

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

Carotid Restraint Control Hold 029-07

Division	Date	Duty-On (X) Off()	Uniform-Yes(X) No()
77 th Street	03/21/2007		

Officer(s) Involved in Use of Force	Length of Service
Officer A	17 years, 4 months

Reason for Police Contact

When officers made contact with Subject 1, he exhibited suspicious behavior. Officers approached the front door of Subject 1's residence, whereupon they smelled a strong odor of marijuana emanating from within. When officers attempted to detain Subject 1, a struggle ensued and Officer A applied a carotid restraint control hold.

Subject	Deceased ()	Wounded ()	Non-Hit ()
Subject 1: Male, 39 years.			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate the 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 and addenda items); the 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 11/13/07.

Incident Summary

Officers A, B, C and D were engaged in an operation to monitor compliance by convicted sex offenders with registration requirements.

As Officers A, C and D sought an address for a compliance check, they noticed two addresses spray painted on the side of an apartment building and were unsure if the address they were looking for was the apartment building or the residence behind it.

As the officers approached the house behind the apartment, Officer A saw Subject 1 holding a paper bag and standing outside. Officer A asked Subject 1 if he lived at the residence. Subject 1 responded with a blank stare and became fidgety.

The officers asked Subject 1 what the address of the house was. Subject 1 responded with an even number. With the knowledge that the addresses on that side of the street would have odd numbers, Officer D told Subject 1 that the address he provided was incorrect.

Officer D walked over to the open front door of the residence and yelled in, "Police, is anybody home?" Officer D immediately smelled the odor of marijuana emanating from the residence. Officer D looked toward Officer A's direction and crossed his wrists. Officer A understood this gesture as a signal for Officer A to handcuff Subject 1. Officer A removed a pair of handcuffs with his right hand and moved it up toward Subject 1's wrist. As soon as the handcuff made contact with Subject 1's wrist, Subject 1 shoved his body backward toward Officer A, causing Officer A to lose his balance and fall back onto the wall of the residence directly behind him. After regaining his balance, Officer A went in foot pursuit of Subject 1. Officers C and D followed. When Officer A closed the distance between him and Subject 1, Officer A attempted to grab Subject 1's shirt. Subject 1 tripped, and they both fell forward.

Officer C approached Subject 1's left side, placed his right hand on Subject 1's shoulder, and grabbed Subject 1's left forearm in an attempt to keep him down. As Subject 1 attempted to stand up, Officer A caught up with Subject 1 and wrapped his arms around Subject 1's waist. Officer A yelled for Officers C and D to "Spray him! Spray him!" Subject 1 said, "Don't spray me. Don't spray me." As Subject 1 attempted to stand up, his momentum caused both him and Officer A to fall backward, with Subject 1 on top of Officer A's chest. At this point, Officer A felt a sharp pain in his left wrist and realized he was injured. Again, Officer A yelled, "Spray him. Spray him."

Note: It was subsequently determined that Officer A had sustained a fractured wrist and ligament damage.

Officer D drew his Oleoresin Capsicum (OC) spray. As he tried to get up, Subject 1's hand landed on Officer A's pistol. To prevent Subject 1 from taking his pistol, Officer A rolled onto his side.

Note: Officer A did not communicate to Officers C and D that Subject 1's hand was on his pistol or that he was injured.

As the struggle continued, Officer A repositioned his right arm from underneath Subject 1's arm and waist area over to Subject 1's upper torso. Subject 1 then bit Officer A's forearm. Officer A then used his injured left hand to cup Subject 1's right elbow and applied a one-armed carotid restraint control hold (CRCH) to Subject 1's neck. Officer A asked Subject 1, "Are you going to stop?" three to four times. Officer A heard Subject 1 gag and released the CRCH. Immediately, Subject 1 began to flail his arms around

again. Officer A reapplied the CRCH around Subject 1's neck until his struggling subsided.

Officers C and D then each grabbed Subject 1's arms, rolled him off of Officer A, and placed him into a prone position. Officer D placed a knee on Subject 1's shoulder, as Subject 1 continued to struggle. When Subject 1 stopped struggling, Officers C and D completed handcuffing him.

Officer A asked Subject 1 why he ran. Subject 1 responded, "I got warrants. I got traffic warrants."

Officer D broadcast a request for a supervisor and a rescue ambulance.

Sergeant A advised CD that he was en route and arrived at the scene. Sergeant A was briefed by Officer D, and they believed the incident at the time to be a non-categorical use of force. Sergeant A later discovered that a Categorical Use of Force (CUOF) had occurred, at which point Sergeant A contacted the Watch Commander. After additional units arrived, Officer D realized the residence outside which the officers had first contacted Subject 1 had not yet been cleared. Officer D entered the residence while continually announcing his presence. Officer D observed narcotics and associated paraphernalia on a coffee table and by a counter.

When Officer D stepped outside, additional personnel were already at the scene. Officer D informed Officer B, who had also responded to the scene, of what occurred and what was inside the residence. Officer B contacted Officer E and requested that a warrant be drafted. The warrant was served and several items were seized, including a substantial amount of narcotics, narcotics paraphernalia, and a loaded firearm.

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, C and D's tactics to warrant divisional training.

B. Non-Lethal Use of Force

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

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that as the officers arrived at the address where they contacted Subject 1, they did so without appropriately notifying CD of their status and location. Officers are trained to advise CD when they conduct officer-initiated activities, which makes nearby units aware of their location and creates the circumstance wherein they can respond more rapidly if needed. Additionally, Officer C exited his police vehicle without a baton. It is important that officers equip themselves with all the tools available.

The officers did not notify CD of the foot pursuit with Subject 1, their location and direction of travel, the subject's description, or the type of crime. A timely broadcast of the rapidly unfolding events would have been beneficial.

It was not until Officer A was lying in a supine position with Subject 1 on top of him that he realized the severity of his injury, as he experienced excruciating pain in his left arm. At that point, Officer A directed Officers C and D to deploy their OC spray; however, this could have been problematic as Officer A's and Subject 1's faces were in close proximity to one another throughout the struggle.

As the struggle continued, Subject 1's right hand made contact with Officer A's holstered service pistol. Officer A turned his hip in an effort to position the service pistol against the roadway and applied the CRCH upon Subject 1. Although the BOPC noted that the incident unfolded rapidly, it would have been prudent for Officer A to advise Officers C and D of the threat he was faced with.

After Subject 1 was handcuffed and placed in a police vehicle, Officer D responded back to the origination of the foot pursuit and conducted a search of the residence. The BOPC was concerned that Officer D initiated a building search by himself. With personnel readily available at the scene, it would have been safer for Officer D to form a search team prior to making entry.

The BOPC found Officer A, C and D's tactics to warrant divisional training.

B. Non-lethal use of force

The BOPC noted that when Subject 1 started to regain his footing, Officer C placed his right hand on Subject 1's left shoulder and his left hand on Subject 1's left forearm and attempted to push Subject 1 down to the pavement. Simultaneously, Officer A approached Subject 1 from behind and placed both arms around his torso. Subject 1's arms were not pinned and his struggling, coupled with Officer A's own momentum, resulted in both parties falling backward. On his back with Subject 1 lying on top of him, Officer A experienced severe pain in his left wrist. Officer A attempted to maintain control of Subject 1 with his fully functioning right arm, while Officer C attempted to gain control of Subject 1's left arm.

After Officer A applied the CRCH on Subject 1, his resistance subsided and Officers C and D rolled him off Officer A and into a prone position on the roadway. Officer D knelt on Subject 1's back and utilized bodyweight as a controlling agent. Officer C placed a handcuff on Subject 1's left wrist. Officers C and D maintained the aforementioned positions until Subject 1 complied with their commands and handcuffing was completed.

Based on Subject 1's aggressive actions, the BOPC determined that Officer A, C and D's use of non-lethal force was reasonable to overcome Subject 1's resistance and control him.

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

C. Lethal Use of Force

The BOPC noted that as a result of Officer A's fall in the walkway, he sustained a disabling injury to his left wrist, which was later identified as a fracture with corresponding damage to the ligaments. Experiencing excruciating pain, Officer A was unable to effectively maintain a hold on Subject 1. When Subject 1's right hand made contact with Officer A's holstered service pistol, Officer A, fearing for his life, applied a CRCH to Subject 1. When Officer A heard what he believed to be Subject 1 gagging, Officer A released his hold on Subject 1; however, Subject 1 flailed his arms about, which prompted Officer A to reapply the CRCH. As Subject 1's resistance began to subside, Officers C and D were then able to handcuff Subject 1.

The BOPC determined that Officer A reasonably believed the subject presented an immediate threat of serious injury or death.

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