

ABRIDGED SUMMARY OF A LAW ENFORCEMENT RELATED INJURY AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS

LAW ENFORCEMENT RELATED INJURY – 037-09

Division	Date	Duty-On(X) Off()	Uniform-Yes(X) No()
Southeast	06/07/09		

Officer(s) Involved in Use of Force	Length of Service
Officer A	11 years, 11 months
Officer B	9 months

Reason for Police Contact

Officers A and B responded to a radio call of a male involved in a dispute and who was possibly vandalizing a vehicle. The officers approached the Subject who threw a screwdriver to the ground. While attempting to arrest the Subject, the officers used force on the Subject, who sustained a law enforcement related injury and was hospitalized.

The Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
Male, 54 years			

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 suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The 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 either male or female employees.

The following incident was adjudicated by the BOPC on May 4, 2010.

Incident Summary

Officer A and B responded to a radio call of a male involved in a dispute and possibly vandalizing a vehicle. Officers A and B exited their vehicle, went through a pedestrian gate, down a corridor, and noticed a male matching the description given in the radio call. Officer A saw the male, later identified as the Subject, appear to be doing something to a white vehicle. Officer B observed the Subject violently stabbing a tire, with what he believed was a knife held in his right hand. Officer B told the Subject to drop the knife and to stop. Officers A and B drew their firearms as the Subject stood up and walked toward them, holding what they both believed to be a knife. Officer B continued to issue commands to the Subject to stop and drop the knife, but the Subject refused. The Subject finally stopped his advance and threw a screwdriver, about four feet to the right of Officer B. Officer A holstered his weapon and removed the TASER from its holster, which was attached to his belt. Officer B told the Subject to turn around or the TASER would be used on him. Officer A observed the Subject placing his hands in his waistband area, and felt the Subject was trying to arm himself. Officer A discharged the TASER at the Subject, and struck the Subject's upper torso. The TASER appeared to have no effect on the Subject, because he stood up and ripped the darts out of his body with his left hand. Officer A then deployed his OC spray and sprayed the Subject's face with a two-second burst, which had no effect on the Subject.

Officer A believed that that the Subject was possibly under the influence of PCP and deployed his collapsible baton. Officer A struck the bony portion of the Subject's right knee with his baton, which caused the Subject to buckle and go down. However, the Subject stood back up and faced the officers. Officer A then delivered two baton strikes to the Subject's left bicep/tricep area, but the strikes did not appear to affect the Subject, who had his hands in his front jacket area. Officer A then struck the bony portion of the Subject's right wrist with the baton and the Subject began to fall to his knees.

Despite the officers' orders to get on the ground, the Subject continued to be uncooperative and started to rise up from the ground. Officer B struck the Subject's back with his baton as the Subject turned his body in a protective stance. Immediately after the baton strike, the Subject went down to his knees, and lay on his stomach.

Officer B then put his right knee on the Subject's left shoulder and used his body weight to control the Subject's movements. Officer B could not get the Subject's left hand out from under his body, so Officer A used his baton to pry the Subject's arm out from underneath him and place it behind his back. The Subject was then handcuffed.

The following morning after the arrest, the Subject was diagnosed with a left shoulder separation which required surgery and hospitalization.

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/Holstering 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 while 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 and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A and B's drawing/exhibiting/holstering to be in policy.

C. Less-Lethal Use of Force

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

D. Non-Lethal Use of Force

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

Basis For Findings

Tactics

In their analysis of this incident, the BOPC identified the following considerations:

1. Making contact with Subjects

In this instance, Officers A and B were approximately three to four feet apart, and approximately 15 feet away from the Subject when they drew their service pistols and stated they had no available cover in the immediate area. Officer B continued to give the Subject commands to drop the weapon; however, he failed to comply and walked approximately six feet toward the officers, then stopped. Once stopped, the Subject discarded the screwdriver by throwing it down to the ground approximately four feet to his right.

In conclusion, although the officers stated they had no available cover, their decision to allow the Subject to close the distance and approach to within approximately nine feet from them limited the amount of time available for them to respond to any threat posed by the armed subject and placed them at a tactical disadvantage.

2. Simultaneous commands

In this instance, Officers A and B had no specific discussion regarding tactics while en route to the radio call; however, it was understood that in Officer B's role as a probationary officer, he would be expected to be the contact officer. During the struggle with the Subject and after delivering the fourth baton strike, Officer A also began issuing verbal commands and directed the Subject to get on the ground.

In conclusion, the involved officers are reminded that when multiple officers give commands, it may create confusion in the mind of the subject resulting in non-compliance. Furthermore, the officers are reminded of the importance of coordinating their roles to ensure that the integrity of the contact and cover concept is not compromised.

Drawing/Exhibiting/Holstering

In this instance, Officers A and B observed the Subject kneeling next to the victim's car in the northeast corner of the driveway. Officer B observed that the Subject was stabbing the rear passenger tire of the car with what appeared to be a knife. Officer B drew his service pistol and stated, "Drop the knife, drop the knife!" the Subject did not drop the weapon and stood up. Officer A also drew his service pistol, because the Subject was holding what appeared to him to be a knife in his right hand and pointed it toward him and his partner.

In conclusion, due to Officers A and B's reasonable belief that the situation may escalate to a level where deadly force may become necessary, the BOPC found their Drawing/Exhibiting/Holstering to be in policy.

Less-Lethal Use of Force

In this instance, the Subject did not comply with the officers' commands and continued to move his hands to his waistband and jacket areas, in and out of the officers' view. Based on his training and experience in past encounters with armed subjects, Officer A believed the Subject could have been attempting to arm himself with another weapon concealed in his waistband or jacket. Officer A holstered his service pistol while Officer B continued to cover the Subject with his service pistol. Officer A removed Officer B's TASER from his duty belt, pointed the TASER directly at the Subject and broadcast a request for a back-up.

Officer B told the Subject that if he did not comply he would be tased. The Subject ignored the command and the warning and continued to move his hands to his waistband and jacket area. In fear that the Subject was arming himself, Officer the

Subject fired the TASER darts at the Subject's upper torso from a distance of approximately nine feet. The TASER had no effect on the Subject.

In conclusion, based on his belief that the Subject may have been arming himself and it was unsafe to approach him, the BOPC found the application of Less-Lethal force utilized by Officer A to be reasonable and in policy.

Non-Lethal Use Of Force

In this instance, after the TASER had no effect on the Subject, Officer A believed that the Subject was possibly under the influence of PCP and assessed his force options. Not wanting to make physical contact with the Subject, Officer A deployed his OC spray in a two second burst toward the Subject's face from a distance of approximately nine feet. The Subject appeared to be unaffected by the OC spray and continued to conceal his hands in his jacket and waistband areas. Believing that the Subject may be arming himself, Officer A drew his collapsible baton and struck the Subject four times. After the fourth baton strike, the Subject dropped down to his knees.

The Subject planted his foot on the ground, started to stand up and turned toward Officer B. In fear that the Subject was going to lunge toward him, Officer B attempted to strike the Subject's left arm area with his collapsible baton. The Subject turned to his right to avoid the strike and was struck in the back then fell to his knees. Both Officers B and A utilized firm grips and physical force to take the Subject down to the ground. Once face down on the ground, the Subject pulled both of his arms underneath his upper torso. The officers used their bodyweight to control the Subject's movement and prevent him from getting up as Officer B used his right hand to pry the Subject's right hand and arm out from underneath him and handcuffed the Subject's right wrist. Officer A then used his extended baton to loop it underneath the Subject's left arm and pry it out from underneath the Subject allowing Officer B to complete the handcuffing.

In conclusion, the BOPC found that based on the Subject's uncooperative and aggressive actions, Officers A and B' application of Non-Lethal force was objectively reasonable to overcome the resistance presented by the Subject. The BOPC found the applications of Non-Lethal Force utilized by Officers A and B to be in policy.