

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

LAW ENFORCEMENT-RELATED INJURY – 003-16

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No (X)
Central	1/4/16		

Officer(s) Involved in Use of Force	Length of Service
Officer A	17 years
Officer E	6 years, 11 months
Officer F	6 years, 4 months

Reason for Police Contact

Officers attempted to arrest the Subject for narcotics sales when the Subject attempted to flee and a struggle ensued, which resulted in a law enforcement-related injury (LERI).

Suspect	Deceased ()	Wounded (X)	Non-Hit ()
Subject: Male, 27 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 December 6, 2016.

Incident Summary

Officers undertook a narcotic surveillance operation. Uniformed Officers A and B were assigned as the chase vehicle. Officers A and B broadcast their status and location on their Mobile Digital Computer (MDC) for the operation.

Plainclothes Officers C and D walked to their observation post (OP). Officers E and F were assigned as the plain clothes chase unit. Officers E and F positioned themselves at an intersection. Detectives A and B were the supervisors in charge and were in the immediate area of the operation.

Note: Prior to the operation commencing, Detective A briefed the involved units on tactics, equipment and tactical vests, communications, their work assignments, and the mission of their operation. Detective A also briefed Watch Commander, Lieutenant A, of the operation.

Officer D observed a male, Subject 1, wearing a black jacket, black pants, and red tennis shoes, sitting in a wheelchair on the sidewalk, in front of the north side courtyard of the location. Officer D also observed a male, later identified as Subject 2, wearing a blue jacket and khaki pants, with US currency in his right hand. Subject 2 approached Subject 1 and engaged in a conversation. Subject 2 attempted to hand money to Subject 1, but Subject 1 pointed to a white plastic bag in front of him. Subject 2 placed the money inside the white plastic bag. Subject 1 then threw a white plastic bindle on the sidewalk, right in front of Subject 2. Subject 2 picked up the white plastic bindle and walked west. Subject 2 walked approximately 20 feet and began to open the plastic bindle.

Based on his training and experience, Officer D formed the opinion that a narcotics transaction had occurred. Officer D directed the police car to detain Subject 2 for a narcotics investigation. Officers A and B responded to Subject 2's location. As Officer A approached Subject 2, he observed him throw the white plastic bindle to the ground. Officer A recovered the bindle and confirmed that it contained a substance resembling methamphetamine. Officer A advised the OP of his findings. Subject 2 was subsequently arrested for Health and Safety (HS) Code 11350, Possession of a Controlled Substance.

Meanwhile, Subject 1 looked in the direction of the two uniformed officers, stood up from his wheelchair, and began to walk around in a circle on the sidewalk. Subject 1 appeared to be dragging his right foot on the ground as if he was stepping on something. Officer D directed the plainclothes chase unit to arrest Subject 1 for sales of a controlled substance. Officers E and F, who were in an unmarked police vehicle, responded and stopped their vehicle in front of Subject 1.

Officer F exited their vehicle and approached Subject 1 as Subject 1 began to walk away. Officer E approached Subject 1 from the opposite direction, at which time Subject 1 walked up to the wall and placed his right hand on the wall. Subject 1 kept his left hand inside of his left front pants pocket and it appeared to Officer F as if Subject 1

was going to give up. As Officers E and F got closer, Subject 1 looked to his left and began to run. Officer F grabbed Subject 1's left bicep with both hands to prevent him from escaping. Officer E immediately approached Officer F on his left side to assist in taking Subject 1 into custody.

As Officer F held on to Subject 1's left arm, Subject 1 turned counterclockwise and swung his right arm parallel to the ground, with a closed fist toward Officer E's face. Officer E stepped back and moved his head backwards to avoid being hit by Subject 1. Officer E grabbed and pushed Subject 1 with both of his hands in the chest area, as Subject 1 grabbed Officer E's vest. This caused all three of them to lose their balance and fall to the ground. Subject 1 landed on his back, who then kicked Officer E's groin and flipped Officer E onto Subject 1's right side. Officer A saw Subject 1 resisting arrest and ran over to assist Officers E and F. Officers E and F, along with Subject 1, rolled off the sidewalk into the street. Subject 1 continued to resist arrest as he swung his arms and kicked his feet. Subject 1 used his head to strike the officers in the upper torso area.

Officer B broadcast a backup request. Officer B remained with Subject 2 as Officer A assisted with the arrest.

Officer A knelt on Subject 1's legs as well as placed his hands on Subject 1's lower back and thigh area, in an effort to control him. Subject 1 turned onto his left side and began pushing himself up to a standing position. Officer A moved his hands and assisted Officers E and F by gripping Subject 1's right hand, but quickly re-positioned his hands again to Subject 1's upper body in an effort to hold Subject 1 down because he was over powering Officers E and F. As Subject 1 was bent over, he attempted to break free from the officers' grip as he swung his arms and threw punches. Officer F used his right hand and struck Subject 1 twice on the right side of his face with a closed fist. The punches by Officer F were ineffective. Officer F lost his grip of Subject 1's left arm but immediately re-gained a grip of Subject 1's right arm. Officer E, who also lost his hold on Subject 1, moved to the front side of Subject 1. Officer E used his right hand and struck Subject 1 on the left side of his face with a closed fist. The punch caused Subject 1 to go to one knee, but he continued to resist. Officer E attempted a second punch, but missed. The punches administered by Officers E and F were used as a means to bring Subject 1 to the ground, distract him, cause him to stop fighting, gain compliance and take him into custody.

Note: Throughout the fight, all three officers ordered Subject 1 to, "Stop resisting" and/or to "Stop." These commands were heard by Subject 1, and Witnesses A and B.

Officer F used both of his hands to maintain a firm grip on Subject 1's right arm, as Officer A used both of his hands to maintain a firm grip on Subject 1's left arm. Subject 1, who was on one knee, stood up and ran back toward the sidewalk, causing Officer A to lose his grip on Subject 1's left arm. As Subject 1 attempted to break away from Officer F, Subject 1 slipped out of his sweater, which fell to the ground. Subject 1 turned to his right and broke free from Officer F's firm grip. Officer F immediately

grabbed hold of Subject 1's left arm and they spun around. Officer E used both of his hands and grabbed Subject 1's right wrist. Officer A used both of his hands and pushed Subject 1's left shoulder area, causing Subject 1 to fall on his buttocks. Officer E released his grip, went behind Subject 1, and used both of his hands to pull Subject 1's upper front torso backward. Officer E's action caused Subject 1 to turn on his back. Subject 1 lay on his back with his knees bent and feet on the ground. Officer E then pushed down on Subject 1's shoulder area to hold Subject 1 down. Officer F grabbed Subject 1's ankles and pulled them toward him. Subject 1 was flat on his back. Subject 1 then rolled to his left and continued that motion until he was on his right and began pushing himself up from the ground.

Officer E, who was out of breath and saw no end in sight, yelled to Officer A to get his TASER. Officer A, who was now by Subject 1's head, simultaneously determined that he needed to use his TASER to end the altercation. Officer A believed that since Subject 1 was so strong, he was either going to escape or one of them was going to get hurt. Officer A un-holstered and armed his TASER. Subject 1 looked at the TASER, swung one of his hands and knocked it out of Officer A's left hand. The TASER fell on the ground, causing the TASER cartridge doors to open. Officer A picked up the TASER from the ground, removed the broken TASER cartridge, and threw it on the ground. Officer A warned Subject 1 to quit resisting and stated, "I am going to tase you. This is going to hurt."

As Subject 1 was lying on his right side, Officer A administered the first drive-stun to Subject 1's left shoulder area, which was only effective in making Subject 1 lie flat on his stomach. Subject 1 swung his arms and hit the officers while he was on the ground as Officers A and F told Subject 1 to stop resisting. Officer A proceeded to administer the second drive-stun to Subject 1's left shoulder blade area. The second drive-stun was helpful because it allowed Officer E to grab Subject 1's left wrist with both of his hands and handcuff it. Officer F grabbed Subject 1's right wrist with both hands, but Subject 1 was able to break free from Officer F's hold. Officer A commanded Subject 1 to "quit resisting," but Subject 1 did not comply. Officer A administered a third drive-stun to Subject 1's left shoulder blade area. Officer F grabbed Subject 1's right hand and was able to place it behind Subject 1's back. Officer E then completed the handcuffing technique. Subject 1 was placed under arrest for Battery on a Police Officer Resulting in Injuries.

Note: Subject 1 initially claimed during his FID interview he was not resisting, and that his arms were too big to place behind his back. However, Subject 1 did admit later in the interview that he did resist, but stopped resisting and was still tased. The security video obtained during the investigation depicted that Subject 1 continued to resist. Subject 1 claimed he was punched four or five times in the face. Subject 1 stated he was tased three times; once in the left upper forearm, once in the left chest area, and once in the back. Subject 1 stated that only one of the two officers had a vest for police identification. However, the security video depicted two plainclothes officers wearing their police vests and one officer wearing a police uniform.

As Subject 1 was being taken into custody, a large group of people started to gather around the officers, threatening them. Officer E heard, "I am going to [expletive] shoot you in the face." Officer F heard, "I'll shoot you." Officer B broadcast that the subject was in custody and that there was an unruly group present.

Officer F stood Subject 1 up and walked him to his unmarked police vehicle. Officer F patted down Subject 1 and recovered a folding knife from Subject 1's right front pants pocket. Officer F did not recall feeling anything on Subject 1's left side where a stun gun was later recovered. Officer G assisted Officer F with Subject 1. Officer G walked Subject 1 toward a police vehicle to be transported to Central Police Station. Officer G searched Subject 1 prior to being placed inside the police vehicle and recovered a stun gun from Subject 1.

During the operation, Detectives A and B were initially positioned near the local police station; however, they had to momentarily respond to Central Police Station to attend to an unrelated narcotic arrest. Detectives A and B responded to the back-up call from the police station parking lot. Detectives A and B were briefed about the use of force and began an investigation. The detectives, along with some patrol officers, canvassed the area for any potential witnesses, but the individuals in the area refused to cooperate or provide a statement.

Subject 1 initially refused to enter the police vehicle but eventually complied.

The large crowd that had gathered near the officers continued to be verbally abusive toward them. Officer A requested a Rescue Ambulance (RA) for Subject 1, due to Subject 1 complaining of shortness of breath and dry mouth.

Due to safety concerns that were created by the crowd, the RA was advised to respond to the police station, and meet the officers who would transport Subject 1 to them in a police vehicle. Subject 1 was then transported to the police station.

The Los Angeles Fire Department (LAFD) RA arrived at the station. Subject 1 was evaluated, and it was determined that he needed to be transported to a local hospital. Subject 1 was verbally abusive toward the paramedics and officers. While on the gurney, Subject 1 dragged his feet on the floor, placed them up against the walls, and kicked. Officers B and H used a hobble restraint device on Subject 1's ankles and secured it to the gurney to stop his actions and prevent him from tipping over the gurney. Once Subject 1 was inside the RA, LAFD personnel had to place a "spit mask" on him. The hobble restraint device was later removed from Subject 1 by medical personnel at the hospital.

Both Officers A and B rode in the ambulance with Subject 1 due to his aggressive and combative behavior. Subject 1 was transported to the hospital for treatment. Subject 1, who had been sedated, did not make any statements during the transportation.

Since Subject 1 was still being medically evaluated at the hospital, Detective A advised his personnel prior to their end of watch that the incident might turn into a Categorical use of force and not to discuss the incident.

Several hours later, the doctor still would not commit to admitting Subject 1 into the hospital and estimated monitoring him for an additional three to four hours for his Rhabdomyolysis. Several more hours later, Sergeant A was advised that Subject 1 was to be admitted. Sergeant A advised Detectives A and B of Subject 1's hospital admittance. Force Investigation Division subsequently assumed investigative responsibility.

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 made the following findings.

A. Tactics

The BOPC found Officers A, B, E and H's tactics to warrant a Tactical Debrief. The BOPC found Officer F's tactics to warrant Administrative Disapproval. In a three-to-one vote, the BOPC determined no findings were to be made for Detectives A and B.

B. Non-Lethal Use of Force

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

C. Less-Lethal Use of Force

The BOPC found Officers 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 considerations:
 1. Tactical Planning (Substantial Deviation - Detectives A and B)

Detectives A and B initiated an operation that included the use of an OP without ensuring that a written operation was completed, as required.

Operational success is based on the ability of the officers to effectively plan and approach each incident in a safe manner. Officers, when faced with an ongoing tactical situation, must remain alert to 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 July 2015, Detectives A and B were involved in an incident with similar concerns as this incident. In April 2016, a Use of Force Review Board (UOFRB) was convened for that incident and determined that additional training and protocols needed to be implemented to ensure personnel were aware of their requirement to complete a written Operational Plan for all pre-planned operations with an observation post. As this incident occurred between the July 2015 incident and the UOFRB in April 2016, Detectives A and B had not received the training. The Department is currently working on revising the Use of Force Tactics Directive entitled Undercover Operations, to clarify the requirements for a written and/or verbal plan for plainclothes and undercover operations.

Based upon the totality of the circumstances, the BOPC determined that in this instance, Detectives A and B's failure to complete a written Operational Plan before they received the training after their previous incident had occurred was a substantial deviation, with justification, from approved Department tactical training.

2. Search of Arrestees (Substantial Deviation – Officer F)

Officer F conducted a pat down search on Subject 1 but did not locate a stun gun that was in one of Subject 1's rear pants pockets.

Officers are trained to conduct a search of arrestees to ensure that they are not armed with weapons and do not possess items of contraband on their person. This practice is necessary for the safety of not only the officers, but also medical personnel and the public.

Based on the totality of the circumstances, the BOPC determined that Officer F's actions unnecessarily endangered the safety of officers and was a substantial deviation, without justification, from approved Department tactical training.

3. Punches to the Boney Areas

During the struggle, Officers E and F punched Subject 1 in the face. The officers are reminded that punches to bony areas can cause injury, thus reducing the officer's effectiveness and limiting their ability to defend themselves.

4. Simultaneous Commands (Non-Conflicting)

The investigation revealed that the officers were giving simultaneous commands to Subject 1 during this incident. Although the commands were non-conflicting the officers are reminded that simultaneous commands sometimes lead to confusion and non-compliance.

5. Situational Awareness

The investigation revealed that Officer B broadcast a request for back-up, but provided an incorrect location. Officer B is reminded of the importance of maintaining constant awareness and broadcasting the correct location to ensure responding units arrive in a timely manner.

- 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 incident, the BOPC found that the tactics utilized by Officer F were a substantial deviation, without justification, from approved Department tactical training, thus requiring a finding of Administrative Disapproval. Additionally, the BOPC found that Officers A, B, E and H's tactics did not substantially deviate from approved Department tactical training.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made individually and collectively, and a Tactical Debrief is the appropriate forum for the involved personnel to discuss the incident and individual actions that took place.

In conclusion, the BOPC found Officers A, E, B and H's tactics to warrant a Tactical Debrief. The BOPC found Officer F's tactics to warrant Administrative Disapproval.

B. Non-Lethal Use of Force

- Officer A – Bodyweight, Physical Force.
- Officer B – Physical Force.
- Officer E – Firm Grip, Bodyweight, Punch and Physical Force.
- Officer F – Firm Grip, Punches and Physical Force.
- Officer H – Physical Force.

According to Officer F, as they approached Subject 1, Subject 1 faced the wall as if he was going to give up. As he and Officer E got closer to Subject 1, Subject 1 began to run. Officer F grabbed Subject 1's left arm with both hands and a struggle ensued.

According to Officer E, Subject 1 turned counterclockwise and swung his right fist toward his face, while Officer F continued to maintain hold on Subject 1's left arm. He stepped backwards and moved his head back to avoid being punched. Subject 1 appeared to be losing his balance, so he grabbed the front of him [Subject 1] and pushed him backward. As Subject 1 fell backwards, he grabbed onto Officer E's mid-section area, causing him to fall and land on top of Subject 1 in a mounted position. Subject 1 then used the momentum of the fall and a kick to Officer E's groin area, to flip him over onto his back. According to Officer E, he landed on the right side of Subject 1 and used his shoulder to apply bodyweight to keep him on the ground.

According to Officer F, when they fell to the ground, Subject 1 was flailing his arms, butting his head and kicking his feet. As he and Officer E were struggling to control Subject 1 on the ground, Officer A arrived to assist and placed his knees on Subject 1's calves, his hands on Subject 1's lower back, and applied bodyweight in attempt to keep Officer E down on the ground and stop Subject 1's resistance. According to Officer F, he assumed a standing position and observed Subject 1 swinging at Officer E. In effort to stop his resistance, Officer F punched Subject 1 two times on the face with his right hand, while maintaining his hold on Subject 1's left arm.

According to Officer E, he observed Subject 1 thrashing around like a bull, using his head. To bring Subject 1 to the ground and to gain compliance, he punched Subject 1 one time on the left side of his face. The struggle continued and moved from the sidewalk to the roadway and as the officers continued their efforts to control Subject 1, Subject 1's sweatshirt came off and fell to the ground. Subject 1 continued to resist and the officers along with Subject 1 fell to the ground. According to Officer E, he observed Subject 1 trying to stand up so he pushed his upper body down, while Officer F pulled his legs straight to keep him from standing up.

Believing Subject 1 would escape or cause injury to the officers, Officer A drew his TASER from its holster and conducted three drive stun activations to Subject 1's left shoulder area, which enabled Officers E and F to turn Subject 1 over and complete the handcuffing process.

As LAFD personnel escorted Subject 1 through the station on a gurney, he began to lift himself off the gurney while kicking his legs. Officers B and H utilized physical force to overcome his resistance and applied a Hobble Restraint Device on Subject 1.

The BOPC determined that an officer with similar training and experience as Officers A, B, E, F and H would reasonably believe the applications of non-lethal force to overcome Subject 1's resistance and effect an arrest were reasonable and would have acted in a similar manner.

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

C. Less-Lethal Use of Force

- **Officer B** – One (5 second) TASER activation in probe mode from approximately 15 feet.
- **Officer A** – TASER, three activations in drive stun mode.

According to Officer A, Subject 1 continued to resist the officers' efforts to take him into custody. He retrieved his TASER and conducted three separate drive stun activations on the left shoulder area of Subject 1, which enabled the officers to control and eventually handcuff Subject 1.

The BOPC determined that an officer with similar training and experience as Officer A, when faced with similar circumstances, would believe that attempts to subdue Subject 1 with other tactics would likely be ineffective.

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