

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

IN-CUSTODY DEATH – 075-06

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Hollenbeck	09/04/2006		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	16 years, 4 months
Officer B	1 years, 5 months
Officer C	10 years
Officer G	18 years, 8 months
Officer I	1 years, 4 months

Reason for Police Contact

Officers A and B responded to an “unknown trouble” radio call at a residence. The officers observed Subject 1 assaulting a female. When the officers attempted to apprehend him, Subject 1 became aggressive and the officers called for assistance. Various non- and less-lethal force techniques were used to apprehend Subject 1, including the TASER.

<u>Subject</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 1: Male, 32 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 Commission and made itself available for any inquiries by the Commission.

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 July 17, 2007.

Incident Summary

Officers A and B responded to a radio call regarding unknown trouble at a residence. Upon their arrival, nearby citizens informed them that the front door to the residence was locked, but there was an open door at the back of the residence. Officer B informed Officer A that he knew of a use of force that had occurred at that location sometime in the past.

As Officers A and B approached the back of the residence, they could hear a female screaming inside. They attempted to look through the windows on the sides of the residence, but they were unable to see anything because the curtains were closed. Once Officer B reached the back of the residence, he drew his service pistol and entered through the open back door. Officer A entered the residence behind Officer B, and he drew his service pistol once he was inside the residence.

Officers A and B moved through the residence toward the front door. When they reached the front room of the residence, they observed a female, Victim 1, crouching near a sofa, not far from the front door. Victim 1 was crying and screaming. Officers A and B also observed a male, Subject 1, crouching almost on top of Victim 1. Officer B observed that Subject 1 appeared to be holding his right arm around Victim 1's neck and that he was holding an unknown, black object in his hand.

Officer B issued an order to Subject 1 in Spanish to put his hands up and get down on the ground. Subject 1 began to move away from Victim 1, raised his hands up, and dropped a cellular phone from his hand. Subject 1 then lay down on his stomach, with his hands at his sides. Officers A and B re-holstered their weapons in anticipation of handcuffing Subject 1.

Officer B was able to secure a handcuff around Subject 1's wrist, though he felt Subject 1 resisting his efforts. Meanwhile, Officer A grabbed Subject 1's opposite arm and attempted to move it behind Subject 1's back. Subject 1 continued to resist the officers' efforts to complete the handcuffing procedure, and he struggled into a seated position. Officer A used his radio to broadcast a request for backup.

Around this time, Officers A and B and Subject 1 were beginning to perspire. As a result, it was very difficult for the officers to maintain physical control over Subject 1. At one point during the struggle, Officer B began to lose his grip on Subject 1. Subject 1 grabbed Officer B's hand, but Officer B was able to slip his hand out of Subject 1's grip. Officer B then used his open hand to strike Subject 1 in the nose and mouth area. After doing so, Officer B was able to re-establish control of Subject 1's hand. Officer B also used his elbow to pin Subject 1's face against a nearby wall, preventing Subject 1 from attempting to bite him or Officer A. Around this time, Officer B noticed that Subject 1 had some blood on his face that appeared to have come from his nose and/or his mouth.

As the struggle continued, Officer A used his radio again to upgrade the backup call to a request for assistance. Then, Officer A broadcast a request for a unit armed with a TASER to respond to his location. Numerous officers began responding to Officer A's radio calls, including Sergeants A, B, and C, and Officers C, D, E, F, G, H and I.

Officers C and I had a TASER in their vehicle and were already responding to Officer A's initial broadcasts when they heard his request for a unit with a TASER. Upon their arrival, Officer I retrieved a TASER from the trunk of the police vehicle and he and Officer C entered the residence through the open back door. They made their way through the residence and observed the Subject 1 still struggling with the officers who were trying to handcuff him.

Officer G, who had arrived just before Officers C and I, grabbed onto Subject 1's arm in order to assist Officer A. When Subject 1 attempted to get up, Officer G used his body weight to try to hold Subject 1 down. Meanwhile, Sergeant A arrived and monitored both Victim 1 and the group of officers who were struggling with Subject 1.

Officer C observed that the officers who were attempting to restrain Subject 1 appeared to be exhausted and out of breath, and he heard them verbally request the deployment of the TASER against Subject 1. In response, Officer C grabbed the TASER from Officer I and placed it directly onto Subject 1's upper abdomen area and pulled the trigger for approximately three seconds.

Due to Subject 1's constant movement, Officer C observed that the TASER was moving around on Subject 1's abdomen while it was being utilized. After the approximately-three-second deployment, Officer C removed the TASER from Subject 1's body. Subject 1 continued to resist the officers' efforts to restrain him, however, so Officer C prepared to utilize the TASER on him again.

Officer C pressed and released the trigger of the TASER just prior to reinitiating contact with Subject 1 in order to verify that the TASER was still functional. Officer C then placed the TASER against Subject 1's upper back area and pressed the trigger for approximately three seconds. Officer C observed that the TASER was again moving around on Subject 1's body due to Subject 1's continued movement. At one point, the TASER began to move up toward Subject 1's neck and head. Therefore, after approximately three seconds, Officer C removed it from Subject 1's body.

At this time, the officers around Subject 1 began to overcome his resistance to their efforts at handcuffing him. Seeing this, Officer C decided to engage the TASER's safety switch. The time counter of the TASER used by Officer C during this incident indicated that the TASER was activated five to seven times. Officer C indicated that he activated the TASER a total of three times; however, he kept on hitting the trigger as he pulled the TASER away from Subject 1 after the third activation.

Officer C continued to observe Subject 1's movements and saw that Subject 1 was still attempting to move his arm underneath his body. In response, Officer C attempted to

position his foot between Subject 1's shoulder and arm, and he also attempted to position his shin on Subject 1's shoulder. The officers then attempted to turn Subject 1 over onto his stomach in order to complete the handcuffing procedure. Officer G grabbed the handcuff that was still secured around Subject 1's left hand and pulled it in order to force Subject 1 to turn onto his stomach. Around the same time, Officer I grabbed Subject 1's legs and pulled him away from the corner of the residence in order to make the handcuffing procedure more feasible.

Next, Officer I took his handcuffs from his equipment belt and secured a handcuff around Subject 1's wrist. Officer I then interlocked that set of handcuffs with the one that Officer B had previously secured around Subject 1's other wrist. In order to prevent Subject 1 from kicking the officers that were near him, Officer B retrieved a hobble restraint device (HRD) from his equipment belt and prepared to secure it around Subject 1's legs. Officer C observed that Officer B had retrieved his HRD, and he assisted Officer B by taking it and securing it around Subject 1's legs, above the level of Subject 1's knees. Sergeant C arrived at the scene just after Subject 1 was taken into custody.

The officers then raised Subject 1 up from the ground and attempted to walk him out of the residence. Subject 1 refused to walk, however, forcing the officers to carry him out of the residence and down to where their vehicles were parked. Sergeant B arrived at the scene as Subject 1 was being carried down to the police vehicles.

Officer D arrived at the scene. Officer D had encountered Subject 1 on previous occasions. Officer D recalled that during the most recent encounter, which also involved a struggle with numerous officers, Subject 1's heart rate became elevated and he required medical treatment. In light of this recollection, Officer D used his radio to request a Rescue Ambulance (RA).

Subject 1 was placed into the back seat of Officers C and I's vehicle on the driver's side in a seated position. Officer E secured the police vehicle's seatbelt around Subject 1 once he was placed into the back seat. Officer E then positioned himself at the rear passenger's side door of the vehicle and had Officer H stand near the rear driver's side door. Officer E observed that Subject 1 tilted his head back and closed his eyes, as if to take a nap, and that he kept on moving around in the police vehicle. Officer H observed that Subject 1 appeared to fall asleep and began to snore.

Sergeant A also positioned himself near the police vehicle and, at one point, he noticed that Subject 1 was breathing very heavily. Sergeant A communicated this observation to the other officers nearby, and Officer E reached into the police vehicle to attempt to wake Subject 1. Officer E observed that Subject 1 was still breathing, but he was unable to wake Subject 1.

Officers E and H then pulled Subject 1 out of the police vehicle and moved him over to the sidewalk, where they sat him up on the curb.

Officer C used his radio to verify whether an RA was en route, and to update Subject 1's status as unconscious and not breathing.

Medical personnel who arrived at the scene, were unable to revive Subject 1 and they decided to transport him to a nearby hospital for further treatment. Subject 1 was subsequently pronounced 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 Officers A, B, C, G, and I's tactics to be appropriate.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A and B's drawing to be in policy.

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

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

Basis for Findings

A. Tactics

The BOPC was satisfied with the actions of all officers involved in this incident. Officer B recognized the location from a prior incident where he was involved in a use of force with Subject 1 and advised his partner of this fact. Officer B communicated with Subject 1 in Spanish, which proved effective initially, causing Subject 1 to move away from the female.

Officer A recognized the benefit of obtaining a TASER for this incident and requested one via his radio. Once the TASER-equipped officer was at scene, Officer A further advised him to remove the darts in order to use it in a close contact "Direct Stun" method. The officers appropriately recognized that the circumstances of the incident met the criteria for an exception to the requirement to provide a less-lethal warning prior to the application of the TASER. The aggressive, on-going struggle provided the instance where it would have been a tactical disadvantage to provide the warning.

After the application of the HRD, the officers repeatedly recognized the need to place Subject 1 into an upright seated position and did so at every opportunity. Once Subject 1 was placed into the police vehicle, he was seated upright. An officer who was not significantly involved in the incident placed the seatbelt on Subject 1 to ensure that he remained in an upright seated position, then rolled the windows down to ensure Subject 1 had sufficient ventilation and ensured he was monitored.

The BOPC was also satisfied that an officer with knowledge that Subject 1 displayed an elevated heart rate at a prior incident advised other officers of this fact and requested a RA before Subject 1 even began to display symptoms of medical distress. Again, once Subject 1 became unresponsive, on-scene supervisors directed officers to remove him from the police vehicle, remove the HRD from his legs and maintain him in an upright seated position until the arrival of paramedics.

The BOPC found Officers A, B, C, G, and I's tactics to be appropriate.

B. Drawing/Exhibiting/Holstering

The BOPC noted that upon their arrival, Officers A and B were advised by an awaiting neighbor that a man was beating a woman inside of the residence. Officers A and B also heard noises consistent with a physical struggle and a woman screaming from the inside. Officers A and B recognized the exigency of the circumstances and entered the residence with their service pistols drawn with the belief that the incident could escalate and necessitate the use of deadly force.

The BOPC determined that Officers A and B had sufficient information to believe the situation may escalate to the point where deadly force may become necessary.

The BOPC found Officers A and B's drawing to be in policy.

C. Non-Lethal Use of Force

The BOPC noted that, during this incident, all involved officers used a reasonable amount of force to overcome Subject 1's resistance, prevent his escape and effect his arrest. The HRD was applied to prevent Subject 1 from violently kicking his legs. Once Subject 1 was effectively controlled and the HRD was applied, no additional force was used.

After Subject 1 initially complied with the officer's orders to lie prone on the floor, Officer B approached Subject 1 and placed his knee upon Subject 1's upper back area and grabbed his arm with both hands, placing it into a position behind his back to effect handcuffing. Subject 1 began to resist and pulled his arm away and raised himself upward from the prone position. Officer B, with assistance from Officer A, was able to place a handcuff on Subject 1's wrist. Subject 1 continued to resist, and Officer B used his bodyweight to attempt to control Subject 1 and prevent his escape. Subject 1 began to free his handcuffed arm from Officer B's grasp and Officer B delivered a single open palm strike to Subject 1's nose and mouth area, allowing him to regain control of his arm and place him into a left wrist-lock. Officer B also used his elbow to force Subject 1's face up against a wall to prevent him from biting the officers.

The BOPC noted that Officer A utilized a firm grip on Subject 1's arm and bodyweight to control his resistance.

The BOPC noted that Officer G utilized firm grips on Subject 1's side and utilized the loose end of one handcuff, while the other end was attached to Subject 1's wrist, to pull Subject 1 onto his stomach to assist with handcuffing.

The BOPC noted that Officer I utilized bodyweight and pushed downward upon Subject 1's legs with both hands to prevent him from kicking the officers. Officer I pulled Subject 1's legs with both hands to reposition him away from the wall to gain access for handcuffing.

The BOPC noted that Officer C placed the shin area of his leg on the back of Subject 1's shoulder and arm, as other officers attempted to place handcuffs on him.

The BOPC determined that Officers A, B, C, G, and I's non-lethal use of force was reasonable and, therefore, in policy.

D. Less-Lethal Use of Force

The BOPC noted that as the officers struggled to detain Subject 1, Officer C placed the TASER, with the dart cartridge removed, against Subject 1's abdomen area and activated it for approximately three seconds. Subject 1 continued to move about, causing the TASER to move upward onto his upper chest area. Officer C then placed the TASER against Subject 1's upper back area and activated it for approximately three seconds. Subject 1 continued to move about, causing the TASER to move upward toward his right shoulder area.

The BOPC determined that Officer C's less-lethal use of force was reasonable to overcome Subject 1's resistance, and therefore in policy.