

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

LAW ENFORCEMENT RELATED INJURY – 001-18

Division Date Duty-On (X) Off () Uniform-Yes (X) No ()

Rampart 1/5/18

Officer(s) Involved in Use of Force Length of Service

Officer A 2 years, 5 months
Officer B 1 year, 11 months

Reason for Police Contact

The Subject was detained and handcuffed during a residential burglary investigation that he was believed to have been involved with. The Subject complained that the handcuffs were too tight, and when Officer A partially removed them to make an adjustment, the Subject attempted to escape, resulting in a law enforcement related injury (LERI).

Subject(s) Deceased () Wounded (X) Non-Hit ()

Subject: Male, 31 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 the Department is currently legally prohibited from 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 4, 2018.

Incident Summary

Communications Division (CD) broadcast a radio call involving a possible burglary suspect, sitting on a bench in front of a coffee shop. The person reporting (PR), was the victim of the burglary. The PR had seen the suspect on his home security surveillance video, burglarizing the PR's residence earlier in the day. The PR provided CD with a detailed description of the suspect, which CD also broadcast.

Officers A and B were dispatched to the location of the call via their Mobile Digital Computer (MDC) and responded.

Officer A was a field training officer and had worked with Officer B for approximately three months. Officer A stated that he and his partner always discuss de-escalation tactics. They discuss the "PATROL" acronym and always have a plan. They discuss tactics all day and debrief every incident while working together.

According to Officer A, they assessed and discussed the situation as they drove to the radio call. According to Officer A, the plan was for him to initially speak to the Subject and gain compliance and then handcuff the Subject together. Officer A wanted Officer B to handcuff the Subject to observe his proficiency and control of the Subject while handcuffing. Officer B corroborated that this was their tactical plan.

Officer A broadcast that he and Officer B had arrived at the scene via the Mobile Digital Computer (MDC) at 1149 hours. According to Officer B, he was the driver officer and parked their police vehicle approximately two structures away from the Subject.

Officer A's BWV depicted him and Officer B approaching the Subject as he was seated on a bench in front of a coffee shop. Officer A asked the Subject to stand up and turn around. Approximately seven seconds later, Officer A told Officer B to "hook him up." Officer A grabbed the Subject's left hand with his left wrist and brought it behind the Subject's back.

Officer B grabbed the Subject's right wrist with his left hand and brought it behind his back. Officer B retrieved his handcuffs with his right hand and handcuffed the Subject's right wrist with his palm facing in. Officer B handcuffed the Subject's left wrist with his palm facing out.

Officer A advised the Subject that he was being detained for a burglary investigation. He told the Subject that he was only being detained at this point. Officer A directed Officer B to lock the handcuffs and make sure they were not too tight.

The Subject complained that both handcuffs were too tight, and Officer A advised the Subject that he would fix them. Officer A advised Officer B that he would lock the handcuffs and directed him to request the PR to meet. Officer B then asked CD if the PR wished to meet.

Officer A's BWV depicted him beginning to loosen the Subject's handcuffs while Officer B asked CD if the Person Reporting was available to meet. Approximately 17 seconds later, the Subject pulled his left arm away and attempted to break free from Officer A.

As Officer A was adjusting the Subject's left handcuff, he could be heard repeatedly saying, "Hey guy, listen to me."

Approximately four seconds after the Subject attempted to break free from Officer A, Officer A's BWV fell to the ground and landed facing up. Officer A could be heard telling the Subject to calm down. A struggle was heard in the background.

Officer B's BWV depicted him turn toward his partner, and Officer A was seen attempting to control the Subject. The BWV depicted Officer A behind the Subject as they contacted an aluminum bench near the wall/window of the coffee shop. The Subject and Officer A moved toward the street and fell to the ground on the sidewalk near the parked vehicles. Officer A could be heard telling Officer B, "Partner, get backup."

Prior to calling for back-up, Officer B stated that he grabbed the Subject's left elbow with his right hand and his left hand was near the Subject's clavicle. Officer B stated that he let go of the Subject as he and Officer A fell to the ground on the sidewalk.

Officer B broadcast a request for a backup unit. However, the audio from his BWV appeared to indicate that his broadcast was interrupted by an unrelated broadcast from another unit. The Subject and Officer A moved toward a white vehicle parked on the street. Officer A attempted to use the vehicle as a controlling agent as he pressed the Subject against the trunk. Officer B could be heard telling the Subject, "Calm down, calm down. Stop!"

Officer B stated that as Officer A and the Subject moved toward the trunk of the parked white vehicle, he grabbed the Subject's right forearm with his (Officer B's) right hand and his (the Subject's) shoulder with his (Officer B's) left hand. Officer B was unsure which one of the Subject's shoulders he grabbed.

Officer A spun to his right while he and the Subject fell to the ground in the street near the curb. The Subject appeared to hit his head on the ground and moaned. Officer A could be heard telling the Subject, "Guy, you need to relax!"

According to Officer A, while he was struggling to gain control of the Subject near the rear of the vehicle, he was trying to get the arm back around to handcuff the Subject. And Officer A felt the Subject trying to pull away from him. Officer A was concerned for his safety and the safety of Officer B, so he pulled the Subject toward him and forcibly guided him to the ground to prevent him from running out into traffic with him and his partner. As Officer A forcibly guided the Subject to the ground, he saw how the Subject was kind of curling up. When he laid the Subject down, he fell to his left side thigh area, and his head hit the ground. At this point, the Subject "stopped resisting."

Officer B requested a back-up unit a second time as Officer A handcuffed the Subject without further incident. Officer A directed Officer B to stand the Subject up by stating, "let him up, let him up." The Subject could be seen on Officer B's BWV lying on his side. Officer A moved the Subject to a seated position on the curb and broadcast that the incident had been resolved (Code Four) and that the Subject was in custody. Officer A also requested an additional unit and a supervisor."

Officer B requested that Rescue Ambulance (RA) respond to the location for a male, conscious and breathing, with lacerations to his knees and his head. The Subject was transported to the hospital, where it was later determined he had suffered a fractured skull.

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). 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 Tactical Debrief.

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

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of

individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Use of Force Policy, Los Angeles Police Department Manual.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in Graham v. Connor, 490 U.S. 386 (1989), that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject’s actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer’s decision to draw or exhibit a firearm should be based on the tactical situation and the officer’s reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a subject and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

(Tactical De-Escalation Techniques, October 2016.)

A. Tactics

- During its review of this incident, the BOPC considered the following:

1. Handcuffing Procedures

The investigation revealed that Officer B handcuffed the Subject's wrists with both palms facing the same direction, rather than palms together or back-to-back.

2. Handcuffing an Arrestee

The investigation revealed that Officer A un-handcuffed the Subject's left hand to re-position the Subject's wrist in the handcuff.

The above topics were to 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 Officer A and B's tactics to warrant a Tactical Debrief.

B. Non-Lethal Use of Force

- **Officer A** – (firm grips, physical force, bodyweight and takedown)

According to Officer A, as he released the ratchet of the Subject's left handcuff and began to turn the Subject's wrist around, the Subject pulled his left arm from behind his back up towards his left shoulder area. Fearing that the Subject would use the loose ratchet as a weapon against him, Officer A held on to the Subject's right wrist, while he attempted to pull the Subject's left arm back behind his back.

The Subject continued to resist and pull forward, which caused the Subject to bump his knees and thigh area up against the aluminum bench in front of them. As Officer A attempted to pull the Subject back, away from the bench, the Subject pulled to his

right and tried to run towards the street. Officer A then used force to pull him back, which caused both he and the Subject to stumble and fall to the ground onto their knees.

While on the ground, the Subject continued to resist. Officer A then stood up, while maintaining his grip on the Subject's left arm and his right wrist. The Subject then stood up, moved to his right and went into the street behind the white car parked along the curb. Officer A then pinned the Subject up against the trunk area of the white car and continued to give him commands to relax.

As he and his partner attempted to hold the Subject down against the white vehicle, Officer A felt the Subject attempting to pull away from him towards the street and into traffic. Concerned for the Subject's safety, and the safety of himself and his partner, Officer A pulled the Subject towards him, away from the street, and forcibly guided him to the ground to prevent him from running into traffic.

- **Officer B – (firm grips and physical force)**

According to Officer B, after holstering his radio, he observed what appeared to be a struggle between the Subject and her partner. He came around from behind his partner and placed one hand on the Subject's left forearm area and one hand on his left triceps area. As he held the Subject's left arm, all three of them spun to the right. At that point, he released his grip to prevent himself from falling down to the ground.

According to Officer B, Officer A and the Subject went towards the ground and then stood back up. The Subject then lunged towards traffic. Fearing the Subject was going to run out into traffic, he grabbed the Subject's right forearm with his right hand and his (the Subject's) right shoulder area with his (Officer B's) left hand and guided him towards the white vehicle.

Based on 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 same application of non-lethal force would be reasonable to effect the Subject's arrest.

Although the Subject's head forcefully struck the ground during the incident, resulting in significant injury, this was the unintended outcome of an otherwise appropriate application of non-lethal force. Therefore, the BOPC found Officers A and B's non-lethal use of force to be objectively reasonable and in policy.