

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

CAROTID RESTRAINT CONTROL HOLD – 005-10

<u>Division</u>	<u>Date</u>	<u>Duty-On (x) Off ()</u>	<u>Uniform-Yes (x) No ()</u>
Rampart	01/16/10		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Officer A	9 years, 6 months

Reason for Police Contact

Officers stopped two subjects who they believed might be gang members carrying contraband.

<u>Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded (x)</u>	<u>Non-Hit ()</u>
Subject 1: Male, 17 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, 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 December 14, 2010.

Incident Summary

While stopped at a red light, Officers A and B observed Subjects 1 and 2 crossing the street. Both Subjects were wearing dark, baggy clothing, while Subject 2 had a noticeable gang tattoo. The Subjects looked in the direction of the officers and appeared to say something to each other, after which Subject 1 quickened his pace and started separating himself from Subject 2. Officer A saw Subject 1 clench the right side of his jacket as if he was attempting to conceal something. Officer B observed Subject

2 tugging at his right rear pants pocket as if he was holding something there. Based on his experience, Officer A believed that Subjects 1 and 2 could be members of a local gang carrying contraband. Officer A advised Officer B that they should stop the Subjects and ask them what they are doing.

Officer A parked his police vehicle about 10 feet behind Subject 2, who was stopped on the sidewalk. Subject 1 had disappeared into one of the surrounding businesses. As the officers exited their police vehicle, Officer B used his handheld radio to advise Communications Division (CD) that they were Code Six. CD, however, did not receive the broadcast. Officer A asked Subject 2 if he and Officer B could talk to him, and Subject 2 complied. Officer B stayed with Subject 2 as Officer A went looking for Subject 1. Officer B asked Subject 2 to turn around so he could do a pat-down search for weapons. Officer B conducted the pat-down search and felt a large object in Subject 2's right rear pants pocket. According to Officer B, the object felt like a spray paint can. Prior to removing the object, Officer B handcuffed Subject 2. Officer B then felt a prescription bottle in Subject 2's right front jacket pocket. Officer B asked Subject 2 about the bottle and Subject 2 said that the bottle contained marijuana. Officer B removed the bottle from Subject 2's jacket pocket.

Officer A went searching for Subject 1 and spotted him inside a store. Officer A walked into the store and asked Subject 1 to step outside and talk to him. Subject 1 walked out of the store past Officer A and started to run. Before Subject 1 could flee, Officer A grabbed his left arm, which caused Subject 1 to spin and his jacket to come partially off. Officer A saw that Subject 1 had a handgun in his waistband. According to Officer A, he did not draw his gun because of the number of people and cars around. Instead, Officer A maintained control of Subject 1's arm as Subject 1 struggled to get free. Officer A told Subject 1 to stop resisting, but Subject 1 ignored Officer A. Officer A released Subject 1's arm, placed his (Officer A) arm around Subject 1's neck, and applied a modified CRCH. Officer A used his bodyweight to push Subject 1 against a bench, but Subject 1 continued to resist and Officer A realized that the CRCH was not having any effect in this position. Officer A released the CRCH but kept his arm around Subject 1's neck. Officer A then used his hip to spin the Subject down to the sidewalk, where Officer A reapplied the CRCH and felt Subject 1 go unconscious. Officer A decided to use a carotid restraint control hold (CRCH) because Subject 1 was armed and in close proximity.

Once Subject 1 stopped resisting, Officer A released the CRCH, put his left knee on Subject 1's back, and reached for Subject 1's arm. However, Subject 1 had started reaching for his pistol, which was still in his waistband. Officer A warned Subject 1 that if he reached for his gun, Officer A was going to shoot him. Before Subject 1 was able to retrieve his pistol, Officer A grabbed Subject 1's right arm, pulled it behind Subject 1's back in a twist lock position, and applied his bodyweight to Subject 1. Subject 1 kept trying to buck Officer A off his back.

Officer A told Officer B to call for an additional unit. Officer B broadcast their location to CD and requested an additional unit.

Officer A told Officer B to request back up for a man with a gun, but Officer B had gone to secure Subject 2 in the backseat of the police vehicle.

While holding Subject 1 in a twist lock, Officer A reached for his handheld radio, but it had fallen out of its holder during the struggle. An unknown civilian pointed out the radio, which was located on a bench. At Officer A's request, the civilian handed Officer A the radio and Officer A radioed CD that he and Officer B were Code Four and needed backup. Officer A sent two more broadcasts to CD inquiring as to the status of the back-up units. Sergeant A, who was listening to the broadcasts, advised CD to upgrade the request to an "officer needs help" call.

Officer A ordered Subject 1 to put his left arm behind his back, and Subject 1 complied. Officer A was then able to handcuff Subject 1. Even though he was now handcuffed, Subject 1 continued trying to buck Officer A off of his back. Officer A removed the pistol from Subject 1's waistband and handed it to Officer B, who had just returned from securing Subject 2. Officer A sent a Code Four broadcast to CD that Subject 1 was in custody.

Officer C arrived on the scene and assisted Officer A with securing Subject 1 in Officer A and B's police vehicle. Officer C noticed that Subject 1 had a small amount of blood on his mouth. Subject 1 stuck out his tongue and Officer C noticed a small cut on the inside of his mouth. Subject 1 did not complain of any other injuries. Officer C conducted a search of Subject 1 and recovered a loaded magazine from Subject 1's pants pocket.

Officer B was walking to the trunk of his police vehicle with Subject 1's pistol when Officer D, who had just arrived on the scene, took the pistol from Officer B. Officer D removed the magazine and a round from the pistol and secured the round, magazine, and pistol in the trunk. Officer D retrieved the other magazine that Officer C had recovered from Subject 1 and put that in the trunk as well.

Sergeant A arrived on the scene, separated Officers A and B, and ordered the other officers to transport Subjects 1 and 2 to the police station. At the police station, Officer C requested a Rescue Ambulance (RA) to treat Subject 1, who complained of bites on his tongue and abrasions on his arm. Los Angeles Fire Department (LAFD) transported Subject 1 to the hospital, where he was later discharged.

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 Officer A's tactics to warrant administrative disapproval and Officer B's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

Does not apply.

C. Non-Lethal Use of Force

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

D. Use of Force

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

Basis for Findings

A. Tactics

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

In this instance, Officers A and B observed Subjects 1 and 2 walking through a crosswalk in front of their police vehicle. Subjects 1 and 2 were attired in dark baggy clothing, and Subject 2 had a noticeable gang type tattoo. Upon observing the officers, Subjects 1 and 2 moved their hands toward their pocket areas around their waistbands. Subject 1 and 2's demeanor changed as they quickly turned toward each other, exchanged some words and attempted to separate from each other. Officer A advised Officer B that they should stop Subjects 1 and 2 and see what they are up to. At this point, the officers objectively articulated sufficient facts to warrant a legal detention; however, Officer A elected to conduct what he described as a consensual encounter.

Based on his role as a training officer, the BOPC would expect Officer A to have a clear understanding of the differences between a consensual encounter and a legal detention and to provide his probationary officer with sound guidance and direction as to when either type of stop would be warranted. Here, although he stated that his intention was to conduct a consensual encounter, Officer A's statement to Subject 1 to step outside was consistent with a detention, seeing as he was directing the movement of Subject 1. Based on the statement, a reasonable person would perceive that they were not free to leave. Additionally, treating a detention as a consensual encounter could have serious consequences for the safety of both officers depending on the level of threat identified and the degree of control over potentially dangerous subjects.

The BOPC found that the actions of Officer A substantially and unjustifiably deviated from approved department tactical training. Based on his limited training and experience, Officer B was relying on proper guidance and direction from his field training officer (FTO), Officer A. Therefore, the BOPC found that although Officer B's actions substantially deviated from approved department tactical training, they were justifiable. Both officers are to be reminded of the difference between a legal detention and a consensual encounter.

In this instance, Officer A observed Subject 1 make movements which made Officer A believe that Subject 1 was trying to conceal something. Officer B observed Subject 2 tugging at something large that he was hiding in his pants pocket. Neither officer advised his partner officer of his observations. Communication amongst partners is imperative to ensure officer safety. The importance of effectively communicating is amplified when one officer has limited field experience, as Officer B did in this situation.

In conclusion, based on his role as an FTO, the BOPC is critical of Officer A's failure to effectively communicate his observations to Officer B and advise him of his belief that Subject 1 may have been carrying contraband. The BOPC found that Officer A's actions substantially and unjustifiably deviated from approved department tactical training. Although Officer B's failure to advise Officer A of his observations also substantially deviated from approved department tactical training, based on his limited training and experience, his actions were justifiable.

In this instance, Officer A stopped the police vehicle and advised Officer B to notify CD of their updated status and location. Officer B stated that he used his handheld radio and advised CD of their status and location; however, the investigation revealed that CD did not receive the broadcast. Officers are trained that when a situation escalates to the point where additional units are required to respond, as occurred in this instance, it is imperative that CD be aware of officers' current status and location. The best practice to facilitate this is to confirm that CD receives pertinent radio transmissions.

In conclusion, although the officers did not initially ensure that CD had received their updated status and location, subsequent broadcasts contained the pertinent information and responding personnel were not delayed. When examining the totality of the circumstances, Officers B's actions did not substantially deviate from approved departmental tactical training.

In this instance, Officer A elected to search the local businesses for Subject 1 while leaving Officer B, a probationary officer with less than a month of field experience, with Subject 2, who had not been detained or properly searched. Officer A located Subject 1 and initiated contact with him, which resulted in a struggle and eventually the use of two CRCH's and non-lethal force. Officer A's actions of searching for Subject 1 and initiating contact with him while Officer B was still occupied with Subject 2 placed both officers at a tactical disadvantage and violated the contact and cover concept.

In conclusion, by electing to leave Officer B with Subject 2, who at the time was not detained or searched, to search for Subject 1, and by initiating contact with Subject 1, Officer A's actions unjustifiably and substantially deviated from approved department tactical training. Although the contact and cover concept was violated, based on his limited training and experience, Officer B was acting under the guidance and direction of Officer A. Therefore, the BOPC found that although the officers' actions substantially deviated from approved department tactical training, in Officer B's case, the deviation was justifiable.

In this instance, Officer A was engaged in a struggle with a subject who refused to comply with his orders to stop resisting, was armed with a handgun in his waistband, and refused to surrender his hands. According to Officer B, Officer A yelled for him to broadcast a request for an additional unit and moments later, shouted for him to put out a back-up request on a man with a gun. Additionally, prior to handcuffing Subject 1, Officer A broadcast a Code Four and request for backup. Officer A made an additional broadcast inquiring as to the status of the backup units. Upon hearing Officer A's broadcast, Sergeant A upgraded Officer A's back-up request to a request for help. Shortly thereafter, Officer A sent out a broadcast that Subject 1 was in custody.

Here, there were several instances where the officers' broadcasts failed to inform responding personnel of the dire situation at hand. Additionally, by inappropriately broadcasting a Code Four prior to handcuffing Subject 1, then inquiring about the status of his back-up on a man with a gun, Officer A created a situation in which his conflicting broadcasts may have resulted in confusion among responding personnel and ultimately a delay in their response. In order to ensure that the appropriate broadcast for additional personnel is made; Officers A and B are to be reminded of the appropriate timing of requesting an additional unit rather than a back-up or help. Additionally, Officer A is reminded that a Code Four shall only be broadcast when additional assistance is not needed.

In conclusion, the BOPC found that Officer A's broadcasts were inconsistent and substantially and unjustifiably deviated from approved department tactical training. Although there is area for improvement in his radio broadcasts, based on his limited training and experience, Officer B was acting under the guidance and direction of Officer A. Therefore, the BOPC found that although his actions substantially deviated from approved department tactical training, Officer B's deviation was justifiable.

In this instance, Officer A released the second CRCH when he believed Subject 1 had passed out. Officer A then pulled Subject 1's right arm behind his back utilizing a rear twist lock technique as he applied bodyweight in an effort to control Subject 1, who continued to struggle. With Subject 1 in this position, Officer A broadcast a request for back up and, upon completion of his broadcast, returned his hand held radio to its holster and proceeded to handcuff Subject 1.

In conclusion, the BOPC was concerned with Officer A's decision to focus his attention on making a radio broadcast while he was struggling to detain an armed subject who had already reached for a handgun in his waistband.

It would have been tactically advantageous for Officer A to ensure that Subject 1 was handcuffed and then made appropriate broadcasts. Officer A's tactics unjustifiably and substantially deviated from approved Department tactical training.

In conducting an objective assessment of this case, the BOPC found that the tactics utilized by Officer A substantially and unjustifiably deviated from approved department tactical training, requiring a finding of administrative disapproval. The BOPC found that the tactics utilized by Officer B did not unjustifiably deviate from approved department tactical training.

B. Drawing/Exhibiting

Does not apply.

C. Non-Lethal Use of Force

Officer A directed Subject 1 to exit a local shop. After walking past Officer A, Subject 1 tried to run. Officer A utilized a firm grip on Subject 1's left arm in an effort to prevent him from fleeing. At this point, Officer A realized that Subject 1 was armed with a handgun inside his waistband. Subject 1 failed to comply with Officer A's commands to surrender his hands and a struggle ensued, resulting in two CRCHs being used. During the application of the first CRCH, Subject 1 twisted and turned in an effort to free himself from Officer A's hold. In order to gain better control of Subject 1, Officer A utilized his bodyweight to lean Subject 1 up against a nearby bench. Subject 1 was able to push himself away from the bench, causing Officer A to re-evaluate his tactics. At this point Officer A released the pressure of the CRCH, moved away from the bench, and utilized his left hip to spin Subject 1 and take him down to the sidewalk. Officer A utilized his bodyweight to control Subject 1 as he continually tried to buck Officer A off his back. Officer A repeatedly ordered Subject 1 to stop resisting and surrender his hands, but Subject 1 failed to comply. Officer A then applied another CRCH on Subject 1, and when Subject 1 stopped resisting, Officer A released the CRCH completely and pushed himself off of Subject 1's back. Officer A placed his left knee on Subject 1's back, applied his bodyweight and extended his right leg outward. Officer A then reached out with his left hand to grab Subject 1's right arm. As Officer A went to grab Subject 1's right arm, Subject 1 reached for the handgun located in his waistband. Officer A grabbed Subject 1's right arm before he could retrieve the handgun and warned Subject 1 not to reach for the handgun again.

Officer A then pulled Subject 1's right arm behind his back and applied a rear twist lock as Subject 1 attempted to buck him off his back. Simultaneously, Officer A shifted his position and moved his left knee toward Subject 1's neck/shoulder area, where he applied bodyweight and continued to order Subject 1 to stop resisting. Officer A retrieved his handcuffs with his left hand and applied the handcuffs to Subject 1's right wrist, then ordered Subject 1 to surrender his left arm. Subject 1 complied and was taken into custody.

As a result of Subject 1's aggressive actions, Officer A was forced to apply a variety of non-lethal force types to take him into custody. In conclusion, an officer with similar training and experience as Officer A would reasonably believe that the use of non-lethal force would be appropriate based on Subject 1's actions.

Therefore, the BOPC found that the use of non-lethal force by Officer A was objectively reasonable and in policy.

D. Use of Force

In this instance, Officer A confronted Subject 1 just inside the doorway of a local shop. Officer A asked Subject 1 to step outside to speak with him. As Subject 1 exited, he walked past Officer A and attempted to flee. Officer A reached down and grabbed Subject 1's left arm. The combination of Subject 1's momentum from running and Officer A's hold sent Subject 1 into a quick spin. When Officer A grabbed Subject 1's arm, he also grabbed a hold of Subject 1's jacket, which started to fall from his shoulders as Subject 1 pulled away. Subject 1's jacket fell to a position that exposed his waistband and Officer A observed a handgun in Subject 1's waistband. Officer A immediately positioned himself behind Subject 1 in order to gain control while he continued ordering Subject 1 to surrender his hands. Realizing Subject 1 was not going to comply, Officer A applied a modified CRCH. Officer A did not draw his gun because of the number of people and cars around.

Although Subject 1 had not yet reached for the handgun, an officer with similar training and experience would reasonably believe that a subject who was actively resisting while armed with a handgun in his waistband presented an immediate threat of serious bodily injury or death. Officer A considered his shooting background and the safety of the public prior to electing to utilize the CRCH and determined that other options such as separating Subject 1 from the area were impracticable as it would afford Subject 1 the opportunity to obtain his handgun prior to Officer A being able to draw his service pistol to defend himself, thereby placing Officer A at a disadvantage.

In conclusion, the BOPC found that Officer A's use of force was objectively reasonable and in policy.