in chasing after the Subject.

Note: The investigation revealed that the Subject did not have a gun. The object he carried was a three-and-a-half-foot gray hollow metal rod, partially concealed in clothing items.

The Subject approached a locked office door, dropped the clothing items he was carrying and pulled hard enough on the door to break it open. The Subject ran into the office, where Witness D was working, followed by Witnesses A, B and C. The Subject came back out of the office and confronted the witnesses in an alcove area.

Witnesses A, B, and C were then joined by Witnesses E and F, and they began trying to subdue the Subject. As the Subject fought with the witnesses, Witness D called 9-1-1, and advised the 9-1-1 operator that a man with a gun had broken down the door and was possibly under the influence of phencyclidine (PCP). Additionally, Witness F, who saw the Subject running through the courtyard, also called 9-1-1, advising the operator that the Subject had a gun.

Officers H, I, A and K arrived at the scene first, followed closely by Sergeant A. Upon entering the small office area, the officers observed that the Subject was now on his back, kicking and fighting, as Witnesses A, B, C, D and E, were trying to hold him down. According to Officer K, as soon as he entered the room and saw how combative the Subject was, he notified Communications Division (CD) that they needed a TASER.

According to Officer H, he immediately asked where the Subject's gun was located, and one of the witnesses told him that no one had actually seen a gun. Sergeant A decided to replace the witnesses trying to subdue the Subject with police officers. The officers started to replace the witnesses, with the exception of Witness B, who maintained his position on the Subject. As this was taking place, Officers D, G, E, B, F and C arrived at the scene.

Meanwhile, as the officers replaced the witnesses, the Subject continued to struggle. As the Subject, still on his back, was kicking at Officer H, he (Officer H) used his bodyweight and placed his knees on top of the Subject's legs in an effort to control the lower half of the Subject's body. Officer A assisted Officer H in trying to control the Subject's legs. Officer I positioned himself near the Subject's head, grabbed onto the Subject's left arm and attempted to handcuff him. Officer E, noting that the officers

were still having trouble controlling the Subject's legs, placed his left knee on the back of the Subject's legs to help control him.

As the struggle continued, the officers, with assistance from Witness B, were able to turn the Subject onto his stomach. According to Officer D, he recalled hearing a direction to replace Witness B, who was now on top of the Subject's upper body. Officer D asked Witness B to get up and he stood up and walked away. Officer D placed his knees on the Subject's back and used his body weight in an attempt to control the Subject. The Subject appeared to be trying to bite his own hands, and Officer D grabbed the Subject's left hand and tried to force it behind his back to handcuff him. Officer D clarified that when he grabbed the Subject's hand, his hand was stuck where the Subject's hand was located, and he feared that the Subject would be able to bite him. He used his fist to strike the Subject and he was then able to free his hand.

According to Sergeant A, he noticed that the Subject was bleeding from his mouth and heard comments from the officers that the Subject was trying to bite. Not all of the officers had been able to put on gloves, so Sergeant A decided that for the protection of the officers, a "spit sock" should be applied to the Subject. According to Officer I, by this time the officers had managed to roll the Subject onto his stomach and he put his left knee on the Subject's upper back. A "spit sock" was handed to Officer I, and with the assistance of Officer B, was placed over the Subject's head.

Meanwhile, Officer B had heard the initial request for a TASER, and had brought a TASER with him upon exiting his police vehicle. Upon entering the office, Officer B observed that officers were struggling with the Subject, who was not cooperating with commands from officers to stop resisting. Officer B announced to the other officers that he had a TASER. According to Officer B, he removed the cartridge from the TASER so he could use it in direct stun mode. The TASER was ineffective as the battery in the TASER was low and Officer B saw that the other officers were still having a difficult time controlling the Subject. According to Officer B, he passed the TASER to another officer and then assisted the officers in holding one of the Subject's legs.

A second TASER was passed to Sergeant A, who designated Officer B to use the TASER, since Officer B was aware of the prior application. In this instance, Officer B applied two direct stuns to the Subject's left calf, two activations to his back, and two activations to his left triceps. The TASER was activated a total of six to nine times.

Meanwhile, the Subject was lying with his arms outstretched in front of him as Officers I and D attempted to handcuff him. According to Officer D, they were unable to force the Subject's arms behind his back, because he was too strong. The officers then handcuffed the Subject's arms in front of his body. Sergeant A wanted to "minimize" the Subject's movement as the officers had still not searched the Subject for weapons.

According to Officer D, after the Subject's hands were handcuffed, the Subject pulled his arms underneath himself and was also trying to bite his own hands.

Meanwhile, Officer C used his bodyweight on the Subject's legs, and Officer F grabbed the Subject's legs in an effort to keep the Subject from kicking. Officers C, F and A applied a Hobble Restraint Device (HRD) around the Subject's ankles. Officers C and A held onto the loose end of the HRD, and tried to maintain control as the Subject continued to kick. At the same time, Officer G held the Subject's right leg, while Officer H used his bodyweight on the back of the Subject's thighs to help control his legs.

Sergeant A directed the officers to handcuff the Subject's arms behind his back. Officers H, G, D and B removed one handcuff, forced both of the Subject's arms behind his back and re-handcuffed him.

According to Sergeant A, the officers were unable to complete a pat-down search for weapons due to the Subject trying to bring his knees up to his stomach. According to Officer G, he removed the Subject's pants and was able to determine that the Subject was not armed. Sergeant B requested a Rescue Ambulance (RA) for the Subject.

As there was no longer a concern that the Subject was armed, Sergeant A directed the officers to pick him up and carry him outside, since they were in a confined space. According to Officer G, the Subject suddenly stopped resisting and he appeared unconscious. Officers G, F, B and C picked the Subject up by the arms and legs, carried him outside and supported him in a seated position.

Los Angeles Fire Department personnel arrived on scene and determined that the Subject was in full cardiac arrest. The Subject was subsequently transported by RA to the hospital where medical personnel pronounced the Subject dead.

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 unanimously made the following findings.

A. Tactics

The BOPC found Sergeant A and Officers A, B, C, D, E, F, G, H and I's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

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

Basis for Findings

A. Tactics

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

1. TASER Deployment

Officer B approached and observed the officers attempting to control the Subject. After alerting everyone in the room he was equipped with a TASER, Officer B approached the Subject, removed the TASER cartridge and delivered two direct stun activations to the Subject's left calf with negative results. Officer B prepared to deliver a third direct stun, but noticed the TASER battery charge was low and an additional TASER was requested. Direct stun can be used without a cartridge, with an expended cartridge or a live cartridge; however, with a live cartridge the probes will deploy into the suspect.

In this instance, it was not necessary to remove the cartridge from the TASER to deliver a direct stun charge. Leaving the cartridge inside of the TASER could have allowed the option to re-apply the TASER to a different area of the Subject's body, affecting a larger area of muscle contraction. This can ultimately allow officers to gain control of a suspect's arms and legs for more efficient detention.

In this case, the BOPC determined the officers' tactics did not unjustifiably and substantially deviate from approved Department tactical training.

In conclusion, the BOPC found Sergeant A and Officers A, B, C, D, E, F, G, H and I's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

In this instance, Officer E responded to an Assault with a Deadly Weapon (ADW) radio call at the location. Believing the Subject was armed with a deadly weapon; Officer E

removed the Department shotgun from the police vehicle and entered the building. After determining the shotgun was not needed, Officer E handed it to another officer who unloaded the shotgun and maintained control of it.

Based on the comments of the radio call, Officer E believed that the Subject was armed with a deadly weapon and posed a deadly threat. Therefore, the BOPC determined that an officer under the same circumstances with similar training and experience as Officer E would reasonably believe that an ADW suspect posed a potentially deadly threat and there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found that Officer E's drawing and exhibition of a firearm to be in policy.

C. Non-Lethal Use of Force

In this instance, the officers were directed to an office where witnesses were attempting to restrain the Subject. As the witnesses were systematically replaced by the officers, the officers began their attempts to restrain the Subject. Officer H placed his knees, bodyweight and hands on top of the Subject's legs and was assisted by Officer A, who applied the HRD around the Subject's legs. Simultaneously, Officer I grabbed the Subject's left arm and attempted to place a handcuff on the wrist but was unable to due to the Subject's movements and continued efforts to resist.

Officer D was able to turn the Subject onto his stomach with assistance from others. Once there, Officer D attempted to control the Subject's left hand. Suddenly, the Subject grabbed Officer D's left hand and pulled it toward his mouth. Believing he was about to be bitten, Officer D delivered a punch to the right temple of the Subject's head. The strike caused the Subject to release his grasp, allowing Officer D to pull out his hand.

Despite the officers attempt to control the Subject, he continued to buck the officers off of him. During the struggle, officers noticed that the Subject had blood in his mouth. Fearing the Subject would continue to bite, a spit sock was utilized to prevent the officers from coming in contact with the Subject's blood.

As the struggle continued, Officers I and D were able to handcuff the Subject's wrists above his head, but with limited control. They then utilized two HRDs to secure his arms at the biceps and then brought them close to his chest, by pulling the long extended portion behind his back.

As Officer B administered the final direct stun with the TASER (see Less-Lethal Use of Force), Officers D, I and B were able to remove the handcuffs from the Subject's wrist and reapply the handcuffs after moving the Subject's wrists behind his back. After moving the furniture, Officers C and F used their bodyweight and firm grips to control the Subject's legs.

Here, the involved officers were confronted by a potentially armed, aggressive and combative subject who was under the influence of an unknown narcotics substance and refused to comply with the officers' commands. In an effort to stop the Subject's actions, the force used by all of the involved officers was objectively reasonable to prevent the Subject from further injuring himself or the officers.

Therefore, the BOPC determined that an officer under the same circumstances with similar training and experience as the aforementioned officers would reasonably believe that a potentially armed, aggressive and combative suspect posed a threat of serious bodily injury or death.

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

D. Less-Lethal Use of Force

In this instance, Officer B applied two direct stuns to the Subject's left calf, two activations to his back, and two activations to his left triceps. When a second TASER arrived, Sergeant A ensured the TASER was handed to Officer B who was already in position to utilize the TASER. At the direction of Sergeant A, Officer B used the TASER to deliver two direct stun activations to the Subject's back.

Believing the TASER was ineffective, Officer B moved the TASER to the Subject's left triceps and activated the TASER two more times. Although Officer B indicated the TASER had no apparent effect on the Subject, following the final activations, the officers were able to move the Subject's arms to his back and reapply the handcuffs.

Here, the investigation revealed the officers were confronted by an aggressive and combative person who was under the influence of narcotics. In an effort to prevent the Subject from hurting himself or others, Officer B deployed the TASER in direct response to the Subject's sustained aggressive and combative actions.

Therefore, an officer with similar training and experience would believe that the application of less-lethal force was reasonable to defend themselves and stop the Subject's actions, and the use of the TASER to be an appropriate force option. The BOPC determined that Officer B's use of less-lethal force was objectively reasonable and consistent with Department policy.

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