

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

HEAD STRIKE – 052-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes () No (X)
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Mission	5/7/15		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	15 years, 2 months
Officer C	13 years, 11 months

Reason for Police Contact

Officers A and B were conducting a narcotics operation. When the officers approached Subject 1, he turned away, placed something in his mouth, and a head strike ensued.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 39 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 May 3, 2016.

Incident Summary

Officer A (driver) and Officer B (passenger) were monitoring for narcotics activity at a specific location. The officers were attired in civilian clothing and were in a plain vehicle.

The officers developed information that Subject 1 was selling narcotics at a motel and had been provided a vehicle description belonging to Subject 1's girlfriend, Subject 2. The officers had also learned that Subject 1 had recently bragged about obtaining a small handgun.

Officers A and B drove around the area to look for Subject 1 or the vehicle. The officers observed Subject 2's vehicle parked in the parking lot of a motel, and checked it for wants and warrants via Communications Division (CD). The vehicle was parked on the northwest corner of the parking lot. Officer A parked the officers' vehicle near the motel's office, located at the southeast section of the property and maintained a view of Subject 2's vehicle.

Note: The officers did not notify CD of their new location.

Officer B exited the police vehicle, entered the motel office, and contacted the motel manager. Officer B obtained reviewed the motel registry. The registry indicated a room that was registered to Subject 1. Officer B advised Officer A of the information he obtained.

Officer A used his police radio to contact Detective A and Officer C. Officer A informed them that Subject 1, a known narcotics seller, was at the motel and advised them he wanted to conduct surveillance on the subject and follow him away from the motel. Officer A requested the detectives respond to assist them with their investigation.

Note: During the FID interviews of Officers A, B, C and Detective A, the type of information discussed during their radio conversation appears to have been limited to subjects, location, and vehicle. None of the officers stated that the information concerning Subject 1 possibly having a handgun was relayed or received.

Officer A moved the officers' vehicle to a parking stall, facing north. Officers A and B's position provided them a view of Subject 2's vehicle and the door to their motel room. Officers A and B decided to conduct surveillance from their vehicle to determine if narcotics were being sold from the location.

While Officers A and B waited for Detective A and Officer C to respond to their location, they discussed tactics, which included contact and cover. They also discussed conducting a mobile surveillance in the event Subject 1 exited the location and drove away.

Meanwhile, Subjects 1 and 2 exited their room. Subject 2 entered her vehicle through the driver's door while Subject 1 walked through the parking lot. Officers A and B were concerned and discussed that if Subjects 1 and 2 drove away, they would have to follow them in rush-hour traffic. With limited resources, the officers believed that following Subjects 1 and 2 would present a great challenge, and that the suspects could recognize them as police officers and flee in the vehicle and possibly discard illegal narcotics or a weapon.

At that point, Detective A and Officer C drove into the motel parking lot. Officer A observed them and initially advised them, over the police radio, that they were going to follow Subjects 1 and 2 away from the location. Subject 1 walked closer to Subject 2's vehicle. Officer A believed Subject 1 was going to enter Subject 2's vehicle and leave the area. Since Subject 2's vehicle was stationary, Officer A believed it was advantageous to keep them contained within the parking lot. Officer A decided to detain Subjects 1 and 2 while they were contained within the parking lot and discussed it with Officer B. Officer A used his police radio to advise Detective A and Officer C of his decision to detain Subjects 1 and 2 at the scene.

Officer A backed his police vehicle out of the parking stall and drove toward Subjects 1 and 2. Officer A stopped his vehicle, approximately eight to ten feet from the rear of Subject 2's parked vehicle. Officers A and B exited the police vehicle. Subject 2 recognized them as police officers. At that point, Subject 1 was standing outside of Subject 2's vehicle, near the open rear passenger door. Officer A approached him and used his left hand to remove his police badge from his left front shorts pocket. Officer A stated, "Police," as he extended his left hand forward at eye level and displayed his police badge to Subject 1. Subject 1 was holding a soda can in his right hand and looked in Officer A's direction. According to Officer A, Subject 1 looked surprised and he believed Subject 1 recognized him from the prior arrest.

Meanwhile, Officer B observed Subject 2 moving inside her vehicle and feared Subject 2 was arming herself or possibly attempting to conceal narcotics. Officer B believed Subject 1 was possibly armed and unholstered his service pistol. Officer B approached Subject 2's vehicle on the passenger side and focused his attention on Subject 2 through the open rear passenger door. Subject 2 remained seated in the driver's seat of her vehicle. Neither Officers A or B donned a raid jacket or a police vest prior to making contact with Subjects 1 and 2.

Meanwhile, Subject 1 used his left hand to reach into his left front trouser pocket as Officer A approached. Officer A recalled Witness A's earlier statement that Subject 1 may have obtained a handgun. Officer A feared the situation could escalate to where he would have to use deadly force and used his right hand to unholster his pistol. Officer A held his pistol in one-hand while still holding his police badge in his left hand. Subject 1 used his left hand and removed a clear plastic bindle from his left front pant pocket and raised it to his mouth as he turned and walked away from Officer A. Officer A believed Subject 1 was ingesting narcotics and shouted to him to spit it out.

Subject 1 raised the soda can to his mouth and appeared to drink from it. Officer A formed the opinion Subject 1 was washing down the narcotics with the soda. Officer A knew that if Subject 1 swallowed narcotics, evidence would be destroyed and a medical emergency would develop.

According to Officer A, "So I immediately ran to him telling him to spit it out, and tried to perform the narcotics ingestion prevention techniques that we're taught by pushing the back of the head down toward the chin...And as I did this, I realized that I had not holstered my gun. My finger wasn't on the trigger, but the butt plate of the magazine struck the back of [Subject 1's] head when I reached towards his head. I did not intend to strike him with the gun. My reaction was to grab his head as I've done before so I was surprised when it happened."

Note: Video footage from the surveillance system at the motel showed Officer A approach Subject 1, raise his gun to approximately eye level and bring it down, striking Subject 1's head. His actions did not appear to be consistent with someone placing their hand on the back of a person's head to push their head down.

While Subject 1 was still facing away from him, Officer A, while still holding his police badge in his left hand, placed his left hand and arm around the left side of Subject 1's head area. Officer A turned Subject 1 clockwise and pushed him to the ground.

In the interim, Officer C and Detective A initially drove toward the motel driveway prepared for, and anticipating, to surveil Subjects 1 and 2 as they drove away from the location. When Officer A broadcast his decision to detain Subjects 1 and 2, Officer C drove through the parking lot toward Subject 1 and parked south of Subject 2's vehicle near the driver's side rear door. Officer C exited his vehicle and ran toward Officer A and Subject 1. Officer C reached Subject 1 as he was going to the ground. Officer C grabbed Subject 1's left arm and held him down while Officer A rose to his feet, holstered his pistol and placed his police badge in his left front shorts pocket. Officer A then grabbed Subject 1's right arm, and he and Officer C placed Subject 1's hands behind his back and handcuffed him without further incident.

As that was occurring, Detective A exited the passenger side of his police vehicle and approached Subject 1. Detective A observed a bleeding laceration on the back of Subject 1's head. Simultaneously, Officer B holstered his pistol, contacted Subject 2 on the driver's side of her vehicle and handcuffed her without incident.

Detective A broadcast the officers' status and location and requested a Rescue Ambulance (RA) for Subject 1. Detective A also telephonically contacted Detective B and advised him of the incident.

Note: Detective A and Officer C did not don their body armor.

Meanwhile, uniformed Officers D and E were working a separate and unrelated investigation in the area. The officers were in a black and white police vehicle. Officers

D and E, unaware of Officers A and B's presence, parked their vehicle in the motel parking lot, backing it into a parking space near the entrance, out of Officers A and B's view. While parked, Officers D and E observed Officer C and Detective A drive out of the parking lot then quickly maneuver back into the parking lot. The officers recognized the car as possibly one of the undercover vehicles assigned to the narcotics squad. Shortly after Officer C and Detective A's arrival, Officers D and E heard activity in the motel parking lot. They drove to the scene after Subject 1 was handcuffed.

Los Angeles Fire Department (LAFD) personnel also arrived at the scene. Subject 1 was treated at scene by LAFD personnel. The RA transported Subject 1 to a hospital where was treated for a laceration to his scalp and possible drug ingestion.

Force Investigation Division personnel were notified of the incident and they responded to the scene.

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 made the following findings.

A. Tactics

The BOPC found Detective A and Officers A, B and C's tactics to warrant Administrative Disapproval.

B. Drawing/Exhibiting

The BOPC found Officers A and B's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

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

D. Lethal Use of Force

The BOPC found Officers A's lethal use of force to be out of policy.

Basis for Findings

A. Tactics

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

1. Status and Location Update

Officers A and B did not advise CD of their location when they arrived at the motel. The purpose of this broadcast is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel. In this case, Officers A and B elected to initiate surveillance on a potentially armed narcotics suspect without advising CD of their location. The BOPC determined that Officers A and B's failure to broadcast was a substantial deviation without justification from approved Department tactical training.

2. Contact and Cover

Officers A and B made contact with the subjects, who they believed were possibly armed with a handgun without waiting for additional resources to provide cover. Situational awareness improves overall officer safety by officers remaining cognizant of their surroundings. A sound tactical plan should be implemented to increase the possibility of a positive outcome. In this case, Officers A and B took an unnecessary risk by making contact with Subject 1 and Subject 2 without waiting for Detective A and Officer C to assist, thus placing the officers at a distinct tactical disadvantage. The BOPC determined that Officers A and B's decision to make contact with potentially armed suspects without the assistance of additional resources was a substantial deviation without justification from approved Department tactical training.

3. Tactical Planning and Communication

Officers A and B did not effectively communicate with Detective A and Officer C or prepare a written operation plan for their surveillance operation. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns. In this circumstance, Officers A and B initiated a mobile surveillance without an operation plan and knowing only two unmarked vehicles would be involved. The mobile surveillance plan was then abruptly cancelled by Officer A, forcing Detective A and Officer C to rapidly adjust their positions and move in without the knowledge that Subject 1 may have been armed with a handgun, leaving the officers at a distinct tactical disadvantage. The BOPC determined that Officers A

and B's lack of Tactical Planning and communication was a substantial deviation without justification from approved Department tactical training.

4. Utilization of Cover

Officers A and B exited their vehicle to make contact with the suspects, who were believed to be armed, without utilizing cover. The utilization of cover enables an officer to confront an armed suspect, while simultaneously minimizing their exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options. The BOPC took into consideration the officers' statements, as well as their belief that the suspects could be armed. In this circumstance, the use of cover would have given Officers A and B the opportunity to have more time to react, formulate a second plan, and wait for additional resources.

The BOPC determined that Officers A and B's decision to forgo cover limited their tactical options and was a substantial deviation without justification from approved Department tactical training.

5. Body Armor/Raid Jackets

The investigation revealed that Detective A and Officers A, B and C were not wearing their Department approved body armor or their raid jackets. The BOPC determined this to be a substantial deviation without justification from approved Departmental tactical training.

6. Crossfire

Officer B held his service pistol in the direction of Detective A and Officers A and C. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. The ability to adjust to a tactical situation ensures minimal exposure to the officers. In this case, Officer B did not lower his service pistol as Detective A and Officers A and C crossed the pathway of his service pistol, creating a potential crossfire situation.

7. Encountering a Suspect with Pistol Drawn

The investigation revealed that Officer A approached Subject 1 with his service pistol in his right hand and his badge in his left hand. Officers are to be reminded about the dangers of encountering a suspect with a drawn pistol and an object in their support hand, and the limits it places on their tactical options.

8. Undercover Operations

The investigation revealed that Officers A and B initially indicated in their arrest report that they were working in a plainclothes capacity and then told FID

investigators that they were working in an undercover capacity during this incident. In this case, the officers were assigned to a plainclothes assignment and also were not operating in a manner consistent with undercover operations. The officers are reminded the importance of understanding their roles, limitations and responsibilities when conducting surveillance.

- 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 that the tactics be evaluated based on the totality of the circumstances.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to discuss the incident and the individual actions that took place during this incident.

In conclusion, the BOPC found Detective A, and Officers A, B and C's tactics to warrant Administrative Disapproval.

B. Drawing and Exhibiting

- Officers A and B were conducting surveillance on a narcotics suspect that was believed to be armed. As Officers A and B exited their vehicle and approached the suspects, they drew their service pistols.

The BOPC determined that an officer with similar training and experience as Officers A and B, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Officers A and B's actions of drawing their service pistols to be in policy.

C. Non- Lethal Use of Force

- **Officer A** – Firm Grip, Bodyweight, and Takedown
- **Officer C** – Firm Grip, Bodyweight, and Takedown

Officers A and C observed Subject 1 reach into his pocket, ingest what they believed to be narcotics, and turn away as Officer A approached. Officer A, with his pistol drawn, moved in, wrapping his left arm around Subject 1. Officer A then used his bodyweight to force Subject 1 to the ground. Officer C arrived and used his bodyweight to assist with forcing Subject 1 to the ground. Officer C applied bodyweight to Subject 1 as Officer A stood up to holster his service pistol. Officer C and Officer A had to remove the left and right arms from underneath Subject 1's body in order to complete the handcuffing.

After a review of the incident and the non-lethal force used by these officers, the BOPC determined an officer with similar training and experience as Officers A and C would believe this same application of force would be reasonable to overcome Subject 1's resistance and effect an arrest.

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

D. Lethal Use of Force

- **Officer A – Head Strike**

According to Officer A, he observed Subject 1 put a small object wrapped in plastic in his mouth and then take a drink from a Coke can. He formed the opinion Subject 1 was ingesting narcotics and rushed to perform a narcotics ingestion prevention technique by pushing his head toward his chin and accidentally struck Subject 1 in the back of his head with his handgun.

The BOPC determined that an officer with similar training and experience as Officer A would not reasonably believe that Subject 1's actions presented an imminent threat of death or serious bodily injury to Officer A or any of the other officers at the time he struck Subject 1 on the head. Additionally, Officer A's description of his actions was not consistent with the video evidence and concluded that the head strike administered by Officer A was an intentional act.

Therefore, the BOPC found Officer A's use of lethal force by striking Subject 1 on the head with a service pistol was not objectively reasonable and out of policy.