

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

**LAW ENFORCEMENT-RELATED INJURY – 061-16**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
-----------------	-------------	----------------------------	-------------------------------

Southwest	9/25/16		
-----------	---------	--	--

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
--	--------------------------

Officer A	9 years, 8 months
-----------	-------------------

**Reason for Police Contact**

Officers attempted to stop the Subject to conduct an investigation. The Subject ran from the officers and they pursued him. During the foot pursuit, one of the officers pushed the Subject to the ground, at which time a Law Enforcement-Related Injury (LERI) occurred.

<b>Subject</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
----------------	---------------------	--------------------	--------------------

Subject: Male, 41 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 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 August 22, 2016.

## **Incident Summary**

Police Officers A and B were conducting crime suppression in an unmarked police vehicle. Officer B was the driver and both officers were attired in full uniform but neither was equipped with body armor. This was their first time working together; however, they had worked and trained around each other for the past year. The officers stated that they did not specifically discuss tactics at their start of watch.

The officers were driving down the street when Officer A observed the Subject commit what he believed was a pedestrian violation while walking in a crosswalk at an intersection. Officer A believed that the Subject had entered the crosswalk when the pedestrian signal was flashing red, a violation of California Vehicle Code Section 21456(b).

**Note:** Based on surveillance video evidence, the investigation determined that the Subject had not committed a pedestrian violation.

According to Officer A, he told Officer B to turn around so they could further observe the Subject. Officer A stated that as Officer B conducted a three-point turn, he observed the Subject, now walking quickly in another crosswalk in the same intersection against a flashing red hand signal.

According to Officer A, the Subject was manipulating an unknown object in his right hand while walking quickly through the crosswalk. Officer A could only describe the object as approximately the size of a mobile digital recorder (approximately 4.5" x 1.5" x .75"). Officer A could not provide any further description of the object. Officer A stated the item could have been a burglary or burglary for motor vehicle tool, such as a screwdriver, a small set of bolt cutters, or a "Slim Jim" vehicle entry tool. Officer A demonstrated how the Subject held his hands near his upper abdomen/lower chest area while manipulating the object with both hands as he crossed the street.

Officer A stated that through his training and experience, he knew it was a high crime area. According to Officer A, it was based on this fact, as well as the fact that the Subject was manipulating an object in his hand and had committed what the officers believed were traffic violations, that he and Officer B decided they would talk with him.

**Note:** Officer A stated that he did not see the Subject step off the curb against a flashing red hand signal, and therefore, would not have written him a citation for that violation. However, he did form the opinion that, due to the totality of the circumstances, a violation may have occurred, and he used that as one of the reasons to stop the Subject and speak to him.

Officer B stated that as the Subject came toward the officers, he observed the Subject manipulating an object with his right hand, palm up, while moving his right thumb across the fingers of his right hand. Officer B could not describe the size, color, or shape of the object. Officer B believed, based on his training and experience relative to how people

hold narcotics in their hands, the time of day, and the area, that the Subject possibly possessed narcotics.

Officer B pulled the vehicle to the curb and stated he kept the vehicle in drive because he did not know if the Subject was going to continue walking toward them. Officer B could not recollect exactly when he broadcast the officers' location.

**Note:** A review of the radio broadcasts revealed that Officer B broadcast the officers' location approximately 20 seconds prior to their requesting a supervisor for the use of force investigation.

Officer A stated that the Subject continued walking toward the officers' vehicle. Officer A exited the passenger door in full police uniform with his badge exposed said to the Subject, "Hey, let me talk to you for a second." According to Officer A, the Subject looked at him briefly and then said, "No." The Subject then ran down on the sidewalk, passing the officers. Officer A immediately pursued the Subject on foot.

**Note:** The Subject stated that he ran because he was scared and he did not realize that Officers A and B were police officers.

Officer A stated that based on his observations of the Subject manipulating the object and running at night in a high crime and narcotics area, he believed the Subject was possibly a burglary from motor vehicle suspect, a narcotic suspect, that he was possibly on parole or probation, or had a warrant. Officer A's decision to chase the Subject was based on his knowledge of the location and the totality of the circumstances.

Officer B stated that when he observed the Subject run, he placed the vehicle in reverse and drove backwards, paralleling the Subject and Officer A at an approximate speed of 15 to 20 miles per hour, while looking in his rearview mirror and over his right shoulder. Officer B stated that he simultaneously watched Officer A and the Subject to ensure that the Subject did not discard anything or arm himself. Officer B stated that he wanted to safely maneuver the vehicle so he could assist when they stopped or if the Subject began to actively resist.

**Note:** Officer B stated that at the start of the foot pursuit, he made the decision to stay in his vehicle because he felt that if he exited and pursued the Subject on foot, Officer A and the Subject would have gained too much distance on him.

According to Officer A, he observed Officer B driving their police vehicle in reverse, approximately 15 feet away from him. Officer A stated that he twice ordered the Subject to stop running. After approximately 30 yards, he caught up to the Subject and placed his left hand on the Subject's top left back area and his right hand on the Subject's right lower back area. Officer A's intention was to push the Subject forward so he would go to the ground. When Officer A realized they were running too fast and were both about to fall, he grabbed onto the Subject's top left back and lower right back. Their

momentum caused them both to fall to the ground, with the Subject falling first. Officer A believed he tripped over the Subject's legs and fell facedown, scraping his elbows on the ground. Officer A rolled to his right side and came to a stop when his head and body struck the brick base of a wrought iron fence next to the sidewalk.

**Note:** Officer A stated he did not broadcast during the foot pursuit because he was gaining on the Subject and felt that if he accessed his radio, the Subject would gain distance on him or he may accidentally drop his radio. Additionally, as he closed in on him, Officer A felt that reaching for his radio would leave him with only one hand free and if the Subject turned to fight, he would be forced to drop his radio, leaving it unavailable to him. Officer B stated he was unable to broadcast the foot pursuit because it happened quickly and he wanted to maintain sight of Officer A and the Subject.

Officer A stood up and observed the Subject face down on the sidewalk. According to Officer A, the Subject kept repeating that he would stop, and Officer A straddled the Subject's legs without placing his bodyweight on him. Officer B stated that after driving in reverse for approximately 20 to 30 yards, he observed Officer A and the Subject fall to the ground. Officer B parked the vehicle and went to assist his partner; Officer B estimated that he reached Officer A within five seconds of stopping his vehicle.

The Subject began complying with the officers' directions, and Officer B assisted Officer A in handcuffing the Subject. According to Officer A, he stood the Subject up and searched him. Officer A found no contraband on the Subject. Officer A stated that during the foot pursuit, he did not see the Subject throw anything but believed it was possible that he did not always have sight of the Subject while he was exiting his vehicle or when the Subject initially ran and gained distance from him. After the Subject was taken into custody, Officer A searched the Subject's path for evidence and contraband but did not locate any.

According to Officer A, the Subject limped and complained of pain to his leg as he walked, so Officer A had him sit on the curb. Officer A also observed a cut on the Subject's upper lip. The officers believed a use of force had occurred and requested a supervisor to respond to their location.

A supervisor responded to the scene to conduct a use of force investigation. Due to the Subject complaining of pain to his leg, a Rescue Ambulance was requested, and the Subject was transported to hospital, where he was admitted for a hip fracture.

### **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), if applicable; 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 Officers A and B's tactics to warrant a finding of Administrative Disapproval.

#### **B. Non-Lethal Use of Force**

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

#### **Basis for Findings**

##### **Detention**

- While on patrol, one of the involved officers observed the Subject in the middle of a crosswalk and believed the Subject had committed a vehicle code violation. Both officers also believed that the Subject had committed an additional vehicle code violation and observed that the Subject was manipulating an object in his hands that they believed could be narcotics. When the officers attempted to detain the Subject, the Subject ran from the officers.

Based on the officers' belief that the Subject had committed a vehicle violation and may be in possession of narcotics, coupled with the officers' knowledge of the area, and the Subject's flight when initially contacted by the officers, the officers detained the Subject. However, based on video evidence recovered during the investigation, the Subject did not commit the violation.

##### **Tactical De-Escalation**

- Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

In this case, when the officers attempted to conduct a pedestrian stop on the Subject for a vehicle code violation, the Subject ran away from the officers and a foot pursuit ensued. During the foot pursuit, Officer A gave the Subject verbal commands to stop, but the Subject did not comply. Officer A then pushed the Subject to the ground to stop the Subject from getting away and take him into custody.

## A. Tactics

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

### 1. Body Armor (Substantial Deviation – Officers A and B)

Officers A and B did not wear their Department-approved body armor as required when conducting field-related duties.

The BOPC determined that Officers A and B's decision not to wear their body armor was a substantial deviation, without justification, from approved Department tactical training.

### 2. Tactical Communication (Substantial Deviation – Officers A and B)

Officers A and B did not effectively communicate or discuss tactics with one another at the beginning of their shift.

Operational success is based on the ability of officers to effectively communicate during critical incidents. 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.

In this case, the officers' lack of planning and failure to discuss tactics with one another at the start of their watch, in addition to allowing each other to go into the field without wearing their vest, placed the officers at a significant tactical disadvantage.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's lack of communication was a substantial deviation, without justification, from approved Department tactical training.

### 3. Foot Pursuit

Officer B remained inside the police vehicle and paralleled his partner during the foot pursuit.

Generally, officers are discouraged from paralleling one another during a foot pursuit. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their tactical decision during foot pursuits.

In this case, Officer B decided to remain in the vehicle and parallel his partner during the foot pursuit. He did this to stay in close proximity to his partner, thus allowing him to render aid if the tactical situation escalated.

Based on the totality of the circumstances, the BOPC determined that, in this instance, Officer B's decision to parallel his partner from the vehicle during the foot pursuit was not a substantial deviation from approved Department tactical training.

- The BOPC also considered the following:
  1. Requesting Rescue Ambulance – The investigation revealed the officers did not request a Rescue Ambulance for the Subject when he initially complained of pain to his leg. The officers were reminded to request a Rescue Ambulance in a timely manner to ensure subjects are provided medical treatment.

These topics will be discussed at the Tactical Debrief.

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

In conducting an objective assessment of this case, the BOPC found that the tactics utilized by Officers A and B substantially and unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

Each tactical incident also 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 review the officer's individual actions that took place during this incident.

In conclusion, the BOPC found Officers A and B's tactics to warrant a finding of Administrative Disapproval.

## **B. Non-Lethal Use of Force**

- **Officer A** – (Physical Force)

According to Officer A, he placed his right hand on the Subject's lower back and placed his left hand near the Subject's upper left shoulder area. He then pushed the Subject forward with the intention of pushing him down to the ground.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, when faced with similar circumstances, would believe that this same application of non-lethal force would be reasonable to overcome the Subject's resistance.

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