

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

LAW ENFORCEMENT RELATED INJURY – 075-13

Division Date Duty-On (X) Off () Uniform-Yes (X) No ()

Foothill 08/06/13

Officers(s) Involved in Use of Force Length of Service

Officer A 4 years, 6 month
Officer B 5 years, 11 month

Reason for Police Contact

Officers A and B were attempting to detain the Subject for a domestic violence investigation when the Subject resisted officers. The Subject attempted to grab Officer A's handgun, resulting in a Law Enforcement Related Injury (LERI).

Subject(s) Deceased () Wounded (X) Non-Hit ()

Subject: Male, 39 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 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 Los Angeles Police Department Command Staff presented the matter to the Chief 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 29, 2014.

Incident Summary

On the date of this incident, Witness A dialed 911 and advised a Los Angeles Police Department (LAPD) Communications Division (CD) emergency operator that she needed police officers to respond to her residence stating that her husband, (Subject) was at home heavily intoxicated and had physically assaulted her, causing injury. Witness A refused paramedics and additionally advised the operator that the Subject had a prior arrest for domestic abuse.

CD initiated a broadcast as a result of Witness A's 911 call and assigned uniformed Police Officers A and B to respond.

While driving to the location, the officers read the comments of the call and discussed tactical options. According to Officer B, they decided Officer A would be contact officer and carry the TASER (Thomas A. Swift Electric Rifle) and Officer B would assume cover officer responsibilities. Officers A and B had worked together for approximately three years and discussed tactics regularly.

Officer B placed himself and Officer A at the location via the officers' Mobile Digital Computer (MDC). The officers exited their police vehicle and placed their Department-issued side-handle batons in their respective baton rings. The officers then proceeded to the front door of the residence with Officer B in the lead. As the officers approached the front door, Officer A heard dialogue between the Subject and Witness A coming from inside the residence, but could not discern what was being said. In addition, the officers noticed that the front doorway was secured by a black wrought iron security screen door; however, the wooden front door was open. Officer B also noticed that the door knob to the security screen door was missing.

Officer A subsequently proceeded onto the front porch of the residence and Officer B took a position in the front yard near the southwest portion of the front porch. Once in position, Officer A observed the Subject in the front doorway with a screwdriver in hand apparently trying to repair the door knob mechanism to the security screen door.

Officer A initiated contact with the Subject by calling his name. The Subject responded, "Yeah, that's me." The officers also requested the Subject to put down whatever he had in his hands, come outside, and talk to them. The Subject advised the officers he was trying to fix the door knob and could not come outside. The officers believed the Subject was intoxicated due to his slurred speech and poor coordination.

Officer A tried to assist the Subject with opening the security screen door, but was unsuccessful. The Subject became agitated and shouted profanities at the officers. Officer A heard Witness A in the residence, telling the Subject to stop yelling at the police.

The Subject remained at the front door refusing to exit. As the Subject became increasingly belligerent toward the officers, Officer A, in an attempt to deescalate the situation, gave the Subject the option to exit the residence via the front door or another

door to meet with the officers. Officer A stated that due to the nature of the radio call and the comments of the call, it was necessary for them to get the Subject to step out of the residence. According to Officer A, there was no way they could have forced entry through the front door. Officer A was concerned that if the Subject decided to slam the door and go after Witness A, he would have access to potential weapons. Officer A knew that there had already been an altercation and it would take them a lot longer to run around the back of the house, get in and assist Witness A, if necessary.

Moments later, the Subject exited the residence via the front door. Once the Subject was on the front porch, Officer A noticed that he appeared very intoxicated. Due to the fact that the Subject was involved in a domestic violence situation, Officer A decided to handcuff his hands behind his back. Officer A advised the Subject that he had to search him for possible weapons because he had previously observed him with a screwdriver in his hand.

Officer A directed the Subject to turn around and put his hands behind his back. The Subject somewhat complied, faced an exterior wall, and placed his hands partially behind his back. As Officer A grasped the Subject's hand he resisted by stiffening his arms. Officer A told the Subject to calm down, and again directed him to put his hands behind his back so he could conduct the search. The Subject did not comply, became agitated, and directed profanities at the officers stating that he did nothing wrong and was not going to jail. Officer A continued to verbalize with the Subject in an effort to defuse the situation, but to no avail. The Subject then began trying to pull away from Officer A's grasp. Officer A pushed the Subject's hands together and tried to push the Subject against the wall in an effort to control him. During the struggle, Officer A lost control of the Subject's left hand. Officer B proceeded onto the porch and grabbed the Subject's left arm. As Officer B placed his right hand on the Subject's left elbow and his left hand on Subject's left wrist, the Subject tensed up.

In response to Subject's resistance, Officer B contacted CD via his handheld radio and requested a backup unit, due to the officers being in a fight with a domestic violence Subject.

Officers A and B, in an attempt to control the Subject, used their body weight to push the Subject against a wall. Officer A attempted to gain compliance by pushing Subject's right arm/wrist into his back. The compliance technique was unsuccessful because the Subject repeatedly shifted his weight back and forth while trying to pull away from the officers' grasp. Officer B momentarily lost his grasp of the Subject's left arm. Officer A believed that if they could not get the handcuffs on, they would have to take the Subject to the ground because of his size. Officer A could tell that the Subject was intoxicated and was getting increasingly agitated. Officer B also formed the opinion the officers were not able to control Subject due to his height, weight, and intoxication.

Note: The FID investigation determined Subject's height and weight to be five feet 10 inches and 230 pounds.

During the struggle, the Subject struck Officer A on the forehead near his left eye with his left elbow. According to Officer A, the Subject yelled for the officers to get off him and that he wasn't going to jail. Both officers repeatedly ordered the Subject to stop resisting and stop fighting, but he did not comply.

After being struck in the head, Officer A continued to hold onto the Subject's right hand while simultaneously pushing his own head into the Subject's back to avoid additional blows. Officers A and B made several attempts to take the Subject down onto the deck of the porch, but the Subject would not go down. Officer B, using an arm bar on the Subject's left arm, spun the aggressive/combatative Subject off the porch and onto the front lawn. Officer A, who still had a hold of the Subject's right hand, fell off the porch onto the front lawn. Officer A initially landed on his right side; however, he was forced onto his back when the Subject landed prone on top of him. The right side of the Subject's head was close to the right side of Officer A's head and his face was near Officer A's right shoulder/armpit area. The Subject's legs were across Officer A's legs.

Officer B observed the Subject attempting to strike Officer A with a closed fist. In response, Officer B administered three to four punches to the Subject's right rib area. The Subject did not appear to be affected by the punches. Officer A could feel the Subject's hands near his equipment belt. Officer A subsequently grabbed the Subject's arms in an effort to keep the Subject from getting up or striking him. The Subject continued to resist and freed his arms from Officer A's grasp. Officer B repeatedly ordered the Subject to stop resisting; however, he did not comply. The Subject's shifting weight, strength, his kicking and moving back, prevented Officer B from controlling the Subject and removing him from Officer A. The struggle resulted in Officer A "bear hugging" the Subject in order to keep the Subject close and limit his ability to strike him.

As the struggle continued, Officer A felt the Subject grab the butt of his holstered service pistol with one of his hands. Officer A used his right hand to push the Subject's hand off the butt of the gun. The Subject made a second attempt at Officer A's service pistol by pulling on the butt of his gun using both hands. Officer A alerted Officer B that the Subject was grabbing his handgun. While alerting his partner, Officer A positioned his body to apply an upper body control hold on the Subject. According to Officer A, he told Officer B that if the Subject obtains his weapon, he could shoot both of them. At that time, Officer A immediately moved and transitioned his arms.

Officer A, in his attempt to get the Subject to release his grip of his handgun, moved to his left and placed his right arm around the back of the Subject's neck. Officer A, using his left hand, reached across the Subject's upper torso and trapped the Subject's right arm. With the Subject's right shoulder against his right carotid artery and Officer A's right bicep against the Subject's left carotid artery, Officer A grabbed his right elbow with his left hand and began applying pressure. Officer A believed that if he did not attempt this hold, the Subject would have been able to free his weapon and shoot him and his partner.

Almost simultaneously, Officer B, fearing the Subject could arm himself and cause serious bodily injury to himself and Officer A, unholstered his service pistol and put the muzzle of the gun into the Subject's chest and left ribcage area, pointed in an upward direction, and told Officer A that he was going to shoot the Subject. Officer B heard Officer A say, "No, No, No!" Officer B complied, holstered his service pistol, and drew his baton. According to Officer A, he ordered Officer B not to shoot, because due to the shifting positions of both Officer A and the Subject, he feared they would both be shot. As the Subject continued to try to remove Officer A's pistol from its holster, Officer B struck the Subject twice in the rib area and once on the buttocks with his side-handle baton. As Officer B delivered the baton strikes, Officer A heard Officer B order the Subject to let go of the gun. The Subject did not comply. During this time, Officer A also told the Subject to, "Get off my fucking gun." The Subject did not comply.

Shortly thereafter, as a result of the upper body control hold and baton strikes, the Subject released his grip on Officer A's pistol. Officer A pushed the Subject's upper body to the right and was able to get out from under the Subject. As the Subject lay prone on the ground, Officer A grabbed his right arm and put it behind his back. Officer A ordered the Subject to put his left hand behind his back, but he did not comply. Officer B then grabbed the Subject's left hand and placed it behind his back. The officers then handcuffed the Subject's hands behind his back. As the Subject was rolled over, Officer A noticed that the Subject's breathing was labored and he appeared to be unconscious. Officer B did not believe the Subject lost consciousness because he continued to resist the officers during the handcuffing procedure.

Note: Officer A believed that he had applied the hold for approximately 10 to 12 seconds.

Officer B contacted CD and advised that the incident had been resolved, and the Subject was in custody. Officer B requested a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) respond to the scene for a male in his 40's having difficulty breathing.

The Subject was transported to a local hospital and where he was treated in the Emergency Room (ER) for his injuries. The Subject was discharged from the hospital and medically cleared for booking at an LAPD jail facility.

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 and 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 unanimously made the following findings.

A. Tactics

The BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officer B's drawing and exhibition of a firearm to be in policy.

C. Non-Lethal Use of Force

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

D. Lethal Use of Force

The BOPC found Officer A's 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:
 1. Communication between Partners

During their interaction with the Subject, Officers A and B tactically deployed on the residence, executing their pre-determined roles during their interaction with the Subject.

Note: Officers A and B have worked together for approximately three years and discussed tactics on a regular basis, including who would be contact and cover.

Once the officers made contact with the Subject, they deployed in a triangulating position on him. The officers further maintained their roles as contact and cover during their interactions with the Subject until the escalation of physical force in order to overcome Subject's resistance.

The BOPC noted Officers A and B's consistent communication between each other throughout the entire incident, including during the physical altercation. Non-lethal and lethal use of force were effective and likely a contributing factor to placing the Subject into custody without serious bodily injury or death. It is the BOPC's expectation that uniformed officers consistently communicate with each other to keep one another apprised of the tactical situation in order to

appropriately respond to the Subject's actions, as Officers A and B did in this case.

Although the philosophy behind a Tactical Debrief is to enhance future performance by discussing areas where improvements could be made, often times, discussions pertaining to positive aspects of the incident lead to additional considerations that would be beneficial in future incidents. Therefore, the topic of communication between partners was discussed at the Tactical Debrief.

2. Carotid Restraint Control Hold (CRCH) Application

As the physical altercation escalated, Officer A ended up on the ground, face to face, with the Subject on top of him. While in that position, the Subject grabbed Officer A's service pistol. Officer A believed the Subject intended to remove his pistol and shoot either himself and/or his partner and with no other options to address a potential lethal force situation, Officer A applied a CRCH to stop his actions.

The BOPC discussed the unusual application of the CRCH by Officer A in-depth during the deliberation process. The BOPC took into consideration that the Subject was three inches taller than Officer A and weighed thirty pounds more than him. Coupled with inadvertently being in a position where the Subject was on top of Officer A warranted the unusual CRCH technique in this case. The BOPC members further noted that although the Department does not train officers to use this technique, they recognized it is unreasonable to expect every physical encounter with a Subject to be identified and taught by the Department. This is due to the fluid and unpredictable nature that is inherent in any physical altercation. Although the CRCH technique Officer A used on the Subject was not a specific Department trained technique, in these circumstances the application was appropriate and effective.

The BOPC further reviewed the possible use of less-lethal force options by Officer A, in lieu of the CRCH. In the BOPC's assessment, they took into consideration how quickly the use of force escalated into a potential deadly force situation, as well as the dynamic nature of the force in close proximity to Officer A. Officer A recalled that he would have had to take his hands off the Subject to retrieve his TASER and how close he was to the Subject, he did not think that option would have been effective.

In conclusion, although the CRCH application was a deviation from Department tactical training, the officer's actions were justified in this specific situation. Nonetheless, in an effort to enhance future tactical performance during similar incidents that may occur in the future, this topic was discussed during the Tactical Debrief.

- The BOPC additionally considered the following:

1. Evaluating Different Methods of the CRCH Applications

An instructor from Training Division, Arrest and Control/Physical Fitness, discussed the application of the CRCH and Department guidelines. The instructor stated the technique Officer A utilized was a modification of one of the two Department approved CRCH. Training Division is currently updating the curriculum and application related to CRCH.

- 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.

Each tactical incident merits a comprehensive debriefing. A Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident with the objective of improving overall organizational and individual performance.

In conclusion, the BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- During the physical altercation with the Subject on the front porch, Officer B attempted to take the Subject down to the ground. However, Officer B was unable to initially complete a takedown on the Subject. Consequently, Officer B decided to spin him, followed by taking him down to the ground. Officer B, while still holding onto the Subject's left arm, pulled the Subject causing him to move approximately 15 to 20 feet before completing the takedown in the grassy area of the front yard. Officer A was still maintaining his grip on the Subject's right arm and was also pulled off of the porch. This movement and the takedown onto the ground resulted in the Subject inadvertently landing on top of Officer A. The physical altercation continued escalating to a lethal force situation. Fearing the Subject was attempting to arm himself with Officer A's service pistol, Officer B drew his service pistol.

Officer B recalled that he could see the Subject's arms were inward towards his partner's waistband, but he could not see what the Subject was grabbing. Officer B drew his weapon in fear that the Subject was going to arm himself and he was going to cause serious bodily injury to him and Officer A.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B, while faced with similar circumstances would reasonably believe there was a substantial risk that the situation may escalate to the point where lethal force may be justified.

Therefore, the BOPC found Officer B's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

- **Officer A** – Firm Grip, Physical Force and Bodyweight
- **Officer B** – Firm Grip, Physical Force, Bodyweight, Takedown, Strikes, and Side Handle Baton

Upon the Subject exiting the residence, Officer A intended to handcuff him due to being a domestic violence Subject, who was observed previously being in possession of a screwdriver. Officer A directed the Subject to turn around and put his hands behind his back, in order to search him for weapons. The Subject initially complied with Officer A's directions by turning around and facing the wall outside the front door with his hands partially behind his back. Once Officer A grasped the Subject's hands, he immediately stiffened up and pulled his left arm away. Officer A attempted to regain control of the Subject by utilizing his right arm to push him into the wall. Meanwhile, Officer B grabbed the Subject's left arm. As the struggle continued on the porch, Officer B lost control of the Subject's left arm, thus resulting in the Subject utilizing his left elbow to strike Officer A above his left eye, causing minor injury.

Note: According to the officers' statements, the physical altercation occurred after Officer B's back up request broadcast. A review of the CD broadcast determined that the physical altercation lasted approximately 46 seconds.

The Subject's elbow strike resulted in Officer A sustaining an abrasion and swelling above his left eye.

According to Officer A, the Subject started trying to pull away, trying to get his hands free so he pushed his hands together as best he could trying to push him up against the wall directly next to the front door. Officer A lost control of the Subject's left hand and pushed his right hand as far up against his back as he could and tucked his head away. According to Officer A, his partner grabbed the Subject's right hand and was trying to force it behind his back, but lost control. The Subject threw his elbow back and ended up elbowing Officer A right above his left eye with his left elbow, and Officer A was trying to take the Subject to the ground.

Officer B was attempting to conduct a takedown on the Subject. However, in their current position, Officer B was not able to take the Subject to the ground and opted to modify his actions in order to successfully initiate a takedown. Officer B spun the Subject off of the porch, pulling him approximately 15 to 20 feet, and onto the ground.

This motion inadvertently pulled Officer A, who was still in possession of the Subject's right arm. Officer A also fell onto the grass area in the front yard. However, during the movement and fall, the Subject landed on top of Officer A. At this point, Officer A and the Subject were facing each other, as the Subject's hands were on top of Officer A's chest. Officer A immediately grabbed both of his arms to keep him in close proximity of his body in order to avoid being hit by the Subject. In the meantime, Officer B believed the Subject was attempting to hit Officer A and with a closed fist, delivered three to four hammer strikes to the Subject's ribs.

The Subject continued physically resisting, as he kicked his legs, attempting to release himself from Officer A's hold. Officer A readjusted his hold on the Subject, wrapping his arms around his upper torso, in a bear hug. The Subject then grabbed Officer A's service pistol grip, shaking it and attempting to remove it from Officer A's holster. Officer A advised Officer B that the Subject was trying to obtain his weapon.

Fearing for his and his partner's safety, Officer A then applied a CRCH around the Subject's neck. Fearing the incident could escalate to the point of involving lethal force, Officer B drew his service pistol and placed it against the Subject's rib area in an upwards position and informed Officer A that he was going to shoot the Subject. Officer A told Officer B not to shoot. In response to Officer A's statement, Officer B holstered his service pistol and retrieved his side handle baton. Officer B struck the Subject three times with the baton to his ribs and buttocks area. According to Officer B, he struck him in his ribs using a power like stroke and then struck him in his buttocks and another time in his ribs.

Subsequent to the CRCH and baton strikes, the Subject released his grip on Officer A's service pistol, as he appeared to be unconscious. Officer A rolled the Subject on to the right and onto the ground into a prone position and handcuffed him. Officer B broadcast that the incident had been resolved, followed by a request for an RA.

After a thorough review of the incident and involved officers' statements, the BOPC determined that officers with similar training and experience as Officers A and B would reasonably believe the application of non-lethal force would be reasonable to overcome the Subject's resistance in an effort to stop his actions and take him into custody.

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

D. Lethal Use of Force

Officer A – Carotid Restraint Control Hold

Officers A and B were involved in a physical altercation with the Subject for less than a minute. The use of force occurred partially on the front porch and front yard. During the physical struggle in the front yard, Officer A landed on his back with the Subject falling on top of Officer A. As the struggle continued on the ground, the

Subject grabbed Officer A's service pistol grip. Fearing the Subject would remove his gun from the holster and essentially shoot Officer A and/or his partner, Officer A applied a CRCH to stop the Subject's actions. While underneath the Subject, Officer A wrapped his right arm around the Subject's neck and applied pressure.

According to Officer A, he felt the Subject's hand grab the butt of his gun and start shaking it. Officer A started getting scared that the Subject was going to be able to get the gun out of his holster. Officer A advised his partner that the Subject was going for his gun. Officer A feared that if the Subject removed his weapon from the holster, he would shoot both he and his partner. Due to this fear, Officer A removed his right arm from his left arm. With his left arm still underneath his right arm and neck, Officer A moved his head to the left and grabbed his arm and tried to get as much room between him and the Subject as he could before he started squeezing.

The Subject still had his hand on Officer A's service pistol at the time. Believing the hold was not tight enough, Officer A wrapped his left arm around Subject's right arm and neck area, and grabbed his right elbow, putting pressure on the Subject's carotid artery on the right side. According to Officer A, he continued because he knew if he squeezed hard enough, it would either choke the Subject, cause him to lose his oxygen where he would stop, or it would render him unconscious to where he would be forced to let go of his gun. Officer A applied pressure on the Subject's neck until he felt the Subject release his grip from his service pistol, subsequently handcuffing him.

Based on the totality of information reviewed related to this incident, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe that the Subject who was actively resisting, while attempting to disarm a uniformed police officer, presented an immediate threat of serious bodily injury or death and that the application of lethal force was justified.

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