

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

LAW ENFORCEMENT RELATED INJURY 005-08

Division **Date** **Duty-On (X) Off()** **Uniform- Yes(X) No()**
Southwest 01/24/2008

Officer(s) Involved in Use of Force **Length of Service**
Officer A 3 years, 3 months

Reason for Police Contact

While on patrol, Officers A and B observed two known gang members identified as Subject 1 and Subject 2 walking together, which was a violation of a gang injunction. The officers decided to approach the Subjects, and they were taken into custody. During a subsequent pursuit, Subject 1 was injured as he fell forward into a cement pole.

Subject **Deceased ()** **Wounded (X)** **Non-Hit ()**
Subject 1: Male, 21 years.

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 BOPC of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission. 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 01/06/09.

Incident Summary

While on patrol, driving a marked police vehicle, Officers A and B observed two known gang members identified as Subject 1 and Subject 2 walking side by side, which is a violation of a gang injunction. Both Subjects 1 and 2 had been previously served with the court injunction.

Officers A and B decided to contact Subjects 1 and 2. Officer A used the Mobil Data Terminal (MDT) to transmit their location. Officer B stopped the police vehicle next to the individuals, and both officers got out.

The officers ordered Subjects 1 and 2 to approach the police vehicle and they both complied. Subjects 1 and 2 were taken into custody without incident for violating the gang injunction. Officer B handcuffed Subject 2 while Officer A handcuffed Subject 1.

Officer A opened the rear door of the police vehicle, took control of Subject 2 and assisted him into the back seat. Simultaneously, Officer B began to retrieve a field identification card from his shirt pocket. When Officer B looked up, he saw Subject 1 running, his hands still behind his back and cuffed. Officer B followed Subject 1. Officer A heard movement, looked and observed Subject 1 running with Officer B in pursuit. While standing outside his vehicle, Officer A broadcast a request for any available black and white vehicle to respond. Officer A's broadcast did not include a request for backup or help, or a report of the foot pursuit.

Subject 1 ran behind the police vehicle and into an alley. Officer A re-entered the police vehicle and, with Subject 2 in the back seat, drove around the block and into the same alley in which Subject 1 and Officer B were running. Officer A drove with Subject 1 running toward the approaching police vehicle. Officer A stopped, positioned the police vehicle where it blocked Subject 1's path and exited his vehicle.

Officer B caught Subject 1, grabbed him by his left arm and told him to get on the ground.

Note: Officer A stated that Officer B caught Subject 1 and used both of his hands to push Subject 1 to the ground.

Once Subject 1 was on the ground, both officers applied body weight by kneeling on Subject 1's back. Subject 1 said he had asthma and could not breathe. Both officers then got off of Subject 1 and placed him in a seated position.

Note: Subject 2 said that once the officers caught Subject 1, Officer B removed his portable radio from his belt and used it to strike Subject 1 in the forehead. Subject 2 further reported that Officer A struck Subject 1 in the face and jaw 10 times with overhand blows from his baton, that Officer A also punched Subject 1 with his left hand, and that Subject 1's face was bloodied as he was beaten into unconsciousness.

Officer A broadcast the officers' location and requested an additional unit and a supervisor. In the meantime, Subject 3, entered the alley from a nearby carport and was accompanied by his girlfriend. Subject 3 approached the officers with his fists clinched and raised in a fighting posture while in a loud voice he said, "Man, you got my homey." Subject 3 said he approached the officers because Subject 1 was being held down by one of the officers while the other was kicking him.

Officer A left Subject 1's side and confronted the approaching Subject 3. Officer A told Subject 3 to back away from the officers and Subject 1. Subject 3 refused to move away and reached out his hand toward Officer A. Officer A pushed Subject 3's hand aside.

Officer B was concerned that Subject 3 was about to start a fight with Officer A. Leaving Subject 1's side, Officer B walked toward Subject 3 and removed his oleoresin capsicum (OC) spray from his belt. Officer B told Subject 3 to back away or he would use the spray. Subject 3 complied with the commands and moved back. As Subject 3 retreated, both officers looked at Subject 1 and observed that he had gotten to his feet and was running. Officer A followed Subject 1 on foot.

Officer B entered the police vehicle and started following Officer A. Officer B drove in reverse, keeping his partner in view until they came to a turn in the alley. Officer B then lost sight of Officer A for 10 to 15 seconds, during which time Officer A caught Subject 1.

In an effort to stop Subject 1's flight, Officer A used his arm to strike Subject 1's left shoulder, causing Subject 1 to lose his balance and stumble forward about 10 feet before falling head-first into a concrete pole. Witness testimony indicated that Officer A kicked Subject 1 in the back, which caused Subject 1 to fall forward. Officer A saw that Subject 1 was bleeding and broadcast a request for a Rescue Ambulance (RA).

Sergeant A arrived on scene. Officer A briefed Sergeant A regarding the incident. Sergeant A began a non-categorical use of force investigation.

When the RA arrived on scene, firefighters attended to Subject 1. Subject 1 told one firefighter that he received his injury when he fell into a pole. Subject 1 then told Sergeant A that when he was running from the police, he was pushed and fell, striking his head on a pole.

Subject 1's mother arrived on scene prior to Subject 1 being transported to the hospital and told Sergeant A that her son had facial injuries from a bicycle accident two days prior. Subject 1's mother explained that Subject 1 was being chased by rival gang members when he crashed his bicycle into a curb, fell over the handlebars and landed face-first on the sidewalk.

Subject 1 was transported to the local hospital. Sergeant A was notified that due to a broken neck, Subject 1 would be admitted to the hospital. Sergeant A notified his watch commander and a categorical use of force investigation was initiated.

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 and B's tactics to warrant Administrative Disapproval.

B. Non-lethal Use of Force

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

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

1. Officer B did not maintain control of Subject 1, resulting in him running away while handcuffed.

It would have been prudent for Officer B to maintain control of Subject 1 instead of diverting his attention to his shirt pocket to retrieve a field identification card. The lack of constant control of Subject 1 provided him with the opportunity for an attempt escape.

2. Officer B did not communicate that Subject 1 was fleeing on foot or his intention to pursue Subject 1.

For officer safety, it is imperative that officers communicate with each other in any rapidly unfolding situation. Officer B should have alerted Officer A that Subject 1 was fleeing.

3. The officers did not broadcast that they were in foot pursuit of Subject 1 nor did they request backup or assistance. The only request made by either officer during the foot pursuit was by Officer A requesting that an available unit go to simplex radio frequency.

It would have been prudent for the officers to broadcast that they were involved in a foot pursuit. The officers should have requested backup or assistance, which would have alerted nearby units of the unfolding tactical situation.

4. Officers separated during the foot pursuit. Officer A lost sight of Officer B as he drove the police vehicle around the block in attempt to cut off the fleeing subject.

Officer safety requires that partner officers be aware of their partner's location and possess the ability to respond to render immediate aid. In this instance, the officers were separated and unable to render immediate aid to each other.

5. Officer B left Subject 1 alone on the ground when he walked over to assist his partner with a potentially combative citizen. When left alone, Subject 1 stood up and ran away from officers, resulting in a second foot pursuit.

Since Subject 1 had already fled from officers on foot while handcuffed, Officer B should have maintained constant control of him while seated on the ground or secured him inside their police vehicle. Officer B's attention was diverted to another subject, which afforded Subject 1 the opportunity to flee a second time.

6. Officer A pursued Subject 1 on foot while Officer B drove the police vehicle in reverse, causing the officers to become separated a second time. Officer B lost sight of Officer A for approximately 10 to 15 seconds.

Officer safety requires that partner officers be aware of their partner's location and possess the ability to respond to render aid. In this instance, the officers lost sight of each other for approximately 10-15 seconds constituting separation.

7. Officers did not broadcast the second foot pursuit.

Officers A and B should have broadcast the foot pursuit. Officers are trained to advise Communication Division (CD) when they are involved in foot pursuits, making nearby units aware of their location and creating a circumstance wherein they can respond more rapidly, if needed.

8. Officer A was not wearing his body armor during the incident.

The wearing of a ballistic vest is vital to officer safety and Officer A should have had all of his required equipment with him while performing field duties. Officer A's decision not to wear his body armor was a clear violation of Department policy and requires a Personnel Complaint.

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

B. Non-lethal Use of Force

The BOPC determined that the force used in each instance was reasonable based on Subjects 1 and 3's actions. The BOPC found that the officers' use of force was reasonable based on the standards set forth in Department Policy.

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