

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

CAROTID RESTRAINT CONTROL HOLD – 028-13

Division	Date	Duty-On () Off (X)	Uniform-Yes () No (X)
Outside City	3/17/13		

Officer(s) Involved in Use of Force	Length of Service
Officer A	22 years

Reason for Police Contact

Officer A was off-duty at a friend's residence when an argument flared up, and a physical altercation ensued. During the struggle, Officer A was fatigued and believed his only option to subdue the Subject was to apply a carotid restraint control hold (CRCH).

Subject	Deceased ()	Wounded (X)	Non-Hit ()
Subject: Male, 41 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 February 25, 2014.

Incident Summary

On March 17, 2013, Officer A was off-duty and with his wife, Witness A, visiting friends at a residence. They met with the owner of the residence, Witness B. Also present at the gathering were the Subject and Witness C. Over the next several hours, the group congregated in the backyard, where they sat in the jacuzzi and drank a variety of alcoholic beverages.

The group was engaged in a discussion involving politics, which later evolved into the subject of homosexuality. The Subject, who was now intoxicated, took exception to a comment made by Witness B, who expressed a desire not to have her teenage daughters exposed to a homosexual lifestyle. The Subject quickly became enraged and began to yell at Witness B. Officer A and Witness C attempted to calm the Subject, but to no avail. The Subject exited the jacuzzi and began to clench his fists in an angry manner while yelling profanities at Witness B. When Witness C again tried to calm him, he directed his anger toward her by continuing to yell.

In a fit of rage, the Subject uttered a deep growling noise and bent down to lift a large cement planter that was located approximately one foot from the jacuzzi. Believing he was going to try to throw the planter into the hot tub to injure Witness B, Officer A placed both of his hands on top of the planter to prevent it from moving, while verbalizing with the Subject to calm down. Simultaneously, Witness C left the rear yard, entered the residence, and the Subject followed her inside moments later.

After waiting approximately five to ten minutes, Witness B entered her residence to see if the Subject and Witness C had left. She was also concerned for the safety of her two daughters who were alone in their respective bedrooms. Once inside, the Subject emerged from the kitchen area and walked toward Witness B while yelling profanities. Officer A, who had entered the residence immediately behind Witness B, was afraid the Subject was going to assault her, and stepped in between them. Officer A told him to stop and raised his hands at chest level with his palms facing outward. The Subject responded by challenging Officer A to fight and lunged toward him. The Subject grabbed Officer A's hands, which caused them to both lose their balance and fall to the floor. Officer A landed on his back with the Subject on top of him, but was quickly able to change positions by rolling the Subject off him.

For the next minute or so, both men wrestled on the floor, struggling to gain the top position. Officer A verbalized with the Subject to stop fighting, but it had no effect. As Officer A was on his back trying to control him, Witness C approached Officer A's right side and grabbed him, while yelling, "Don't do that, don't do that."

Officer A was now exhausted and did not believe he could continue to struggle with the Subject, let alone fend off Witness C. Based on the Subject's wild and violent behavior, Officer A was afraid that if he was able to break free and stand up, he would possibly hit the Subject in the head with a household object or attempt to harm or kill someone else inside the residence. Officer A believed his only viable option was to try to render the

Subject unconscious with a carotid restraint control hold since he was wearing only a pair of swim trunks and had no access to other tools.

The Subject was in a position of advantage at this point, as he was on top of Officer A with his hands leaning on his chest. Officer A grabbed the Subject's right hand, which pulled him off balance and caused him to lean forward. In an attempt to turn the Subject onto his back, Officer A used his open right hand to strike his left shoulder. The Subject's unsteady position, combined with the force of the blow to his shoulder, caused him to spin over so that he was now positioned on his back but still lying on top of Officer A. Officer A reached up with his right arm and placed the crook of his elbow underneath the Subject's chin. He fought back by trying to pull the officer's arm from around his neck while violently kicking his legs. To keep the Subject immobilized, Officer A wrapped his legs around his waist while using his biceps and forearm to apply pressure on the Subject's carotid artery. The officer locked the hold by grabbing his left bicep with his right hand and placing his left hand behind the Subject's head. After maintaining the hold for approximately 10 to 15 seconds, Officer A felt him go limp and realized he was unconscious. He then rolled the Subject off him and positioned him on his stomach with his head turned to one side.

As Officer A rose to his feet, he heard the Subject exhale and determined he was breathing and not in immediate medical distress. Witness A then observed Witness C lunge at Officer A while yelling, "What did you do to him?" Witness A immediately intervened and pushed Witness C into the adjacent family room, where they continued to shove and scratch each other.

Officer A walked into the family room to separate the two women. Witness C quickly disengaged and went back into the other room to check on the Subject, who was still unconscious. The officer directed Witnesses A and B to move further into the living room by the front door of the residence. Witness B was on the telephone at the time with "911." She eventually handed the phone to Officer A, who advised them of what had occurred and that he used a carotid restraint control hold to render the Subject unconscious.

While speaking with the dispatcher, Officer A observed the Subject regain consciousness and stand to his feet. He immediately resumed his aggressive behavior and began walking toward Witness B as if he was going to assault her. Witness B was afraid and moved around her dining room table in an attempt to get away from him. While that occurred, Witness C opened the front door and tried to coax the Subject to leave the residence. Officer A stopped communicating with the dispatcher at that point and dropped the telephone to the floor.

In an effort to protect Witness A and Witness B, Officer A stepped in front of the two women and moved them out of harm's way. Witness C and the Subject were now standing in the entryway facing each other. Officer A approached them from the side and simultaneously pushed them out of the residence. The Subject attempted to force his way back into the residence, but Officer A was able to close and lock the door

before that occurred. Within seconds, the Subject responded by punching his left hand through a glass windowpane in the door, lacerating his ring finger in the process.

Moments later, uniformed officers arrived at scene and detained the Subject in the front yard of the residence. Officer A eventually made contact with those officers and identified himself as a Los Angeles Police Department employee. After separating and interviewing all of the involved parties, the uniformed officers determined that an arrest of the Subject was not warranted and documented the incident in a report.

Due to the injuries sustained to the Subject's hand, the officers summoned a rescue ambulance (RA) to the scene. After receiving first aid from the responding medical personnel, he was subsequently transported to a local hospital for further treatment.

Immediately following the incident, Officer A telephonically notified his supervisor that he had been involved in a Categorical 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 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 unanimously made the following findings.

A. Tactics

The BOPC found Officer A's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

Does not apply.

C. Lethal Use of Force

The BOPC found Officer A's use of lethal force to be in policy.

Basis for Findings

A. Tactics

- The evaluation of the decision to take enforcement action in the capacity of an off-duty officer requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Each incident must be looked at objectively and the areas of concern must be evaluated based on the totality of the circumstances.

Officer A was off-duty and at a friend's residence when he attempted to de-escalate a verbal altercation between the Subject and Witness B. The confrontation subsequently became physical when the Subject lunged at Officer A, which caused both parties to fall to the ground.

The BOPC conducted a thorough and comprehensive review of this case and believed that it was reasonable for Officer A to have responded as he did in this instance. Officer A utilized sound judgment while attempting to convince the Subject to cease his aggressive behavior, thus ensuring the safety of Witness B. Officer A, while off-duty, was not equipped with any tools. Additionally, Officer A did not utilize any available compliance techniques and kicks to create distance from the Subject's attack.

The BOPC determined Officer A's actions did not substantially deviate from approved Department tactical training. However, in an effort to enhance future tactical performance, Officer A would benefit from a review of various force options.

In conclusion, the BOPC determined that Officer A's tactics warrant a tactical debrief.

B. Drawing/Exhibiting

- Does not apply.

C. Lethal Use of Force

- Officer A was involved in a prolonged struggle with the Subject wherein he and the Subject were alternating the position of advantage while on the ground. During the struggle, Officer A became exhausted and fatigued. Additionally, Witness C joined the Subject in the physical struggle. Officer A believed that his force options were limited due to the fact that he was clothed in shorts while fighting two persons. Furthermore, Officer A was not equipped with any additional tools to subdue the Subject and Witness C. In this circumstance, Officer A believed that his life was in danger if he lost consciousness. Moreover, the possibility existed that he would be seriously injured if the fight was to continue.

Officer A surmised that he had no other viable force options and believed the situation rose to a level that warranted the use of lethal force. Consequently, Officer A rolled on his back with the Subject's back positioned on his chest. Officer A positioned his right arm and the crook of his elbow underneath the Subject's chin. The Subject resisted by attempting to pull Officer A's arm from around his neck while violently kicking his legs. Officer A immobilized the Subject by wrapping his legs around the Subject's waist while simultaneously applying pressure to the Subject's carotid artery with his bicep and forearm. Officer A completed the CRCH by grabbing his left bicep with his right hand and placing his left hand behind the Subject's head. Consequently, the Subject was rendered unconscious at which time Officer A immediately released the CRCH.

Officer A checked the Subject's medical condition and determined that he was breathing and not in medical distress. Officer A positioned the Subject on his stomach with his head turned to one side. Officer A was not in possession of handcuffs and therefore did not complete the handcuffing process.

Given the totality of the circumstances, an officer with similar training and experience, faced with similar circumstances would reasonably believe that the Subject and Witness C's continuous physical assault during a prolonged struggle presented an immediate threat of serious bodily injury or death. Furthermore, Officer A was not equipped with any other options that would have enhanced his ability to adequately address the threat posed by the Subject and Witness C. With that in mind, Officer A responded with the only viable option available to him to prevent his death or serious bodily injury.

In conclusion, the BOPC found Officer A's lethal use of force to be objectively reasonable and in policy.