



## **Incident Summary**

Officers A and B were conducting crime suppression in the vicinity of a Metropolitan Transportation Authority (MTA) Gold Line Train Station Platform where they observed three individuals, one male (Subject) and two females (unidentified) who were congregating at the concrete benches and planter located at the rear corner of the platform. According to Officer B, the three individuals were sitting on a concrete wall near a clearly posted sign, which displayed "loitering" as one of numerous prohibited actions on the premises. Due to the recent gang and criminal activity in the area, the officers decided to approach the individuals. According to Officer A, their intent was to detain the individuals for loitering (41.18 of the Los Angeles Municipal Code (LAMC)), check their identification cards, and then advise them that loitering was not permitted on the platform.

Officer A notified his/her partner, that he/she wanted to talk to the group. Officer B then turned their vehicle into the driveway located near the corner of the Gold Line Station. During this turn, the officers momentarily lost sight of the Subject. The officers then drove onto the platform and toward the individuals when they observed that the Subject had moved beyond the concrete benches and into the planter. According to Officer B, the Subject stood in the bushes with his back to the officers. He looked back toward the officers and then began running into the alley adjacent to the platform.

According to Officer A, the Subject fled with his right hand holding onto his waistband. Officer A believed the Subject's hand placement was consistent with him carrying a weapon or contraband. Officer A communicated to his/her partner that the Subject was running through the bushes. Officer A then exited from the police vehicle and chased after the Subject. Simultaneously, Officer B stopped the police vehicle on the platform, removed the keys from the ignition, and ran behind Officer A.

Officer A broadcast that he/she was in foot pursuit. The Subject reached the end of the alley and climbed onto a metal gate leading to a residential property.

According to Officer A, when he/she was approximately 20-40 feet from the Subject, who was attempting to climb the metal gate, he/she observed the Subject reach toward his waistband with his right hand. Believing that the Subject was armed, Officer A placed his/her handheld radio in its carrier and simultaneously unholstered his/her firearm with a right, one-handed grip. Officer A then gave the Subject additional commands to get off the fence and put his hands behind his back. According to Officer A, the Subject did not comply with the commands, instead, he moved his hand away from his waistband and grabbed the top of the gate. The Subject hoisted himself onto the gate and lifted his chest and shoulders over the top. Concerned that the Subject could escape into one of the adjoining residences and expose the public to a potentially armed Subject, Officer A holstered his/her firearm and decided to physically prevent the Subject from climbing over the gate.

According to Officer A, he/she simultaneously placed his/her handheld radio in its carrier while unholstering his/her firearm. Officer A's BWV displays him/her carrying both his/her handheld radio and firearm in his/her left and right hands, respectively. Officer A's BWV also displays him/her still holding the handheld radio in his/her left hand while engaging the Subject.

Officer A positioned his/her chest to the Subject's backside and placed his/her hands across the Subject's hips. According to Officer A, he/she immediately felt the grooved-handle of an unknown weapon protruding from the Subject's right waistband. Officer A gripped onto the handle with his/her right hand from outside the Subject's sweatshirt. According to Officer A, as he/she grabbed the handle, the Subject thrust his left foot into Officer A's sternum in a downward kicking motion. The force of the kick dislodged Officer A's BWV camera from his/her chest. The BWV camera landed on the ground with the lens facing the pavement. According to Officer A, the Subject kicked him/her approximately two more times in a similar manner. One of the kicks grazed off his/her chest and knocked the handheld radio from his/her left hand. Officer A re-gripped his/her hands around the Subject's waist and pulled him down each time the Subject attempted to lift himself over the gate.

The Subject continued his attempt to climb over the gate while Officer A pulled at his waist and legs. The Subject then reached up with his left hand and grasped the top of a white corrugated metal fence, which stood approximately eight feet tall, just perpendicular to the gate. Officer B reached his/her partner and assisted with taking the Subject into custody. According to Officer B, the Subject was attempting to climb over the gate while Officer A was preventing the climbing motion by holding him around the waist. Officer B gave the Subject several commands to let go, but the Subject did not respond.

Officer B used both of his/her hands and applied a firm grip around the Subject's left calf area. According to Officer A, once he/she observed Officer B control the Subject's left leg, he/she then transitioned his/her left hand over to the Subject's right leg near the knee. Officer A still maintained his/her right-handed grip on the unknown weapon handle near the Subject's right waistband. The officers simultaneously pulled the Subject in a downward motion, causing his outer shorts to fall to his ankles. Officer B then transitioned his/her hands and applied a firm grip along the Subject's left ankle. The officers then pulled in one concerted motion, successfully removing the Subject from the gate.

Officers A and B held onto the Subject's left ankle and waist, respectively, as he fell to the ground. The Subject landed on his buttocks and was immediately rolled onto his stomach. Officer B placed a right-handed grip on the Subject's right wrist and guided the Subject's arm to his lower back. Officer B then used his/her bodyweight, placing his/her left knee on the back of the Subject's right thigh. Officer A used his/her body weight by placing his/her left knee on the Subject's upper back. Officer A then used a right-handed grip to move the Subject's left hand from underneath his body to behind his lower back. Officer A maintained control of the Subject's left hand while Officer B

controlled the Subject's right hand. Officer B handcuffed the Subject's right wrist and then coordinated with Officer A to handcuff the Subject's left wrist, completing the handcuffing process.

According to Officer B, he/she then observed a bulge in the Subject's sweatshirt pocket. Officer B conducted a search of the Subject's sweatshirt pocket and recovered a can of blue spray paint. The officers then placed the Subject into a seated position and discovered a sheathed, broken machete along the Subject's front waistband. According to Officer B, the machete was likely broken when the Subject was taken into custody, as he/she heard a sound consistent with metal breaking when the Subject fell to the ground

According to Officer A, once the Subject was placed into a seated position, he/she observed that the Subject had blood on his hands. Officer A requested a Rescue Ambulance (RA)

Los Angeles Fire Department personnel treated the Subject at scene for lacerations to his left hand and transported the Subject to hospital, where he was admitted into hospital and underwent surgery on his left hand due to the injuries he sustained as a result of the Use of Force.

### **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 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 finding of Tactical Debrief.

#### **B. Drawing and Exhibiting**

The BOPC found Officer A's drawing and exhibiting of a firearm to be In Policy

#### **C. 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**

### **Tactical De-Escalation**

- *Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect 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 Techniques*

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)*

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.

In this case, Officers A and B were in the area of the MTA platform in response to recent crimes which had occurred in the vicinity. As the officers were beginning to initiate an investigation, the Subject ran from the location, possibly armed with a weapon or concealing contraband, with the officers initiating a foot pursuit. At the termination of the foot pursuit, the Subject attempted to climb over a fence, resulting in a UOF.

**Planning** – Officers A and B were both assigned to the Hollenbeck GED unit. They worked together for approximately four months prior to the incident and had discussed tactics including the roles of contact and cover, containment, and apprehension modes of foot pursuits, the issue of separation and responsibilities of broadcasting of foot pursuits, and the response to various radio calls including shootings and robberies. While it would have been preferred that the officers created a more specific plan during this incident, the rapid escalation of the Subject running from the officers prevented them from formulating a more detailed plan.

**Assessment** – The officers first assessed the incident and observed the Subject and two females sitting in the area of the MTA platform, which the officers interpreted as a possible violation of the no-loitering policy at the platform. As the officers began to approach to conduct their investigation, they observed the Subject run from the location. During the foot pursuit, the officers continuously assessed the movements and direction of travel of the Subject. At the termination of the foot pursuit, the officers assessed that the Subject was continuing to attempt to evade being detained and attempted to climb a fence. The officers utilized a minimum amount of force to detain and handcuff the Subject, continuously assessing the Subject's actions while he was being taken into custody.

**Time** – The officers were faced with a rapidly escalating incident where the Subject ran from them to evade being detained. As the officers engaged in a foot pursuit, the Subject reached his hand toward his waistband and it was unknown to the officers if he was reaching toward an unknown weapon or contraband. At the termination of the foot pursuit, the Subject reached up and grabbed the top of a fence, attempting to climb over. The Subject's actions did not afford the officers any additional time and limited their tactical options.

**Redeployment and/or Containment** – As the officers approached the area where the Subject was sitting, the Subject walked and then ran from the location. Due to the rapid escalation of the the Subject's actions, the officers had a limited opportunity to utilize other options and initiated a foot pursuit after the Subject. Officer A utilized his/her hand-held radio to broadcast the foot pursuit and location where responding units could establish containment of the Subject. At the termination of the foot pursuit, the Subject attempted to climb over a fence into a residential neighborhood, resulting in Officers A and B physically taking the Subject into custody. The short duration of the incident did not allow for containment to be established prior to taking the Subject into custody.

**Other Resources** – Due to the rapid escalation of the incident by the Subject as he ran from the officers, the first broadcast from the officers for additional resources was Officer A's broadcast that they were in foot pursuit. Once the Subject was taken into custody, the officers requested a supervisor and an RA. The additional officers who responded to the location worked in cooperation to handle the required activities to resolve the incident.

**Lines of Communication** – Officers A and B initially opened lines of communication between each other when they communicated their observations of the activities at the MTA platform and talked about meeting with the Subject and the two other females. Officer A advised Officer B that the Subject was running from the location and then broadcast that the officers were in foot pursuit. At the termination of the foot pursuit, Officer A commanded the Subject to let go of the fence that he was attempting to climb over. Once Officer B joined, Officers A and B communicated with each other and continued to order the Subject to let go of the fence. Once the Subject came down from the fence, the officers coordinated with each other and handcuffed the Subject.

The BOPC determined that Officers A and B attempted to de-escalate the incident, but the Subject's aggressive actions to evade detention, along with his violent physical resistance including kicking Officer A, prompted them to physically detain the Subject with a reasonable amount of force.

During its review of the incident, the BOPC noted the following tactical considerations:

#### **1. Code Six**

Officers A and B did not advise CD of their Code Six location.

The purpose of broadcasting a Code Six location is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel. Vehicle and pedestrian stops can be dangerous, as the identity and actions of a person stopped is often unknown, and as in this case, their actions can be unpredictable.

The officers were initially traveling in a commercial area and were not engaged in a specific activity. The officers approached the MTA Gold Line Platform and observed the Subject and two other individuals who were sitting on a bench, possibly loitering. The officers, having knowledge that the train platforms had been the scene of many recent violent criminal acts, decided to direct their vehicle towards the individuals and investigate.

In this situation, though the officers were faced with a rapidly unfolding situation, the BOPC discussed their preference that the officers had placed themselves Code Six upon making the decision to conduct a loitering investigation. The officers' observation of the fleeing Subject immediately required them to tactically deploy from the vehicle. Officer A acknowledged that his/her partner, Officer B, was going to be delayed dealing with the vehicle and unable to place the officers Code Six in a timely manner. The BOPC also noted that Officer A stated that he/she had difficulty removing his/her hand-held radio from its holster. Thus, Officer A completed his/her initial transmission to CD as a foot pursuit broadcast at the first opportunity it was tactically feasible, which was approximately nine seconds into the incident. The incident rapidly escalated for the officers due to the actions of the Subject.



Based on the totality of the circumstances, the BOPC determined that in this situation, Officers A and B's actions were not a substantial deviation from approved Department tactical training.

## **2. Pursuing Possibly Armed Suspects**

Officers A and B engaged in a foot pursuit of a suspect they believed to be possibly armed.

In this case, Officer A was initially in containment mode as he/she tracked the Subject in the alley. Officer A broadcast on Hollenbeck frequency to summon additional resources and utilized distance between himself/herself and the Subject as the Subject continued to flee. Officers A and B maintained a line of sight with one another and remained close enough to each other to render immediate aid, if necessary. The BOPC also examined the distance between both officers during the incident and determined that no separation, either by distance or barrier, occurred.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's actions were reasonable and did not substantially deviate from approved Department tactical training.

## **3. Approaching an Armed Suspect**

Officer A approached and initiated physical contact with a Subject he/she believed to be possibly armed.

In this case, Officer A transitioned from containment to apprehension mode when he/she observed the Subject place both of his hands atop of the fence, thus seeing the Subject did not have any weapons within his grasp. The BOPC considered Officer A's general concern for public safety concerning the Subject climbing over the fence into a residential neighborhood and also the fact that no weapons were seen in the Subject's possession. The officers also had a belief that the Subject could possibly have been carrying contraband or was just securing his pants while he had been running.

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

- The BOPC also noted the following:
  1. **Searches of Arrestees** – The investigation revealed that Officers A and B did not immediately complete a full search of the Subject when he was taken into custody. It was noted that Officer A had broadcast that the officers were in foot pursuit of a man with a gun and had felt an unknown object near the Subject's waistband when

he/she had grabbed the Subject around the waist. The BOPC noted that the Subject was taken into custody and secured with handcuffs and was lying in a stomach-down position on the ground with a portion of his shorts pulled down, revealing his waistband. The Subject's rear waistband was clear of any items. Officer B remained nearby the Subject. The officers then discovered a sheathed, broken machete along the Subject's front waistband. Although the officers were unsure if the Subject had been armed or was in possession of contraband, a Subject that has not been fully searched can pose a potential threat to the officers. The BOPC would have preferred that the officers completed a full search of the Subject more contemporaneously to when the Subject was handcuffed. The officers were reminded of the importance of searching all arrestees to ensure that they are not in possession of any weapons that they can still gain access to while handcuffed.

- 2. Body Worn Video Activation** – The investigation revealed that Officer A did not activate his/her BWV until after the use of force had occurred. The Commanding Officer, Hollenbeck Area, reviewed the circumstances of this and determined that the rapid escalation of the incident and Officer A's multi-tasking of initiating a foot pursuit, conducting a radio broadcast of the foot pursuit, and conducting a continuous assessment of the situation did not make the activation of his BWV feasible. The BWV was knocked off of Officer A by the Subject and was activated as soon as it was practical and safe to do so.

A review of the circumstances surrounding Officers A and B's BWV activations was conducted. It was determined that neither officer had any prior similar instances related to BWVs.

These 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.

The BOPC found Officers A and B's tactics to warrant a finding of Tactical Debrief.

## **B. Drawing and Exhibiting**

- According to Officer A, he/she observed the Subject approximately 20 to 40 feet ahead of him/her hanging on the fence. Due to his/her prior observations that the Subject had reached towards his waistband and his/her belief that the Subject may be armed, Officer A slowed down to a fast walk, holstered his/her hand-held radio, and drew his/her service pistol as he/she approached the Subject.

In this case, BOPC conducted a thorough review in evaluating the reasonableness of Officer A's drawing and exhibiting. The BOPC noted that Officer A's knowledge

that the area had recently experienced a rise of violent crime. Officer A also observed the Subject reaching his hand towards his waistband as he fled, prompting Officer A to form the opinion that the Subject was possibly armed.

As such, based on the totality of the circumstances, the BOPC determined, that an officer with similar training and experience as Officer A, while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officer A's drawing and exhibiting of a firearm to be In Policy.

### **C. Non-Lethal Use of Force**

- **Officer A** – Firm Grip, Physical Force, and body weight.

According to Officer A, he/she was concerned that the Subject may scale the fence and run into somebody else's house, which prompted him/her to holster his/her service pistol and approach the Subject to take him into custody before the Subject could finish pulling himself over the fence. Officer A grabbed the Subject around his waist to prevent his escape over the fence. As he/she made physical contact with the Subject's right-side waistband, Officer A immediately felt the handle of an unknown type of weapon with his/her right hand. Officer A didn't know what it was – he/she just felt a hard-handled object and believed the Subject to be carrying a concealed weapon. In fear for his/her safety, Officer A grabbed onto it and didn't let go. As Officer A grabbed the unknown object in the Subject's waistband, the Subject moved his left leg in a downward motion and kicked Officer A on the chest, attempting to kick him/her away. Officer A maintained his/her grasp of the object and also grabbed onto the Subject's right leg to control the Subject's movement. The Subject then tried to kick Officer A a couple other times causing Officer A's BWV and hand-held radio to fall to the ground. Officer A used a firm grip on the Subject's left hip and right leg and continued to struggle to keep the Subject from climbing the fence.

According to Officer A, as the Subject was still attempting to kick him/her, Officer B approached and grabbed onto the left side of the Subject's body prompting Officer A to transfer over to the Subject's right side. As the Subject continued to struggle with the officers, Officer A made eye contact with Officer B, and the officers attempted to coordinate their movements as they pulled the Subject downward. As both officers began to pull, the Subject's exterior shorts fell down to his ankles, which forced the officers to re-grip their hands around the Subject. Officer A maintained a grasp of the weapon with his/her right hand. Officers A and B grabbed both legs and pulled down, causing the Subject to fall off the fence and onto his back. The officers then rolled the Subject over, and Officer A placed his/her left knee on the Subject's upper back.

- **Officer B** – Firm Grip, physical Force, and bodyweight

According to Officer B, he/she grabbed onto the Subject's left ankle and stated, "I got him." After Officer B established a firm grip of the Subject, the officers started pulling before Officer B realized the Subject's shorts were coming down. Officer B readjusted his/her grip and was able to get ahold of the Subject's left ankle. Officers A and B then pulled on the Subject a second time and the Subject fell off the fence. As the Subject hit the ground, Officer B heard a loud clanging metallic noise. The officers placed the Subject onto his stomach before Officer B placed his/her body weight onto the Subject's right thigh and obtained a firm grip on his right arm.

The BOPC reviewed each application of non-lethal force utilized by Officers A and B. The Subject escalated the incident by fleeing on foot from the officers. The Subject grabbed onto the top of a fence and attempted to climb over it. The Subject also kicked Officer A in an attempt to prevent Officer A from taking physical control of the Subject. Throughout the incident, the Subject physically and violently resisted both Officers A and B's attempts to detain the Subject. Both officers used a minimum level of force to overcome the Subject's resistance and handcuff him. The BOPC noted that the Subject's injury which resulted in his hospitalization was caused by his grip on the metal fence, rather than from the force used by Officers A and B.

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 the same 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.