

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

HEAD STRIKE WITH AN IMPACT WEAPON – 007-06

Division	Date	Duty-On (X) Off()	Uniform-Yes() No(X)
Harbor	02/01/06		

Officer(s) Involved in Use of Force	Length of Service
Officer A	6 years, 11 months
Officer B	6 years, 3 months
Detective C	10 years, 9 months

Reason for Police Contact

After receiving anonymous tips, officers responded to a location to conduct a narcotics investigation. Upon arrival, Subject 1 attempted to flee from the scene. At the conclusion of a foot pursuit, Subject 1 turned around and engaged Officer A in a struggle. Believing Subject 1 was attempting to arm himself during the struggle, Officer A struck Subject 1 on the head two times with his service pistol.

Suspect	Deceased ()	Wounded (X)	Non-Hit ()
Subject 1: Male, 36 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 Chief 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.

The following incident was adjudicated by the BOPC on January 16, 2007.

Incident Summary

On January 31, 2006, Officer B received an anonymous telephone call informing him that narcotics activity was occurring at a specific location in Harbor Area. Officer B completed a Narcotics Report, which indicated that the anonymous caller stated that

there was “heavy pedestrian traffic loitering on the front sidewalk in the evening.”

On February 1, 2006, Detective A received another anonymous telephone call, indicating that a subject who was on parole was currently at the above location preparing to move out. Detective A called Officer B and informed him about the additional information. Officer B and his partner, Officer A, subsequently proceeded to the location to conduct an investigation. Officers A and B were both wearing plainclothes and were armed with their service pistols.

The above location contained three building structures aligned one behind the other. There were walkways along the east and west sides of the structures that allowed access from the first structure to the third structure on the other side of the property.

As Officers A and B walked toward the structures, they heard voices and determined that there were people talking in the courtyard area between the second and third structure. Officer A indicated that he was approximately ten feet from the door to the third structure when he heard the voices. Officers A and B continued to walk to the courtyard and encountered five subjects. Officers A and B believed one of the subjects to be Subject 1. Officer A noticed that Subject 1 was holding a glass jar in his left hand containing an off-white residue resembling methamphetamine or cocaine.

Officer A greeted the group and identified himself as a Los Angeles Police Officer. Officer A also displayed his badge, which was clipped to his pants pocket. In response, Subject 1 said something to the effect of, “You’re not the police.” Officer B also displayed his badge and confirmed to the group that they were police officers.

Officer A noticed that Subject 1 was placing the cap on the jar he was holding. Officer A told Subject 1 to stand up. Subject 1 immediately “tensed up” and Officer A could see anger in his face. Based upon Subject 1’s reaction, as well as Officer A’s belief that Subject 1 may be a gang member, Officer A decided to draw his pistol. Officer A ordered Subject 1 to keep his hands where Officer A could see them.

According to Officer B, at or about that time, Subject 1 stood up and “became very vocal” with the officers, possibly creating a distraction. Subject 1 also began to place his hands near his waistband and Officer B noticed that Subject 1 had a black nylon pouch near his waist.

Subject 1 then abruptly turned around, ran through the courtyard, and entered the third structure via a door. Subject 1 shut a metal security door behind him and then shut the interior wooden door. Officer B ordered Subject 1 to return to the courtyard, to no avail. Officer B then decided to force his way into the structure, by pulling open the security gate and then kicking in the wooden door.

Note: According to Officer B, he decided to force entry into the structure because he believed that Subject 1 was possibly going to discard evidence inside the structure and/or possibly arm himself.

After kicking in the door, Officer B entered the structure and drew his duty pistol, believing that Subject 1 may have entered the structure to arm himself. Officer B entered a laundry room and then “pied” the corner towards the kitchen area. From the kitchen area, Officer B could see Subject 1 in the living room area and heard Subject 1 yell, “shoot him, shoot him, shoot him!” Also in the living room was a female who was crying and telling Subject 1, “just listen to him, just listen to him.” Subject 1 then entered another room and Officer B lost sight of Subject 1. Officer B decided to back out of the structure.

Note: According to Officer A, when Officer B kicked the door in and entered the structure, he placed a “help” call to Communications Division.

Meanwhile, Officer B exited and took a position where he could watch the rear of the structure. From that position, Officer B observed a window at the rear of the structure and observed Subject 1 stick his head out of the window. Officer B observed white powder begin to disperse in the air. Officer B believed that Subject 1 was discarding/destroying methamphetamines. In response, Officer B pointed his pistol at Subject 1 and ordered Subject 1 to stop what he was doing. Subject 1 disappeared back inside the structure.

Subject 1 then emerged from the structure and ran along the walkway. Officer B holstered his pistol and began a foot pursuit of Subject 1. Officer A paralleled the pursuit on the opposite side of the structures on the property. As Subject 1 ran in front of the first structure on the property, Subject 1 collided with Officer A, and then ran away. Officer A took over the lead in the foot pursuit, chasing Subject 1 with Officer A’s gun in his right hand and his radio in his left hand.

Subject 1 continued to run past all three structures and then into an alley. Subject 1 attempted to open a chain link gate but was unsuccessful. Subject 1 then turned and faced Officer A, who was close behind him.

Subject 1 used his left hand to grab Officer A’s left arm. In response, Officer A tucked his pistol, which was in his right hand, to his right side. Officer A then observed Subject 1 reaching for the black pouch at his waist. Believing that Subject 1 may be reaching for a weapon, Officer A struck Subject 1 two times in the head with his pistol.

Officer B observed Subject 1 attempt to climb the chain link fence, pause, and then turn towards the officers and take a fighting stance. Officer B observed Officer A administer a strike. Officer B assisted by grabbing Subject 1’s left arm and giving it a firm tug, pulling Subject 1 to the ground into a prone position. While on the ground, Subject 1 began to struggle. As such, Officer B placed his knee on Subject 1’s back and used his body weight to control Subject 1 while he attempted to place Subject 1’s left arm behind his back.

Meanwhile, Detective B heard the help call, advised plainclothes Detective C and plainclothes Officer C of the help call, and all three officers responded to the location. Detective B was the first to arrive and observed the foot pursuit in progress. Detective B parked her vehicle on the street and joined the foot pursuit, trailing behind Officer B as the foot pursuit proceeded from the walkway towards the alley. Detective C followed behind Detective B.

When Detectives A and B arrived in the alley, Subject 1 was already on the ground in a prone position. Detective C joined the struggle and used a wrist lock to gain control of Subject 1's right arm, allowing Detective B to handcuff Subject 1. According to Detective B, she heard officers yelling "stop" during the foot pursuit and heard officers giving verbal commands to Subject 1 while Subject 1 was on the ground, such as, "Release your hands. Bring them on top." Detective C also heard commands being given to Subject 1 when he was on the ground.

Subject 1 was transported to a hospital where he was treated for a two-centimeter laceration to his head and a sprained right elbow.

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 make specific findings in the following areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a pistol by any involved officer(s); the Use of Force by any involved officer(s) and any additional pertinent issues. All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve the 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. Drawing/Exhibiting/ Holstering

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

C. Non-Lethal Use of Force

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

D. Lethal Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that prior to Officers A and B's arrival to the location, they had minimal information about the subject and location, which reduced their ability to ensure officer safety. It appeared that the officers intended to complete the narcotics investigation to close out the Narcotics Report. The BOPC determined it would have been tactically prudent for the officers to discuss tactics prior to their arrival to solidify the purpose of the investigation and define appropriate actions.

The BOPC was concerned with the officers' decision to confront Subject 1 in plainclothes without the support of additional personnel resources, preferably uniformed officers for identification purposes, since the officers were clearly at a tactical disadvantage with the number of persons in the courtyard and were not sufficiently equipped to address the various tactical concerns inherent to the circumstances.

The BOPC noted that Officers A and B were concerned that Subject 1 entered the structure with the intent to destroy narcotics evidence or arm himself with a firearm. In order to prevent this from occurring, the officers elected to force entry. The BOPC determined that the decision to forcefully enter the structure placed the officers at a significant tactical disadvantage. The BOPC would have preferred the officers to establish containment on the structure and requested the required personnel resources to handle the situation as a potential barricaded suspect incident.

The BOPC noted that during the foot pursuit, Officers A and B paralleled each other. The BOPC was critical of the officers decision to separate during the foot pursuit, as they were not in a position to come to one another's immediate aid should either be confronted by Subject 1 or any other potential subject.

The BOPC noted that Officer A's force options were limited because of his decision to engage in a foot pursuit with his service pistol drawn in his right hand and his police radio in his left hand.

The BOPC found Officer A's and B's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/ Holstering

The BOPC noted that Officer A was faced with a possible narcotics suspect who refused to comply with the officers' verbal commands. Fearing that Subject 1 was attempting to distract the Officer A in order to arm himself, Officer A drew his service pistol.

The BOPC further noted that Officer B was engaged as a cover officer when he observed Subject 1 running towards the structure. Officer B forced entry into the structure. Fearing Subject 1 was in the process of arming himself, Officer B drew his service pistol.

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

C. Non-Lethal Use of Force

The BOPC noted that following the lethal use of force, Officer B grabbed Subject 1's left arm and completed a takedown to control him. Once on the ground, Officer B placed his knee on Subject 1's back and pried Subject 1's left arm from beneath him. Detective C arrived and placed a firm grip on Subject 1's right arm to assist the officer.

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

D. Lethal Use of Force

The BOPC noted that Officer A was closing the distance between him and Subject 1 when Subject 1 was unable to open the gate and suddenly turned to face Officer A. Subject 1 grabbed Officer A's left arm, preventing Officer A from creating distance between him and Subject 1. Officer A moved his exposed service pistol into a close contact position while Subject 1's free hand moved toward a pouch that was affixed around his waist. Officer A recognized the pouch as being consistent with those used to conceal handguns and believed that Subject 1 was about to arm himself with a weapon. In order to avoid an armed confrontation, Officer A struck Subject 1 twice on the top of the head with his service pistol.

Although the BOPC determined that the intentional head strike was reasonable, the BOPC was concerned that the use of a firearm as an impact device increased the likelihood of a negligent discharge and placed the firearm in close proximity to Subject 1, increasing the potential that Subject 1 could gain control of it. The BOPC determined that Officer A would benefit from additional weapon retention training.

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