

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

LAW ENFORCEMENT RELATED INJURY – 038-09

Division	Date	Duty-On(x) Off()	Uniform-Yes(x) No()
Southwest	06/28/09		

Involved Officer(s)	Length of Service
Officer A	2 years, 2 months
Officer B	2 years, 2 months
Officer C	2 years, 7 months
Officer D	2 years, 7 months
Officer E	2 years, 6 months
Officer F	2 years, 6 months
Officer G	1 year, 8 months
Officer H	1 year, 1 month

Reason for Police Contact

During a consensual encounter with officers, the Subject admitted that he was on probation and in position of illegal drugs. A struggle ensued between the subject and the officers, which resulted in a law enforcement related injury incident.

Subject(s) **Deceased ()** **Wounded (x)** **Non-Hit ()**

Subject: Male, 29 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 suspect 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 Commission and made itself available for any inquiries by the Commission.

In accordance with state law divulging the identity of police officers in public reports is prohibited, so the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on September 28, 2010.

Incident Summary

Officers A and B were in a marked black and white police vehicle when they observed the Subject and initiated a consensual encounter to ask him about drug and prostitution activity in the area. Officer A positioned the police vehicle behind the Subject and both officers exited the vehicle. As he was exiting, Officer B broadcast there location.

Officer B approached the Subject and engaged him in general conversation. The Subject responded to the officers telling them that he was on his way to a drug class. When Officer B asked why he was going to a drug class the Subject responded, "I've been arrested for possession." Officer B asked if he was on either probation or parole and the Subject responded that he was on probation. Officer B asked the Subject if he could pat him down and he replied, "Yeah, no problem." The Subject also indicated to the officers that he was not in possession of narcotics.

As Officer A approached the Subject to conduct the search, the Subject stated that he was in fact in possession of marijuana. According to Officer A, the Subject then turned and started to run. Officer A was able to quickly grab the back of the Subject's shirt and keep him from running away. Once grabbed, the Subject turned toward Officer A and swung his fist at him. As Officer A dodged the swing, Officer B wrapped his arms around the Subject's upper body in a "bear hug." Officer A saw the Subject start punching Officer B in the torso. Officer B relinquished the grip he had on the Subject and removed his collapsible baton from its holder. Officer A tackled the Subject taking him to the ground. As Officer A was lying on top of the Subject, he let go of him with one hand so he could use his radio to request back-up. As he did this, the Subject started to push himself up off of the ground. As he was getting up, Officer B used his baton to strike the Subject's right side rib area.

According to Officer A, the baton strikes were ineffective. The Subject pushed up and was able to get on "all fours" at which point he started swinging his elbows at Officer A. The Subject's right elbow struck Officer A on the right side of his face. Officer A attempted to force the Subject to the ground but he continued to fight and push himself up. Officer B jumped on top of officer A so that they could collectively force the Subject to the ground with their combined body weight.

According to Officer B, the Subject was much stronger than he had anticipated, and was able to keep from being pushed to the ground. The Subject was able to push Officer B toward the street, which concerned him about being struck by passing vehicle traffic. Officer B separated himself from the Subject and again drew his baton. According to Officer B, he delivered approximately three strikes to the Subject's knee.

The Subject did not react to the strikes and Officer B feared that the Subject was on Phencyclidine (PCP). According to Officer B, he did not believe Oleoresin Capsicum (OC) spray was an option because his partner was directly behind the Subject, and Officer B would risk hitting Officer A with the spray. The officers' TASER was in their police vehicle. The Subject continued to fight. Officer A grabbed the Subject's legs, which started to bring the Subject down to the ground and exposed his ribcage to Officer B. According to Officer B, he delivered several more strikes with his baton to the

Subject's ribcage area, but the strikes were ineffective. Officer B broadcast a request for back-up. The Subject pushed himself back up, and Officer A used his closed fist to strike the Subject in the face once or twice. Officer A was able to gain control of the Subject's left arm.

Witness A ran from across the street to assist the officers. Officer B gestured to Witness A to grab the Subject's right arm. With Witness A's assistance, the officer were able to gain control of the Subject, who was handcuffed by Officer A.

Simultaneously, Officers C and D arrived. Officer C observed the officers struggling with the Subject, who was kicking his legs, and trying to roll off his stomach. Officer C placed his knee on the Subject's lower legs in an effort to keep him from kicking.

Officer D ran toward the officers and observed them struggling to control the Subject, who was on his stomach, but was trying to turn over. It appeared to Officer D that Officers A and B were attempting to handcuff the Subject. Officer D, using his body weight, placed his knee on the Subject's upper back in order to keep him pinned on the ground.

Officers E and F arrived and according to Officer E, he observed three or four officers attempting to restrain the Subject, who was kicking his feet and flailing his arms. Relieving Officer B, Officer E applied pressure to the Subject's lower back with his knee and placed his arm on the Subject's shoulder to keep him on his stomach. Officer B, with the assistance of Officer F, placed a Hobble Restraint Device (HRD) on the Subject's legs. After the HRD was secured and the Subject was rolled onto his side, Officer A conducted a pat down search of the Subject and removed four bags of marijuana from his pants pockets.

Officers G and H arrived. Officer G approached and noticed that numerous officers were holding the Subject down. Officer G noted that the Subject was kicking and that no one was holding his ankles. As such, Officer G grabbed one of the Subject's ankles. Officer G then assisted the officers carrying the Subject to the police vehicle.

Officer H approached the scene, and observed approximately four officers holding the Subject on the ground. Officer H grabbed the HRD and wrapped it around the Subject's legs. Once he felt that he had control of the HRD, Officer H placed his knee on the Subject's calf area. Together with the other officers, Officer H lifted the Subject and carried him to the police car.

Officers B, E, F, G, and H carried the Subject handcuffed and hobbled to the police car.

Officer F heard the Subject state that he was in pain and in response; he requested a rescue ambulance (RA). The RA transported the Subject to a nearby hospital for medical treatment. The Subject was admitted to the hospital due to a fracture to one of his lumbar vertebra.

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 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, C, D, E, F, G and H's tactics to warrant a tactical debrief.

B. Non-Lethal Use of Force

The BOPC found Officers A, B, C, D, E, F, G and H's non-lethal use of force to be in policy.

Basis for Findings

A. Tactics

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

In this instance, Officer A positioned the police vehicle behind the Subject and placed the vehicle in park, intending to initiate a consensual encounter. According to Officer A, *"My partner exits the vehicle. And as he's exiting, he goes Code Six, indicating that we're doing an investigation."* The investigation revealed that Communications Division (CD) had no record of the transmission. In conclusion, the officers' actions did not substantially deviate from Department policy and procedure.

In this instance, after Officer B's baton strikes to the Subject's knee proved ineffective, he assessed the situation and discounted his OC spray as a viable option as Officer A was in close proximity to the Subject.

Officer B targeted the Subject's ribcage, which is neither a primary nor a secondary target area, and delivered approximately five strikes; however, Officer B could not definitively determine where the baton strikes impacted the Subject. With the Subject continuously moving and aggressively attempting to escape and Officer B targeting an area near the Subject's spine, the likelihood for a serious injury to the Subject was increased. Additionally, it was noted that Officer B delivered multiple baton strikes to

the Subject's back area while Officer A was positioned on the Subject's lower torso/legs attempting to restrain him. Officer B created a circumstance wherein Officer A could have been struck and incapacitated. In conclusion, the officers' actions did not substantially deviate from Department policy and procedure.

In this instance, as Officers A and B struggled to take the Subject to the ground, the Subject punched Officer B in the chest numerous times and elbowed Officer A in the face. As non-lethal force, including the deployment of baton strikes had proven ineffective; Officer B broadcast a backup request to CD. It would have been prudent for Officers A and B to broadcast a request for 'help' to more accurately convey the seriousness of their situation to responding units. In conclusion, the officers' actions did not substantially deviate from Department policy and procedure.

In this instance, Officer A utilized punches to a hard bone area (the Subject's face) increasing the risk of injury to himself. Although this type of punch is not recommended; the use of a punch to a hard bone area is not prohibited. In conclusion, the officers' actions did not substantially deviate from Department policy and procedure.

In this instance, when Officers C, D, G and H arrived at the scene and observed Officers A and B struggling to control the Subject the officers exited their vehicles and ran to provide assistance, leaving their TASERS behind in their respective police vehicles. There is no Department standard that requires officers to deploy a TASER. In conclusion, the officers' actions did not substantially deviate from Department policy and procedure.

Therefore, the BOPC found Officers A, B, C, D, E, F, G and H's tactics to warrant a tactical debrief.

B. Non-Lethal Use of Force

The BOPC noted that in this instance, Officers A and B were attempting to detain the Subject. The Subject attempted to flee and assaulted the officers, which prompted the officers to utilize a variety of force types in order to take him into custody.

Officers C, D, E, F, G and H arrived at the location and observed the Subject in a prone position, kicking and attempting to roll onto his side. Officers C, D, E, G and H applied bodyweight to control the Subject. In the interim, Officer F grabbed the Subject's legs and elevated them, thus enabling Officer B to apply an HRD around the Subject's ankles.

Officer B's decision to deploy the collapsible baton and target the Subject's right rear torso area was based on the following,

"I knew OC wasn't an option. My OC spray, which was located on my left side of my belt, was not an option. My partner was directly behind the suspect, so me to place it in, I was risking hitting my partner, also. I really didn't want to - - I - - I didn't - - me and my partner, we do have the taser, but we didn't utilize it. It was in the car at the time. So

really, the only other option was to - - to use my collapsible baton at that point because anything else wasn't working."

Additionally, Officer B stated, "...the [Subject] was still fighting the whole - - the whole time, and I had - - my partner had slid down to the lower portion of his legs, which started bringing the - - the suspect towards the ground at which point opened up his ribcage so where I could - - where I could try to do effective strikes on his ribcage without endangering my partner at this point. Because before, my partner was more towards the top and the knees were the - - the only really spot that I had without endangering my partner."

The non-lethal force used by Officers A, B, C, D, E, F, G and H to overcome the actions of the Subject was reasonable and within Department guidelines. In conclusion, the BOPC found that the non-lethal applications of force utilized by Officers A, B, C, D, E, F, G and H to be in policy.