

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

LAW ENFORCEMENT RELATED INJURY – 042-16

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Wilshire	7/19/16		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	16 years, 1 month
Officer B	13 years, 5 months

Reason for Police Contact

Officers A and B were attempting to enforce a “stay away” court order on the Subject, who refused to comply with officers and resisted arrest, resulting in a Law Enforcement Related Injury (LERI).

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 55 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 May 9, 2017.

Incident Summary

Officers A and B were patrolling in a business area due to complaints from businesses regarding the homeless and shopping cart nuisances.

As Officers A and B traveled eastbound, they observed and recognized the Subject, who was standing on the sidewalk in front of a strip mall parking lot. The Subject was moving back and forth between shopping carts, throwing items out of them. The officers negotiated a U-turn and stopped within a few feet from the Subject.

Both officers knew the Subject from prior contacts and a previous arrest they had made, which resulted in the issuance of a stay away court order for the area where they observed him.

Note: Officers A and B were made aware of the stay away court order by the Los Angeles City Attorney, who had prosecuted the case against the Subject, where he was convicted for disorderly conduct. The Subject was placed on Summary Probation with a court order to stay 100 yards away from the location of where he was detained.

Two weeks prior to this contact, Officer A had spoken with the Subject in the same general area and reminded him of the court order. Officer A verbally warned the Subject that if he saw him in the area again, that he would have to arrest him. The Subject said that he understood. On the date of this incident, Officer A's intention was to arrest the Subject for the stay-away order violation.

According to Officer A, he had over 10 previous contacts with the Subject, and the Subject was always cooperative and non-combative. Officer A said he knew right away, upon observing the Subject on this day, that something was bothering the Subject.

According to Officer B, during his previous encounters with Subject, he was always loud and boisterous, but he never resisted and was always compliant. With respect to this incident, Officer B believed the Subject was possibly under the influence and seemed agitated.

Note: The investigation revealed that the Subject was actually 156 yards from the location specified in the court order.

Prior to exiting their vehicle, the officers discussed their prior knowledge of the stay away order involving the Subject and talked about arresting the Subject for the violation of the court order.

The officers exited their vehicle to contact the Subject. Both officers talked about contact and cover roles in the past when dealing with individuals in their basic car areas. Both officers possessed a general understanding that the officer who has built a

rapport with individuals in their basic car area would be contact and the other officer would be cover. Officer B broadcast the officers' status and location (Code Six).

Officer A began to verbalize with the Subject in Spanish and advised him that he was in violation of the stay away order. The Subject said that he knew, but was just cleaning up the area. Officer A advised the Subject that he was going to be arrested and ordered him to turn around and put his backpack down. The Subject placed the backpack down in front of him, clenched his fists, but refused to turn around. According to Officer A, the Subject appeared agitated and told him, "No, I'm not going to jail. I'm not going, I'm not going. You're not taking me." The Subject, with his right hand, reached into his right front pants pocket. Officer A continued to verbalize with the Subject and ordered him to take his hand out of his pants pocket. The Subject pulled out his right hand and then reached toward his backpack. Officer A believed that the Subject was looking for a weapon he could use for fighting purposes.

Officer B also observed the Subject remove his hand from his pants pocket and then move his hand toward the front top of the backpack. As the Subject began to unzip his backpack, Officer A told his partner that the Subject was reaching for something (in the backpack) and that they needed to grab onto him. Officers A and B then approached the Subject.

Note: Both officers knew from prior contacts that the Subject was known to carry sharp objects and knives on him. During a previous encounter, Officer B had searched and found knives inside the Subject's backpack.

Officer A grabbed the Subject's right arm, and Officer B grabbed the Subject's left arm in an effort to control and arrest him. The Subject began spinning his body, flailing and swinging his arms, and broke free from the officers' firm grip. As the officers attempted to re-grip the Subject's arms several times, they verbalized with him to stop resisting and to place his hands behind his back. According to Officer A, he verbalized his commands to the Subject in Spanish. According to Officer B, the Subject spoke both English and Spanish. The Subject, however, continued to resist by pulling his arms away and spinning from the officers' hold.

After approximately 15 to 20 seconds of the Subject pulling and spinning, he moved toward the street in an effort to escape. Officer A moved in front of the Subject, used his left hand to grab ahold of the Subject's shirt and long necklace, made of beads, near his upper torso. Officer A attempted to place his right hand behind the Subject's neck for better control. Officer B, who was behind the Subject, grabbed the Subject by both arms around the triceps, in an effort to control him. As Officer B held onto the Subject's arms, Officer B turned toward his left and used his bodyweight to take down the Subject.

Officer B believed that he had no choice but to get the Subject down to the ground to get a better position and advantage. Officer B did not advise his partner that he was going to take the Subject to the ground. The takedown by Officer B caused all three to

fall onto the sidewalk. Officer B and the Subject landed on their left side, with their heads positioned to the north, their feet to the south, and both faced east. Officer A landed on his hands and knees just east of the Subject. As Officer B and the Subject were lying on their left sides, on the sidewalk, the Subject continued to resist by swinging his arms. The Subject broke free from Officer B's right hand and spun to his right, causing Officer B to go on his back. The Subject was then on top of Officer B's upper torso. Officer A, from a kneeling position and his rover still in the holster, broadcast that the needed a backup.

Officer A stood up and observed Officer B on his back with the Subject's back on top of Officer B's chest. Officer B wrapped his legs around the Subject's legs, held onto the Subject's arms, and verbalized with him to stop resisting. The Subject began to sit up, clenched his fists, swung his elbows back toward Officer B, and moved his body side to side in an effort to break free. The Subject turned his body toward Officer B, at which point, Officer A believed the Subject was going for Officer B's equipment belt, where his gun and other weapons were secured. Officer A utilized his right leg to perform a front leg kick to the Subject's upper front torso as a distraction strike. As Officer A kicked his leg forward, the Subject jerked forward and was struck in the face. The top of Officer A's boot hit the Subject's nose, causing the Subject to be momentarily stunned.

According to Officer B, the Subject went limp and stopped resisting. Officer B grabbed the Subject's left arm and put it in a twist lock. Officer A grabbed the Subject's right hand and proceeded to handcuff it. Officer B provided the Subject's left wrist for Officer A to complete the handcuffing technique. Officer A broadcast that the incident had been resolved and that the Subject was in custody.

Note: A "twist lock" is a joint lock technique option, taught in the Police Academy, available to police officers for controlling an uncooperative individual. Per Officer B, they tried to sit the Subject up, but he did not want to sit up, so they laid him down on his side.

Officer B broadcast a request for a Rescue Ambulance for a male, conscious and breathing, suffering from lacerations to his face. Los Angeles Fire Department (LAFD) responded and evaluated the Subject.

Note: LAFD first responded with a Basic Life Support (BLS) unit for the patient (Subject). When they contacted the Subject, he was "somewhat unresponsive." Subject was verbally unresponsive toward officers and firefighters. Because of this, LAFD called for an Advanced Life Support (ALS) unit. The Subject was subsequently transported to a local hospital and treated for his injuries.

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 finding of Administrative Disapproval.

B. Non-Lethal Use of Force

The BOPC found Officers A and B's non-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. Equipment – (Substantial Deviation) Officer A

Officer A was not carrying his TASER on his person when he deployed in the field as required.

In this case, Officer A indicated that he was aware that his partner was carrying a TASER and had intentionally left his TASER in their police vehicle. The BOPC believed Officer A should have been aware of the policy requiring all uniformed officers who are deployed in the field to carry a TASER on their person. Additionally, by not carrying the TASER on his person, Officer A limited the force options available to him during this incident.

In conclusion, the BOPC determined that Officer A's failure to carry his TASER on his person as required was a substantial deviation without justification from approved Department tactical training.

2. Back-Up Request (Substantial Deviation) Officers A and B

In this case, Officers A and B encountered a suspect with whom they had prior knowledge of resisting arrest and had stated that he wasn't going to go to jail while clenching his fist.

Although officers are given discretion regarding the appropriate time to broadcast a request for back up, it would have been tactically advantageous for the officers to request a back-up unit based on the Subject's history and actions.

Based on the totality of the circumstances, the BOPC determined that the officer's delay in requesting a back-up was a substantial deviation, without justification from approved Department tactical training.

3. Approaching Suspect Possibly Armed with a Weapon other than a Firearm (Substantial Deviation) Officers A and B

Officers A and B approached a suspect whom they believed was possibly trying to arm himself with a knife.

In this case, Officers A and B made a decision to approach the Subject after he ignored their commands and placed his right hand in his pocket and then began to unzip his backpack. According to both officers, they believed that the Subject was attempting to arm himself with a knife, because they had prior knowledge that he was known to carry knives.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's decision to approach a suspect they believed was attempting to arm himself with a knife, was a substantial deviation, without justification from approved Department tactical training, particularly since the Subject was in immediate reach of the feared knife.

4. Tactical Communication

Officer B did not advise Officer A of his intention to conduct a takedown on the Subject.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, 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 this case, Officer B conducted the takedown on the Subject while his partner was also attempting to control the Subject, which resulted in Officer A losing his balance and falling to the ground. Although the BOPC understood this was a fluid situation and Officer B was attempting to prevent the Subject from arming himself, communicating his intentions would have been more tactically advantageous in this situation.

Based on the totality of the circumstances, the BOPC determined that Officer B's actions were not a substantial deviation from approved Department tactical training.

All of the above topics will be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:

1. Equipment Required

The investigation revealed that Officers A and B were not in possession of their batons, and Officer B was not in possession of his Hobble Restraint Device at the time of the incident. This issue was brought to the attention of Captain A and will be addressed in a Personnel Complaint.

- 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 Officer's A and B's tactics to warrant a finding of Administrative Disapproval.

B. Non-Lethal Use of Force

- **Officer A** – Firm Grips and Kick

Officer A recalled that the Subject was reaching for something and told his partner that he felt that the Subject should be taken into custody immediately. Officer A reached for his right hand when the Subject was trying to look in his backpack and when Officer A reached for it, that's when the Subject pulled away and spun on him. Officer A grabbed the Subject's upper arm and shoulder area, as well as the Subject's forearm with his right hand, in addition to his wrist. As the Subject spun, Officer A used his left hand to grab the front of the Subject's shirt, while simultaneously using his right hand to hold the back of the Subject's neck in an effort to gain control of him.

Officer A recalled that before the Subject could turn his body completely around, he grabbed him from the front of his shirt. Officer A recalled that he had ahold with his left hand of the Subject's t-shirt as well as some necklaces around his neck, and he

attempted to reach around the back of his neck with his right hand so that he could gain control of the Subject's movements and not jerk away.

According to Officer A, as he was attempting to control the Subject, Officer B took the Subject to the ground. Officer B landed on his back, and the Subject landed with his back on top of Officer B's chest. Officer A then observed the Subject attempting to turn over toward Officer B. Fearing that the Subject would have easier access to any of the weapons on Officer B's utility belt if he was able to successfully turn, Officer A attempted to kick the Subject in the upper torso area to stop his resistance and take him into custody. However, as the Subject jerked forward, his kick struck him in the face. According to Officer A, he then used his hands to place a firm grip on the Subject's right hand to handcuff him with assistance of his partner.

- **Officer B – Firm Grips, Takedown, Physical force, and Twist Lock**

According to Officer B, he used both hands to apply a firm grip on the Subject's left arm in an attempt to take him into custody and the Subject spun away from him. Officer B then applied a firm grip on the Subject's right arm.

Officer B recalled that he grabbed the Subject's left arm, and Officer A grabbed his right arm and that the Subject immediately started resisting and spinning. According to Officer B, the Subject was facing away from him, and he attempted to re-grip the Subject's right arm, at which time he broke loose from that as well. The Subject continued to resist and attempted to escape. Officer B then grabbed the Subject in a bear hug and utilized his body weight to take him down to the ground.

According to Officer B, the Subject fell on top of him with his back on Officer B's chest. The Subject continued to resist and was attempting to turn around toward him. Officer B used his legs to hold the Subject around his waist in an effort to prevent him from turning toward him and used his left hand to place a firm grip on the Subject's left arm.

According to Officer B, he then applied a twist lock on the Subject's left wrist to assist Officer A with handcuffing his arms behind his back.

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 that this application of non-lethal force would be reasonable to overcome the Subject's resistance.

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