

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

**LAW ENFORCEMENT RELATED INJURY – 028-12**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ()</b>	<b>Uniform-Yes () No (X)</b>
Central	5/03/12		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	13 years, 4 months
Officer B	6 years
Officer C	7 years

**Reason for Police Contact**

Officers witnessed a narcotics transaction. When Subjects 1 and 2 attempted to flee the scene, a categorical use of force incident occurred as the officers chased the Subjects and took them into custody.

<b>Subject</b>	<b>Deceased ()</b>	<b>Wounded (X)</b>	<b>Non-Hit ()</b>
Subject 1: Male, 51 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 March 19, 2013.

## **Incident Summary**

Plain-clothes Police Officers A, B, and C were assigned to a Crime Suppression Detail (CSD). The officers were in driving a plain mini-van vehicle. Officer A was wearing blue denim jeans, and a flannel shirt with his badge clipped to his right front pants pocket. Officer B was wearing blue denim jeans with a dark blue Department raid jacket with his badge clipped to his right front pants pocket. Officer C was wearing blue denim jeans and a black tee shirt with his badge clipped to his right front pants pocket. Officers A, B and C had Department-approved handguns, handcuffs and canisters of Oleoresin Capsicum (OC) spray on their person while attired in plain-clothes. Officer C was the only officer who had his side-handle baton in the police vehicle.

**Note:** Officers A, C and B were not wearing body armor at the time of this incident.

Officers A, B and C had worked together as partners for several years and had prior discussions regarding contacting suspects and foot pursuits. On the evening of this incident, Officer C drove the officers' vehicle while Officers A and B observed two male individuals standing on the street with their hands extended outward and palms facing upward. Officer A observed one male with what appeared to be currency and the other with his hand extended. The officers opined that Subjects 1 and 2 were engaged in narcotics activity.

Officer C pulled the officers' vehicle alongside the curb and stopped. Officer A lowered the vehicle front passenger side window to shoulder level to talk to the subjects.

**Note:** The investigation determined that Subjects 1 and 2 were not the same subjects the involved officers had observed in the initial narcotics transaction. The officers approached the area to monitor the two unidentified subjects engaged in narcotics activity when they were approached by Subject 2, who engaged officers in a conversation regarding the purchase of narcotics.

As Subject 2 approached the passenger side door of the unmarked police vehicle, Subject 2 asked Officer A, "What you need." Officer A replied, "Well, what do you got." Subject 2 responded, "I got a dub," and opened his hand revealing a clear plastic bindle containing an off-white solid resembling cocaine base.<sup>1</sup> Officer A told Subject 2, "Okay, I'll take it." Subject 2 told Officer A to, "Step out of the car and get it."

Officer A opened the passenger side door to exit and used his police radio to place the officers at the location. Simultaneously, Officer B opened the rear sliding door facing the sidewalk and exited the van. Subject 2 appeared startled, took several steps backwards, and then turned and ran down the sidewalk. At the same time, Officer C exited the driver's side door and walked in the number two-lane of traffic around the

---

<sup>1</sup> "Dub" is street vernacular for twenty dollars.

back of the van onto the sidewalk. Officers A and B quickly chased after Subject 2 and were approximately 6-12 inches away from him. As Subject 2 fled, his feet became tangled with Officer A, and he began to fall to the ground. As Subject 2 fell, Officer A reached out, placed his right hand on Subject 2's right waist area, his left hand on Subject 2's left waist area, and held onto his jacket in an attempt to prevent Subject 2 from face-planting onto the sidewalk.

Officer B placed himself on the right side of Subject 2 near his right shoulder area. Officer B bent towards the ground and held Subject 2 down. After Subject 2 fell onto his stomach, Officer A bent and recovered a baggy containing off-white solids that Subject 2 had discarded. While bending over to recover the baggy, Officer A's cellular telephone fell from the left front breast pocket of his shirt onto the sidewalk. Officer A then placed his hands on Subject 2's upper back/shoulder area to assist Officer B with controlling Subject 2. Simultaneously, Officer C ran up to assist Officers A and B by controlling Subject 2's legs when he saw Subject 1 moving toward Officer A's cellular telephone.

**Note:** Subject 2 alleged that officers punched and kicked him during this incident. A Department Complaint Form was completed in conjunction with this investigation.

Subject 1 quickly approached, bent down, picked the cell phone up, and ran down the sidewalk. Officer C, seeing Subject 1 fleeing with Officer A's cell phone, attempted to grab him as he ran on the sidewalk, just missing him, and quickly chased after Subject 1 yelling, "We're the police, stop, drop the phone." As Subject 1 ran approximately 21 feet away from where Subject 2 was being taken into custody, he stepped off the sidewalk into the gutter, and slipped. As Subject 1 slipped, his feet and legs became airborne, with his right shoe flying off of his foot into the air. When he fell on his right side, Subject 1's right ribcage/back area impacted a metal grate, which extended across the sidewalk to the edge of the curb. After falling, the lower half of Subject 1's body was extended into the street. Officer C's momentum, and close proximity to Subject 1, caused him to jump over Subject 1's legs to prevent him from being tripped and falling down.

Officer C described Subject 1 as having his buttocks and legs in the gutter/street. Officer C yelled at Subject 1 to, "Stop. It's the police. Stop resisting." Officer C positioned himself on the side of Subject 1's head, and grabbed onto the back of Subject 1's sweatshirt in an attempt to prevent him from standing and pulled him onto the sidewalk. Officer C gave Subject 1 commands to get onto his stomach. Subject 1 turned onto his hands and knees, braced himself and pushed upward in an attempt to get up. Officer C attempted to punch Subject 1 in the right side of his head with his right hand to control him and prevent him from standing; however, he was unsuccessful due to Subject 1's continuous movements. Officer A described Subject 1 as having flailing his arms, bucking his knees, and using his knees as leverage against the ground in an attempt to stand up.

Officer C continued to pull on Subject 1's sweatshirt, while continuing to order him down onto his stomach. Officer A, seeing Officer C attempting to place Subject 1 onto his stomach, rushed over to assist him. Officer A placed his right hand over Subject 1's right shoulder blade and his left hand over Subject 1's left shoulder blade while skidding on his left knee and thrusting his right knee forward into Subject 1's left rib cage area to gain compliance and prevent him from standing. Officers A and C pushed down on Subject 1's back until he was flat on his stomach so Officer C could handcuff him.

Officer C then transitioned himself around Subject 1's body and straddled him by sitting on his buttocks. Officer A was positioned on the left side of Subject 1's body when he had his right knee on Subject 1's back between his shoulder lateral muscle and spine for approximately two to three seconds before removing it. Subject 1's arms were stretched in front of his body. Officer C grabbed Subject 1's wrists and placed them in handcuffs. Officer A then ran back to assist Officer B with handcuffing Subject 2.

Simultaneously, as Officer C handcuffed Subject 1, Officer B handcuffed Subject 2's hands behind his back. Officers A and B stood Subject 2 up in the street, while Officer C stood Subject 1 up and walked him over to the wall where Officers A and B were standing with Subject 2.

Subject 1 spontaneously stated, "I got the phone to call the police" or "I picked up your phone to call the police." Officer A indicated that Subject 1 complained of pain to his right side and asked if he could sit down. Officer A sat Subject 1 down against the wall. Subject 1 then complained of pain to his sciatic nerve. When Officer A asked Subject 1 if he needed a Rescue Ambulance (RA), Subject 1 told him no. Officer A then called Detective A on his cellular telephone and advised him of the use of force.

**Note:** Officer A stated he saw that Subject 1 was in pain and told him he was going to request an RA for him, approximately five to seven minutes after he had originally asked Subject 1 if he needed an RA.

Detective A's vehicle was observed on a video surveillance camera arriving in front of the location approximately seven minutes after Subject 1 was seated down and leaned against the wall.

After speaking with Officer A, Detective A visually inspected Subject 1 for injuries but did not see any. Detective A noticed that Subject 1 did not look very coherent and appeared to be fidgety; moving his head, neck, hands and licking his lips. Detective A opined that Subject 1 was possibly under the influence of narcotics. Detective A asked Subject 1 what had happened and did not receive a response. Subject 1 began complaining of pain to his right side. Detective A confirmed with Officer A that an RA was responding.

Los Angeles Fire Department (LAFD) personnel received the alarm to respond to the location and arrived on the scene. LAFD personnel assessed Subject 1's injuries and transported him to a local hospital for further medical treatment.

Subject 1 was subsequently admitted to a hospital for treatment of injuries associated with his arrest.

### **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 weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

#### **A. Tactics**

The BOPC found Officers A, B and C's tactics to warrant administrative disapproval.

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

The BOPC found Officer A, B and C's use of 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. Undercover/Plainclothes Operations**

In this instance, while evaluating the officers' actions, the BOPC became concerned that the officers elected to self-initiate an *undercover* buy-bust operation in conflict with their expected assignment of *plainclothes* crime suppression. Their decision also was in clear conflict with established protocols and contrary to established Department training. The officers should have recognized the inherent dangers associated with conducting undercover narcotics enforcement, especially without the benefit of a tactical plan or sufficient resources such as a uniformed chase team.

Although the BOPC appreciated the officers' intentions and work ethics, officer safety always outweighs making an arrest and the actions of the officers posed a great risk and unnecessarily placed them at a substantial tactical disadvantage.

In conclusion, the BOPC found that Officers A, B and C's failure to follow proper Undercover Operations protocols substantially and unjustifiably deviated from approved Department tactical training.

## 2. Body Armor

In this instance, Officers A, B and C did not wear body armor. Based on their assignment and the primary duties of the detail, the officers were expected to initiate contact with subjects in an enforcement capacity, which required that they wear their body armor.

**Note:** The Commanding Officer of the Area indicated that he did not grant an exemption to the body armor requirement.

The BOPC found that Officers A, B and C's actions in this regard substantially and unjustifiably deviated from approved Department tactical training.

## 3. Tactical Vehicle Deployment

In this instance, the officers observed narcotics activity from 15 feet from the unknown subject, and initiated an investigative stop by pulling over to the curb 15 feet west of the subject in order to monitor a potential narcotics transactions, in a location known for high narcotics sales, while all three officers remained seated in the minivan.

When evaluating this tactic, the BOPC first took into consideration that narcotics dealers are known to carry weapons and often times have a propensity toward violence. When officers initiate this type of activity, they should strive to maintain a tactical advantage and deploy in a manner that affords them the highest level of safety, yet there was no evidence suggesting that either of the passenger officers, Officers A or B, did anything to dissuade Officer C from stopping to observe the potential narcotics transaction just 15 feet away.

In conclusion, the BOPC determined that based on the totality of the circumstances, the officers' actions placed them at a significant tactical disadvantage. The BOPC found that the officers' actions in this regard substantially and unjustifiably deviated from approved Department tactical training.

## 4. Identifying Police Attire/ raid jackets

In this instance, Officers A, B and C were in a plain clothes assignment, and working crime suppression enforcement. Officer B wore his raid jacket, while Officer C did not initially don his raid jacket; Officer A claimed in his initial interview that he was wearing his raid jacket, but in a subsequent interview admitted that he was not. All three officers displayed their badges clipped to the right front pocket of their jeans.

The CSD conducts surveillances, looks for wanted subjects and witnesses, serves search warrants, and conduct crime suppression. Detective A indicated that when officers in that unit conduct a crime suppression detail, they wear plain clothes in plain cars. But they are also required to wear raid jackets for identification purposes so that they are visibly identified as police officers.

The BOPC's primary concern regarding the wearing of raid jackets is whether the officers are well identified prior to initiating an investigation. Although the officers verbally identified themselves, Subject 1 believed the verbal identification was a ruse used by robbers attempting to steal Subject 2's drugs. The lack of proper identifiable outerwear likely played some part in the tactical situation resulting in the use of force.

The BOPC found that Officers A and C's actions in this regard substantially and unjustifiably deviated from approved Department tactical training.

#### 5. Code Six

In this instance, the involved officers did not provide their location to Communications Division (CD) until after the arrests of Subjects 1 and 2 had occurred.

Officers communicate their code-six location and their actions when contacting subjects to ensure other officers are aware of their location and to ensure a timely response by additional units in the event a crisis arises. In this case, the officers had sufficient time and the opportunity to broadcast their location prior to initiating their narcotics investigation.

The BOPC found that the officers' actions in this regard substantially and unjustifiably deviated from approved Department tactical training.

- The BOPC additionally considered the following:

1. Punches to boney areas

Officer C attempted to deliver a punch to Subject 1's head, but missed due to Subject 1's movements. To prevent injury to himself, Officer C was reminded that it is preferred that officer's aim strikes at non-boney areas.

2. Medical Attention

After being taken into custody, Subject 1 complained of pain to the right side of his ribs and back. Although Subject 1 refused medical treatment on several occasions, he mentioned the pain several times to the officers. An RA was eventually requested.

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 this instance, the BOPC was critical that Officers A, B and C failed to abide by the guidelines set forth in the current Undercover Operations Directive, or the rules put in place by their immediate supervisor. The officers' actions placed them at a significant tactical disadvantage and could have resulted in tragedy.

In conclusion, the BOPC determined that Officers A, B and C's tactics substantially deviated from approved Department tactical training, without justification.

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

- **Officer B** (Physical Force, Bodyweight)

The officers identified themselves as police officers and Subject 2 fled. Subject 2 fell to the ground, and Officer B "put hands on" Subject 2 as he was laying on the ground. Officer B believed that he handcuffed Subject 2 singlehandedly, and that Officer A assisted him in sitting Subject 2 up and getting him to his feet. Officer B did not describe any type of struggle or difficulty in handcuffing Subject 2.

**Note:** In reviewing surveillance footage gathered during the investigation, it was apparent that Officer B grabbed Subject 2 at waist level and pulled him down to the sidewalk then struggled to handcuff Subject 2 for approximately 75 seconds before Subject 2 was finally handcuffed with the assistance of Officer A. The investigation was unable to determine specific details of the struggle, but it is apparent in the video that Subject 2 was resisting. Absent any further details from the officers, a more specific description of the use of force could not be rendered.

The BOPC determined that an officer with similar training and experience would reasonably believe that the force used to prevent Subject 2's escape and effect his arrest was justified and would have acted in a similar manner. The BOPC found Officer B's non-lethal use of force to be objectively reasonable and in policy.

- **Officer A** (Push/Take Down, Physical Force, Bodyweight, Knee Strike)

Subject 2 fled down the sidewalk approximately three to four steps, then stumbled and fell.



Officer A stated that he tried to grab Subject 2 to try to break his fall due to his momentum and large size, and remembered trying to control him down once he was down. Viewing video of the incident helped Officer A recall that had been trying to control the Subject from his flanks. Officer A applied bodyweight on Subject 2's shoulders and upper back to hold him down while Officer B handcuffed Subject 2.

Officer A observed Officer C struggling with Subject 1. Subject 1 was attempting to get up, and Officer A struck Subject 1's left ribcage with his knee. Officer A then applied his bodyweight on Subject 1's shoulders and utilized the sidewalk as a controlling agent. Officer C was able to handcuff Subject 1.

Officer A observed Officer C struggling with Subject 1, so Officer A struck Subject 1 with his right knee on the left side of his ribcage. Immediately, Subject 1 went down to the ground, and Officer A continued to use bodyweight to hold Subject 1's upper body down because he was still moving his arms. Officer C was able to grab Subject 1's hands and handcuff them before he was taken into custody.

The BOPC determined that an officer with similar training and experience would reasonably believe that the force used to effect the arrest and overcome the resistance of Subjects 1 and 2 was justified and would have acted in a similar manner. The BOPC found Officer A's non-lethal use of force to be objectively reasonable and in policy.

- **Officer C** (Physical Force, Bodyweight)

Officer C observed Officer A's cellphone fall onto the sidewalk. Subject 1 picked up the phone and fled down the sidewalk while Officer C chased him. As Subject 1 fled, he fell on the curb, face up and on his right side. As Subject 1 struggled on his hands and knees, Officer C caught up to Subject 1 and grabbed the backside of Subject 1's jacket. Officer C attempted a closed-fist strike to Subject 1's head, but missed due to Subject 1's movements. Officer A came to assist, and struck Subject 1's left upper torso with his knee. The knee strike by Officer A was effective and allowed Officer C to pull Subject 1 back onto the sidewalk, place him on his stomach, straddle his back, and handcuff him without further incident.

**Note:** Surveillance footage of the incident, although captured from a significant distance, showed that Subject 1 fell before Officer C made contact with him.

The BOPC determined that an officer with similar training and experience would reasonably believe that the force used to prevent Subject 1's escape and affect his arrest was justified and would have acted in a similar manner. The BOPC found Officer C's non-lethal use of force to be in policy.