

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

HEADSTRIKE WITH AN IMPACT WEAPON 052-09

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Foothill	08/09/09		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	3 years
Officer B	2 years, 10 months
Officer C	12 years, 10 months
Officer D	2 years, 6 months
Officer G	9 years, 1 month

Reason for Police Contact

The officers responded to a loud party complaint call.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
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Subject: Male, 23 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 and addenda items); the 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 July 20, 2010.

Incident Summary

Officers A and B responded to a loud party call in a residential neighborhood. Upon arrival, Officer B utilized the police vehicle's Mobile Digital Computer to notify Communications Division (CD) of their location and status.

The officers exited their vehicle, heard loud music, and approached a closed wrought iron gate leading to a driveway at the residence. Upon arrival at the gate, the officers encountered two unidentified males and requested to speak to the owner of the residence. One of the males shouted profanities at the officers and indicated that the officers could not enter the premises. The officers then asked the other male if they could speak to the owner and the two males just walked away from the officers.

The officers opened the gate and walked towards the rear yard of the residence, where they encountered a group of about six males and a few females advancing towards them. The group shouted profanities at the officers and told them to leave. The officers retreated back to the street, with the group following them. Officer B then broadcast a request for additional units to respond to the location.

Officers C, D, E, and F next arrived at the location in response to the request for additional units. Officer C did not place himself Code 6 upon arrival at the location, and could not recall whether his partner did so, as his primary focus was on what was going on at the house.”

According to Officer C, he saw several officers in the front driveway with seven or eight people standing in front of them and heard a little yelling going on back and forth. According to Officer A, there was a main Subject who began to incite the crowd, wanted them to fight with the police. The officers then decided to take the Subject into custody for inciting the crowd. The Subject was subsequently identified as the son of the owner of the residence.

Officers A, C, and D approached the front door of the residence, while Officer B returned to his vehicle to retrieve his baton. Once in possession of the baton, Officer B joined the other officers at the door to the residence. As Officer D entered the residence an unidentified male grabbed him by the neck and punched him in the back of the head. Officer D told Officer B to detain the individual. According to Officer B, he attempted to take the male into custody, but another officer grabbed the male away from him, which caused him to believe that the male was detained. However, the unidentified male was ultimately not detained and the investigation of this incident did not establish his identity. Officer B continued into the residence and grabbed the Subject’s hand as he headed toward the kitchen. Officer B further stated that another officer then grabbed the Subject from his grasp and he then began to push the crowd back.

According to Officer D, the Subject came toward him as other officers attempted to grab the Subject by the hands. The Subject then pushed Officer D into a wall, at which point Officer D grabbed and took the Subject to the ground. As the Subject went down, he grabbed Officer D’s uniform near the neckline, causing his shirt to rip.

The Subject reported that he was standing in front of the couch in the living room with his girlfriend, when the officers entered the residence. Upon seeing the officers, he just kept cussing at them and was just talking smack to them as he did not believe that they had a right to enter the house.

The Subject admitted that he had consumed a large amount of alcohol prior to the arrival of police officers and had used profanity, but denied resisting being taken into custody. The Subject further stated that the officers grabbed him and threw him to the ground, and that the officers punched him in the face and head several times.

Officer D tried to get up and placed his hand on the ground, at which point the Subject started biting his left wrist. According to Officer D, he told the Subject to stop biting his wrist but the Subject did not comply. Officer D used his right closed fist to punch the Subject twice in the right side of his head to get him to release his wrist.

According to Witness A, he heard Officer D say in Spanish that the Subject was biting him.

Officer C observed several officers try to take the Subject into custody. The Subject was not complying, was being aggressive, combative, and flailing his arms around. The officers grabbed the suspect and they all ended up slamming into the furthest east wall of the living room as the Subject was taken to the ground.

Officer C further stated that he positioned himself on the right side of the Subject and tried to gain control of his right arm but the Subject continued to resist. Officer C then struck the Subject in the side several times with his baton in an attempt to gain compliance, but the Subject continued to swing his arms at Officers C and D.

Officer C heard Officer D scream that the Subject was biting him. Officer C decided to try to get pain compliance from the Suspect to release his hold on Officer D and swung his baton trying to strike the Subject's clavicle area and the rear of his shoulder. Officer C completely missed hitting the suspect where he intended and instead struck the suspect in the back of the head. Officer C further indicated that he made a second attempt at hitting the suspect but that he missed his target area and hit the Subject a second time in the back of the head.

Officer C re-assessed the situation, dropped his baton, grabbed the Subject by the back of the head, and struck him with a closed fist in the back of the head to try and pull him off of Officer D. Officer C then saw that the Subject had released his bite on Officer D's left wrist and he grabbed the Subject's right arm and wrenched it back behind him, which enabled another officer to place a handcuff on Subject's right hand.

According to Officer A, he was attempting to control the crowd in the living room when the Subject's mother and father approached him. The parents were belligerent and yelling at the officers to release their son. The mother then grabbed Officer A by his wrist and told him that she was going to escort him out of the house. Officer A then swung his arms and the mother fell to the ground.

According to Officer G, upon entering the living room he observed that the officers needed assistance in handcuffing the Subject who was refusing to give

his arms and place them behind his back. Officer G further stated that he then got down on his knees and grabbed one of the Suspect's arms and assisted Office C in placing them behind the Subject's back.

The Subject was handcuffed and escorted from the residence by Officers A and D to be secured in a police vehicle. According to Officer D, as the Subject was walking toward the vehicle, he tensed up and grabbed Officer D's right hand and Officer D told the Subject to release his hand, just relax and stop resisting. Officer D then lost his balance and reached toward the police vehicle with his left hand to regain his balance while pushing the Subject against the car. The Subject then turned his head and bite Officer D's watch, which he wore on his left wrist, causing him pain. Office D ordered the Subject to stop biting his wrist but the Subject did not comply. Officer D then stuck the Subject twice on the right side of his head with a closed fist.

After being struck, the Subject released his grip on Officer D's wrist and was secured in the police vehicle by Officer A, with assistance from an unidentified sergeant.

According to Officer A, he did not observe the Subject attempt to bite Officer D, but indicated that the Subject was just kind of jumping backward and flipping his head back side to side toward his face.

According to Sergeant A, who had responded to the help call, he observed Officers A and D with the Subject upon his arrival at the location. The Subject was struggling with the officers and Sergeant A heard one of the officers say that the Subject was biting him again.

Once the Subject was secured, Officer D advised Sergeant A that he had been involved in a use of force and had sustained injuries, which prompted Sergeant A to request the response of a Rescue Ambulance (RA). Officer D was subsequently transported to a hospital for treatment of his injuries. Officer D was accompanied to the hospital by Detective A.

Officer C advised Sergeant A that he had struck the Subject in the head one or more times with his baton, which would represent a Categorical Use of Force (CUOF). Sergeant A broadcast a request for an additional RA for the Subject, who was subsequently transported to a hospital for treatment. Following treatment, the Subject was cleared for booking.

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 revolver 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, and G's tactics to warrant a tactical debrief.

C. Non-Lethal Use of Force

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

D. Lethal Use of Force

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

Basis for Findings

A. Tactics

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. Each tactical incident inherently results in considerations for improvement. In this instance, although there were identified areas for improvement, the tactical considerations neither individually nor collectively *"unjustifiably and substantially deviated from approved Department tactical training."*

In conclusion, a Tactical Debrief is the appropriate mechanism for Officers A, B, C, D, and G to evaluate the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future.

Therefore, the BOPC directed that Officers A, B, C, D, and G attend a Tactical Debrief.

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

Debriefing Point No. 1: Updating Location

In this instance, the location of the initial radio call was actually several houses from the actual involved residence. Although the officers arrived in the area and advised CD they were Code Six via the MDC, they did not advise CD of their updated location.

In conclusion, Officers A & B are reminded that in order to assist in facilitating the response of additional units should it become necessary, they should advise CD of their updated location.

The officers approached a closed wrought iron gate leading to the driveway of the residence. Officers A and B encountered an unidentified male standing near the gate and asked him if they could speak with the owner. He shouted profanities at the officers and refused to comply by telling them they were not allowed inside. The officers additionally observed approximately five people gathered in the front yard who also refused to comply.

The officers proceeded to open the gate and walked down the driveway toward the backyard, where they observed approximately fifty people gathered. The crowd of people observed the officers presence and the music was turned down.

A large number of people then began yelling at the officers and advanced toward them, causing the officers to walk back down the driveway toward the entrance gate. Due to the number of people and their aggressive actions towards the officers, Officer B broadcast a request for two additional units for a loud party.

Debriefing Point No. 2: Resources

In this instance, the officers were immediately confronted by an uncooperative and hostile group of people at the front of the residence and decided to enter the property. By entering without the benefit of a sound tactical plan and additional resources, they placed themselves at a tactical disadvantage. It would have been more prudent for the officers to have remained at the front of the residence behind the gate, develop a tactical plan and request additional units, including a supervisor and an air unit.

In conclusion, Officers A and B are reminded to maintain a tactical advantage by developing a plan and awaiting appropriate resources prior to engaging a hostile group of people. This would have maximized their ability to properly respond and make the most appropriate tactical decisions.

Debriefing Point No. 3: Tactical Planning

In this instance, the officers had assembled an arrest team to apprehend the Subject inside of the residence. The Subject exhibited a higher level of resistance than is associated with an uncooperative individual as he ignored all commands, yelled profanities at the officers and defiantly entered the residence. In addition, the crowd of people that were around the Subject was also hostile toward the officers. It would have been tactically prudent for the officers to have developed a tactical plan that would have defined each of the officers' roles prior to entering a hostile location.

In conclusion, the officers are reminded to develop a tactical plan to maximize their ability to properly respond and enhance officer safety. This topic will be discussed at the Tactical Debrief.

Debriefing Point No. 4: Required Equipment

In this instance, Sergeant A observed the officers struggling with the Subject and directed Officers A & D to request a leg restraint device because neither of them had one in their possession. A leg restraint device is a required piece of equipment and shall be carried by officers in field assignments.

In conclusion, Officers A and D are reminded of the importance of carrying all of the required equipment with them while performing field duties. This would afford the officers with an additional restraint option.

C. Non-Lethal Use of Force

Officer G – Physical Force, Firm Grip.

Upon entering the residence, Officer G stated that he grabbed what he believed was the Subject's right arm, assisting Officer C until the Subject was handcuffed.

Officer A – Physical Force, Firm Grip.

As Officer A monitored the crowd, he was approached by the Subject's parents, the owners of the residence. Officer A, who stood between them and the officers, stated that they were belligerent and yelling at the officers to release their son. The mother then grabbed Officer A by his left wrist and said she was going to escort him out of the house. Officer C swung and extended his left arm to push her back.

Officer A stated that when he learned that Officer D was being bitten, he approached the Subject's right side. Officer A grabbed the Subject's arm and handed it to Officer C until he was handcuffed.

Officer B – Physical Force, Firm Grip.

Officer B continued pulling the Subject toward the front door when an unknown officer grabbed the Subject's by his right arm and pulled him from his grasp.

Officer D – Physical Force, Firm Grip, Bodyweight, Takedown, Punches (4x)

As Officer D entered the residence, he stated the Subject aggressively lunged at him. The Subject began to lose his balance and placed his hands on Officer D's chest, forcing him against the east wall of the entryway. Officer D was pinned against the wall momentarily, at which time he took control of the Subject's hands and utilized his bodyweight to take him to the ground.

When the Subject was forced to the ground, he landed in a prone position. Officer D placed his knees on the left side of the Subject and attempted to gain control of the Subject's left arm. Officer D utilized his bodyweight on top of the Subject to prevent him from standing up. Officer D placed his left hand on the ground next to the Subject, to brace himself and maintain his balance. The Subject then turned his head to the left and bit Officer D on the left wrist.

After freeing his left wrist, Officer D took control of the Subject's left arm and placed it behind his back, until he was handcuffed.

Officers A and D assisted the Subject to his feet and exited the residence. They proceeded to Officer A's police vehicle. As they crossed the sidewalk and approached the police vehicle, the Subject turned to his right, causing Officer D to lose his balance. Officer D placed his left hand on the left rear passenger door of the police vehicle to maintain his balance, while pushing the Subject against the car. The Subject then turned to his left and bit Officer D's watch, which he wore on his left wrist, causing him pain. Officer D then punched the Subject twice on the back of his head with a closed right fist, causing him to release his wrist.

Officer C – Physical Force, Firm Grip, Baton Strikes (2x), Punches (2x).

Officer C observed two officers and the Subject go to the ground, at which point he went down to the ground to provide assistance. Officer C went down to his knees and straddled the Subject's right leg. Officer C held his collapsible baton in his right hand and attempted to gain control of the Subject's right arm with his free hand as the Subject was swinging his arms and kicking his legs, preventing Officer C from controlling his right arm. Officer C grabbed the extended portion of his collapsible baton with his left hand while holding the handle in his right hand. Officer C thrust the collapsible baton into the Subject's right side rib cage area two times. The Subject yelled in pain, prompting Officer C to stop striking him with the collapsible baton and reassess the situation.

After utilizing his collapsible baton in an attempt to stop Subject from biting Officer D, Officer C believed the Subject was still biting Officer D's wrist when he dropped his collapsible baton to the floor.

At that point, Officer C grabbed the Subject's right arm and placed it behind his back until he was handcuffed.

The BOPC evaluated the circumstances relevant to Officers A, B, C, D, and G's Non-Lethal use of force and determined that the force was objectively reasonable to overcome the actions of the Subject.

In conclusion, the BOPC found the Non-Lethal force utilized by Officers A, B, C, D, and G to be in policy.

D. Lethal Use of Force

After hearing Officer D state, "He's biting me! He's not releasing me!" Officer C attempted to strike the Subject on his right shoulder and clavicle area with a right handed, overhead swing of the collapsible baton. Due to D's constant flailing, Officer C's collapsible baton inadvertently struck him on the back of his head. Officer C attempted to strike the Subject a second time on his right shoulder and clavicle area. Officer C again inadvertently struck the Subject on the back of his head. After determining the collapsible baton was not working, Officer C dropped his baton to the floor and attempted another tactic.

After giving consideration to all of the facts surrounding this incident, the BOPC determined that the contact between Officer C's collapsible baton and the Subject's head was unintentional. The force used by Officer C was objectively reasonable to overcome the Subject's aggressive actions, and the two head strikes to the Subjects head were inadvertent.

In conclusion, the BOPC found that the lethal applications of force utilized by Officer C be in policy.