

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

HEAD STRIKE WITH AN IMPACT WEAPON and UPPER BODY CONTROL HOLD
028-05

Division	Date	Duty-On (x) Off()	Uniform-Yes(x) No()
Foothill	4/2/05		

Officer(s) Involved in Use of Force	Length of Service
Officer A	6 years, 8 months
Officer B	4 years, 3 months
Officer C	4 years, 4 months
Officer D	9 years, 1 month
Officer E	14 years, 10 months
Officer F	4 years, 9 months

Reason for Police Contact

Officers observed Subject 1 crossing the street outside of a crosswalk forcing vehicles to stop and/or slow down to avoid hitting him. When the officers approached Subject 1, he became combative and a struggle ensued. During that struggle officers employed two separate uses of force relative to Subject 1.

Suspect	Deceased ()	Wounded (x)	Non-Hit ()
Subject 1: Male, 44 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 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 March 28, 2006.

Incident Summary

During the early morning of April 2, 2005, Officers A and B were traveling in their marked black-and-white police car at an intersection when they observed vehicles coming in the opposite direction having to stop or slow to allow a pedestrian, later identified as Subject 1, cross the street approximately 180 feet outside the crosswalk. The officers went past the stopped vehicles, then turned around and parked on the curb with the intent to cite Subject 1 for violating California Vehicle Code Section 21954(a).¹

Subject 1 walked up onto the sidewalk in front of the laundromat on the east side of the shopping center. The shopping center was located at the northeast corner of the intersection. The officers exited their car and instructed Subject 1 to stop. As Officer B exited the police car, he keyed his Astro radio and announced their location. However, Communications Division ("CD") did not pick up this broadcast, and Officer B did not wait for an acknowledgement before engaging Subject 1.

Subject 1 continued walking away from the officers and asking them why he had to stop. The officers caught up to Subject 1 as Subject 1 walked between the front of the laundromat and the sole car parked in front of the laundromat. Officer B positioned himself on one side of the car while Officer A positioned himself on the other side of the car. The officers instructed Subject 1 to turn around and put his hands on his head. Subject 1, again, refused to comply and began to shout obscenities at the officers insisting that the officers were not police, despite the fact that they were in full uniform and had pulled up a marked black-and-white police car. As Officer A again instructed Subject 1 to turn around and put his hands behind his head, Officer A drew his ASP baton ("baton") with his right hand and extended the baton. Subject 1 looked at Officer A, but then clenched his fists and turned his attention toward Officer B. Officer A then drew his Oleoresin Capsicum (OC) spray canister with his left hand, stepped forward and administered a two-second burst to the left side of Subject 1's face. Subject 1 then turned and began to attack Officer A. Subject 1 swung his arms and kicked at Officer A. Officer A moved back and struck Subject 1 twice in the left arm/shoulder area with his baton. However, it appeared that the baton strikes had no effect on Subject 1. Subject 1 continued to advance grabbing at Officer A's baton. Seeing the strikes were having no effect, Officer A threw his OC canister, grabbed his baton with both hands and applied a downward strike in an attempt to hit Subject 1's exposed left wrist or hand. However, when Officer A's baton came down it struck Subject 1's right forehead, causing a laceration.

As Officer B came from the front of the car to assist Officer A, Officer B keyed his Astro radio to request backup. CD did not receive the broadcast. Officer B was going to attempt to take Subject 1 down from behind. However, he hesitated when he saw that Officer A was striking Subject 1 with his baton. Officer B stayed slightly behind Subject 1 so as not to be struck by Officer A's baton. Officer A continued to swing his Baton at

¹ California Vehicle Code Section 21954(a) provides that "[e]very pedestrian upon a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway so near as to constitute an immediate hazard."

Subject 1, but realized that his Baton was not making contact with Subject 1. He then observed that his ASP Baton had collapsed into itself. Officer A then broke free of Subject 1 and moved away from Subject 1. Subject 1 then proceeded through the parking lot of the shopping center and jumped over a 3½-foot wall that surrounded the parking lot. Subject 1 then ran up the sidewalk. The officers followed Subject 1 through the parking lot, over the wall and up the sidewalk. Officer A then broadcast a request for assistance.

When Subject 1 got to the driveway to the shopping center parking lot, Officer B caught up to him. Officer B was able to grab Subject 1 around the legs and take him to the ground. Subject 1 struggled and tried to push himself up to get Officer B off of him. Officer A caught up and struck Subject 1 on the ankles with his collapsed baton to keep Subject 1 from getting up to his feet. Subject 1 continued to try to get up off of the sidewalk. Officer A then struck Subject 1 in the lower back with the butt of his Baton. However, Subject 1 continued to resist. Officer A threw his collapsed Baton away from Subject 1 then placed his right knee on Subject 1's back.

Meantime, when the officers pursued Subject 1 through the parking lot and up the sidewalk, CD broadcast a request for the officers' location. Once on top of Subject 1, Officer A realized his radio had fallen out of its carrier and was on the sidewalk. Officer A reached over, picked up the radio and broadcast their location.

In his attempts to free himself of the officers, Subject 1 reached around to, and grabbed at, Officer A's holster/firearm. Officer B moved to a position higher on Subject 1's upper body and Officer A dropped his body flat onto Subject 1's back in an attempt to pin Subject 1's arm to the ground. Officer A then reached his right arm around Subject 1's neck and applied a locked Carotid Restraint Control Hold. Subject 1 unsuccessfully tugged at Officer A's arm to get free.

Officers C and D arrived on the scene and found Officers A and B on the ground grappling with Subject 1. Officer D applied his body weight to Subject 1's legs and Officer C assisted Officer B with handcuffing Subject 1.

Once Subject 1 was handcuffed, the officers got up and observed that Subject 1 was no longer resisting. The officers turned Subject 1 over, picked him up and guided him into a sitting position with his back resting against a 3½-foot wall along the sidewalk.

Additional units had responded to the assistance call and arrived on scene, and a Rescue Ambulance ("RA") was requested for Subject 1. Once he was sat up against the wall, Subject 1 again became belligerent. The RA arrived and attempted to render medical attention to Subject 1. Subject 1 was verbally abusive with both the officers and the paramedics. Officers E and F assisted the paramedics with getting Subject 1 up onto the gurney so the paramedics could transport him to the hospital. Once on the gurney, Subject 1 began to thrash around and kicked Officer E in the head. Additional officers came to Officers E and F's aid. One hobble restraint was applied to Subject 1's thighs and one was applied to his ankles to keep him under control. Both Officers E

and F accompanied Subject 1 in the RA to the hospital. Subject 1 was transported to the hospital where he received six sutures to close a laceration on his forehead.

Officer A suffered abrasions to his chest, right forearm and right knee, and swelling to the left side of his face and pain to his back. Officer A was escorted to the hospital for medical treatment. Officer B sustained abrasions to both knees and complained of pain to his right leg and shoulder. However, Officer B did not require nor did he seek medical treatment. Officer E was not injured as a result of having been kicked in the head by Subject 1.

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 that Officers A and B would benefit from additional formal tactical training provided by Training Division. No action was recommended for Officers C, D and E.

B. Drawing/Exhibiting/Holstering

The BOPC found that no officers drew their firearms during the course of this incident.

C. Nonlethal Use of Force

The BOPC found that Officers A, B, D, E and F's use of nonlethal force was in policy, no action.

D. Use of Force

The BOPC found Officer A's use of force to be in policy, requiring no action.

Basis for Findings

A. Tactics

The BOPC noted that Officers A and B did not advise Communications of their status and location prior to exiting their vehicle, and did not adequately communicate with each other regarding Subject 1 grabbing Officer A's holster. The BOPC determined that the officers should have requested backup when Subject 1 ignored the officers' initial commands. The BOPC noted that Officer B did not remove his Astro radio from its carrier before broadcasting and did not ensure that Communications Division acknowledged the broadcast. The BOPC noted that Officer A confronted Subject 1 with his collapsible baton in his right hand and his OC spray in his left hand, limiting his use of force options. Officer A stepped into the mist of his own OC spray, which may have incapacitated him. Officer A tossed his OC canister and baton on the ground away from Subject 1. The BOPC decided that Officer A should have properly secured his OC canister and his baton. The BOPC determined that Officers A and B will benefit from additional training at Training Division. (Formal Training)

B. Drawing/Exhibiting/Holstering

The BOPC found that no officers drew their firearms during the course of this incident.

C. Nonlethal Use of Force

The BOPC determined that the officers' nonlethal use of force was reasonable to overcome Subject 1's resistance and to take the suspect into custody. The BOPC found Officers A, B, D, E and F's nonlethal uses of force to be in policy, no action.

D. Use of Force

The BOPC determined that Officer A's use of his baton was reasonable to overcome Subject 1's aggressive/combatative resistance, and the baton strike to Subject 1's head was inadvertent.

The BOPC determined that Officer A reasonably believed that Subject 1 presented an immediate threat of serious bodily injury or death when Officer A applied a locked Carotid Restraint Control Hold on Subject 1. The BOPC found Officer A's use of force to be in policy, no action.