

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

LAW ENFORCEMENT RELATED INJURY – 074-09

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Pacific	10/25/09		

Officer(s) Involved in Use of Force	Length of Service
Officer A	8 years, 1 month
Officer B	9 years
Officer C	10 months
Officer D	1 year, 8 months

Reason for Police Contact

Officers responded to a radio call of domestic violence in progress.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
Subject: Male, 32 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.

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 9/21/10.

Incident Summary

Officers A and C heard a Communications Division (CD) radio broadcast regarding a roommate dispute. A second CD broadcast reported that this call was a domestic battery and the responsible Subject was still in the area.

CD described the Subject as a male, in his forties, and possibly naked standing outside his residence. According to CD, the person reporting the incident heard breaking items and yelling.

Officers A and C arrived at the location and notified CD. As the officers exited their vehicle and walked toward the residence, they observed a broken window on the south side of the residence and heard arguing. According to Officer A, he observed a male wearing a green T-shirt and red shorts, later identified as the Subject, standing in the front yard, facing the officers and yelling at a person who was sitting on the porch. The other person sitting on the porch was subsequently identified as the Subject's domestic partner. According to Officer A, the Subject seemed very agitated.

The Subject walked toward the two officers and yelled at them while holding his arms in the air. Officer A observed the Subject to be sweating, "wild-eyed," flushed, and to have messy hair. The Subject stated to the officers, "I'm the reason you're here." According to Officer A, the Subject clenched his fists as he brought his hands down. Officer A could see the tension in his arms. Officer A believed based on the Subject's actions and appearance that he may have been on PCP.

The officers asked the Subject to step outside of his fenced yard and onto the sidewalk to talk with them. The Subject refused but said the officers could come into his yard. As Officer A approached the entrance gate, he asked the Subject to step back from the opening. The Subject responded, "I don't have to do what you say. This is my property." Officer A ordered the Subject to put his hands above his head and to turn around but he failed to comply. According to Officer A, his order was given to prevent the Subject from being in a position to run inside his house and arm himself. Officer A then applied a "C-grip" to the Subject but the Subject was able to pull free. Officer A then unsuccessfully tried to force the Subject to the ground. Officer C entered the yard to assist Officer A. Together, the two officers were unable to take the Subject to the ground and control him. The officers again ordered the Subject to put his hands behind his head but he did not comply. Officer A drew his Oleoresin Capsicum (OC) spray and attempted to spray the Subject's face from a distance of five feet for approximately two seconds. The Subject turned and ran inside his house.

Both officers pursued the Subject into the house and again tried to subdue him. At this point, Officer A requested a backup unit. According to Officer A, as he was trying to control the Subject by putting his knee on the Subject's arm, he pulled out his TASER and deployed it on the Subject's ribcage. The TASER had little or no effect on the Subject. In an attempt to gain control of the Subject, the officers tased him three more times.

Officer C was able to apply one handcuff the Subject's right hand before he broke free and ran toward the front door of his house.

The officers caught the Subject on his front porch and Officer A, after realizing he did not have his OC spray nor was he in a position to deploy his TASER, punched the Subject three times in the jaw with his closed fist in an attempt to subdue him. Apparently not fazed by the punches, the Subject ran from the porch. As the Subject attempted to flee, Officer A stuck out his leg and tripped him. The Subject fell allowing the officers to continue the struggle to subdue him.

In the meantime, Officers B and D arrived. Officer D assisted in completing the handcuffing of the Subject while Officer B hobbled the Subject's legs. The officers notified CD that the Subject was in custody and requested a Rescue Ambulance (RA). The Subject was transported by RA to a nearby hospital where he was treated and admitted to the hospital due to complications from being tased.

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 and D's tactics to warrant a tactical debrief.

B. Non-Lethal Use of Force

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

C. Less-Lethal Use of Force

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

Basis for Findings

A. Tactics

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

Debriefing Point No. 1 Tactical Planning

In this instance, Officers A and C encountered the Subject in a fighting stance. Based on his appearance and behavior, they believed he was under the influence of an unknown substance. When the Subject refused to obey their commands, the officers moved to within arms reach of the Subject.

It is recommended when confronted by subjects who are refusing to follow commands that officers utilize cover, if available, and maintain a safe distance from the subject in order to provide them as much time as possible to respond to aggressive actions by the subject.

In conclusion, the officers' actions did not substantially deviate from Department policy and procedure.

Debriefing Point No. 2 Back-up Unit Request

In this instance, Officers A and C were confronted by a potentially violent subject who was a threat to officers or others, and who refused to obey their orders; therefore, creating a situation that required additional units immediately. Officer A had already used physical force on the Subject including the OC spray, which caused the Subject to run into the house. A more tactically advantageous decision would have been to request back-up immediately upon becoming aware that the Subject was under the influence of narcotics and was refusing to follow their directions. When possible, officers should await the arrival of additional resources prior to making physical contact with a subject under these conditions.

In conclusion, the officers' actions did not substantially deviate from Department policy and procedure.

Debriefing Point No. 3 Verbal Warning (TASER)

In this instance, the investigation could not definitively establish if the verbal warning was given prior to the use of the TASER.

In conclusion, the officers' actions did not substantially deviate from Department policy and procedure.

Debriefing Point No. 4 Hobble Restraint Device (HRD)

In this instance, Officer B decided to use the HRD on the Subject to maintain control of him. Once the Subject was hobbled, additional officers relieved Officer A in holding the Subject down on the ground. Since the officers were not sure how long the Subject had been face down on the ground, they placed the Subject in a seated position. It is unclear how long the Subject was in a prone position prior to being placed into a seated position.

Officers should be reminded that once an individual has been hobbled, they should immediately place the individual in an upright, seated position or on his/her left side, while monitoring the individual for signs of a possible medical emergency.

In conclusion, it is unclear if the officers' actions substantially deviated from Department policy and procedure.

B. Non-Lethal Use of Force

The BOPC noted that in this instance, Officers A and B attempted to lawfully detain the Subject as part of a domestic violence investigation. The Subject refused to comply with the officers' orders and attempted to flee from them. In an effort to prevent his escape, the officers attempted to physically restrain the Subject who became combative and fought with the officers. Officers A, B, C and D utilized a variety of force types to control the Subject and take him into custody.

The non-lethal force used by Officers A, B, C and D to overcome the actions of the Subject was objectively reasonable and within Department guidelines.

In conclusion, the BOPC found the application of force utilized by Officers A, B, C and D to be in policy.

C. Less-Lethal Use of Force

The BOPC noted that in this instance, Officers A and C were engaged in a physical struggle to take the Subject into custody. Unable to overcome the Subject's resistance, both Officers A and C utilized the TASER in an effort to stop the Subject's actions. At the point in the struggle at which the TASER was used, lethal force would not have been appropriate and other attempts to subdue the Subject had proven ineffective. Therefore, the use of less-lethal force by Officers A and C was objectively reasonable.

In conclusion, the use of less-lethal force by Officers A and C was in policy.

