

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

CAROTID RESTRAINT CONTROL HOLD – 031-06

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Hollywood	03/13/2006		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	3 years, 11 months

Reason for Police Contact

Officers A and B observed Subject 1 and 2, who matched the descriptions of attempted murder suspects, and sought to apprehend them. Subject 2 failed to comply with their commands and reached for a handgun in his waistband. Officer A applied a Carotid Restraint Control Hold to subdue him.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 2: Male, 25 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 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.

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 March 3, 2007.

Incident Summary

Officers A and B heard Communications Division (CD) broadcast an attempted murder radio call that included a description of two male suspects and their last known location. The officers searched for the attempted murder suspects, and reported that earlier they had observed two subjects matching the same description.

Officers A and B observed the two subjects they had seen earlier and attempted to apprehend them. However, they lost sight of the subjects while making a U-turn. Believing that the suspects had entered a shopping center, Officer B drove his police car into the parking lot and parked the police car. The officers exited their police car and searched for the suspects on foot.

The officers did not advise CD of their location, and instead Officer A used a tactical frequency to request that an additional unit meet them at the location. The officers did not advise CD or any other responding units that they had located possible attempt murder suspects.

Moments after requesting an additional unit, a male (Subject 1) exited a store located in the shopping center and walked toward the officers. Officer B noted that Subject 1's untucked shirt was concealing a bulge in his waistband area and that he was possibly the attempt murder suspect so Officer B ordered him to stop, turn around, and place his hands up. Subject 1 failed to comply, so Officer B drew his weapon and pointed it at Subject 1. Officer B then repeated the command to "turn around" in Spanish. Subject 1 complied, and Officer A approached Subject 1 and grabbed his hand while Officer B holstered his weapon and grabbed Subject 1's other hand. The officers then handcuffed Subject 1 without incident. Officer B searched Subject 1 for weapons, but found none in his possession.

Several minutes after Subject 1 was taken into custody, a second male (Subject 2) exited the same store and walked toward the officers while adjusting his waistband with both hands. Officer A and B recognized him as a possible attempted murder suspect. Officer A then instructed Subject 2 to stop and place his hands up. Subject 2 lifted his hands, and Officer A noticed a bulge in Subject 2's waistband. Believing that Subject 2 was possibly armed, Officer A drew his weapon and again ordered Subject 2 to keep his hands up. Subject 2 looked around, and ignored Officer A's commands. Subject 2 appeared fixated on a marked black and white police car that drove by and failed to comply with the officer's commands. Instead Subject 2 slowly dropped his hands towards his waist and fled through the parking lot. Officer A holstered his weapon and informed Officer B that he was going to run after Subject 2.

Officer A chased Subject 2 as he used parked cars as "cover." Officer A broadcasted to CD that he was in foot pursuit of a possible attempted murder suspect. Meanwhile, Officer B placed Subject 1 in the backseat of his patrol car and drove to assist Officer A.

Simultaneously, Sergeant A responded to the scene of the foot pursuit and as he turned his police car into the parking lot, Subject 2 ran directly in front of his police car. Sergeant A saw a chrome handgun in Subject 2's waistband and also saw Subject 2 reach for the gun and look at him. Believing that Subject 2 was going to shoot him, Sergeant A intentionally struck Subject 2 with his police car, which knocked Subject 2 off of his feet and onto the ground.

Sergeant A stopped his police car and exited. Sergeant A and Officer A attempted to control Subject 2, but they struggled with Subject 2. Sergeant A and Officer A verbalized to each other that Subject 2 was armed with gun. Subject 2 attempted to roll onto his side and reached for the handgun in his waistband. Officer A struck Subject 2 once with his knee and hand to gain control of Subject 2's hand. Subject 2 continued to resist and attempted to raise himself up, at which point Sergeant A struck Subject 2 two times in the ribs with his knee. Sergeant A then punched Subject 2 once with his fist and kicked Subject 2's ribs and back. Despite these strikes, Subject 2 did not comply.

Subject 2 again reached for the handgun in his waistband. In response, Officer A applied a Carotid Restraint Control Hold (CRCH) as he held Subject 2's hand to prevent Subject 2 from grabbing the handgun. Subject 2 did not lose consciousness at any time. Sergeant A gained control of Subject 2's hand and Officer A handcuffed him.

Officers C and D arrived at the location. Sergeant A advised them that Subject 2 was armed with a handgun. Officer D retrieved it from Subject 2 waistband. Subject 2 was then transported to the police station where personnel from the Los Angeles Fire Department (LAFD) evaluated him. However, neither a physician at a contract hospital nor jail dispensary evaluated Subject 2 as required by Department policy.

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 formal training.

The BOPC found Sergeant A's tactics to be appropriate.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A and B's drawing to be in policy.

C. Non-lethal Use of Force

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

D. Use of Force

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

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

Basis for Findings

A. Tactics

Officers A and B observed Subjects 1 and 2, and moments later heard a radio call of a shooting. The officers noted that the descriptions of the suspects broadcast by CD matched the physical attributes of Subjects 1 and 2 and returned to the area where the suspects were last seen. The BOPC noted that a request for an additional unit and an Air Unit would have maximized the potential of locating the suspects and provided a tactical advantage.

Unable to locate the subjects, the officers assisted with an investigation and later resumed their search for Subjects 1 and 2. And observed the subjects, but lost them from view in a shopping center. The officers entered the shopping center and drove through the parking lot. The BOPC noted that it would have been advantageous to advise CD of their status and location and/or broadcast the suspects' information on a Department-wide "base" frequency to facilitate the assistance of additional units in the search for the suspects. This would have also ensured that their current location and status was known in the event assistance was needed.

As Officers A and B waited for the arrival of an additional unit, Subject 1 exited a store and walked toward the officers. Subject 1 was taken into custody without incident. The BOPC noted that Officers A and B abandoned the responsibilities of "contact" and "cover" officers. Under this concept, the "contact officer" will search the suspect and apply handcuffs if necessary while the "cover officer" protects the contact officer from a position of surveillance and control. The "cover officer" must continue to monitor the suspect's actions as well as any potential threats in the area. When Officers A and B observed Subject 1, Officer B drew his weapon while Officer A approached to handcuff him. Rather than maintain a position of control, Officer B holstered his weapon, approached Subject 1, and assisted Officer A in handcuffing him. Officer B failed to monitor the area or protect his partner from potential threats.

Moments later, Subject 2 exited the same store while adjusting his waistband with both hands.

Officer A ordered Subject 2 to place his hands above his head, and as he began to do so, Officer A observed a bulge in his front waistband. Fearing Subject 2 was armed, Officer A drew his service pistol. Subject 2 continuously looked around, ignored Officer A's commands, and fled through the parking lot.

While Officer A engaged in a foot pursuit of Subject 2 alone, he advised Officer B of his intention before doing so. He also did so in a well lit area, while using parked vehicles as "cover" and knowing that another black and white police vehicle was arriving on scene. While maintaining continuous visual contact, Officer A and Sergeant A approached Subject 2. Although the BOPC would have preferred Officers A and B had remained together and established a perimeter, Officer A clearly articulated the facts justifying his actions. Further, Sergeant A was in a position to render assistance to Officer A because they simultaneously made physical contact with Subject 2.

After Officer A applied the CRCH on Subject 2, Subject 2 provided no further resistance and was handcuffed. Subject 2 was assisted to his feet and the handgun was removed from his waistband. The BOPC noted that the handgun should have been removed from Subject 2's waistband while he was handcuffed and on the ground, thereby ensuring maximum control of Subject 2 while removing a handgun unfamiliar to the officer.

The BOPC found Officers A and B's tactics to warrant formal training.

The BOPC found Sergeant A's tactics to be appropriate.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officers A and B responded to a shooting call wherein a male was shot with a handgun. The officers assisted with the preliminary investigation, obtained a detailed description of the suspects, and left the crime scene to search for the outstanding suspects. Officers A and B then observed Subjects 1 and 2 and noted they matched the description of the shooting suspects. Officer B entered a shopping center, parked and both officers exited the police vehicle. Subject 1 exited a nearby store and walked toward the officers. Officer B observed Subject 1's un-tucked shirt concealed a bulge in his waistband area. Fearing Subject 1 may potentially be armed, Officer B drew his service pistol.

Moments later, Subject 2 exited the same store as he adjusted his waistband with both hands. Officer A ordered Subject 2 to place his hands above his head, and as he began to do so, Officer A observed a bulge in his front waistband. Fearing Subject 2 was armed, Officer A drew his service pistol.

The BOPC found Officers A and B's drawing to be in policy.

C. Non-lethal Use of Force

The BOPC noted that, as a result of being struck by the police vehicle, Subject 2 landed on the ground with the handgun still in his waistband. Sergeant A exited his police vehicle and attempted to grab Subject 2's arm. Simultaneously, Officer A applied bodyweight to Subject 2's body and grabbed Subject 2's arm. As Officer A and Sergeant A attempted to pull Subject 2's arms behind his back, Subject 2 attempted to raise himself off the ground and reached for the handgun in his waistband. To prevent Subject 2 from acquiring the handgun, Officer A delivered a knee strike and a punch and Sergeant A used two knee strikes, one punch and two front kicks.

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

D. Use of Force

The BOPC noted that Sergeant A responded to Officer A's broadcast that he was in foot pursuit of a possible murder suspect. Simultaneous to the broadcast, Sergeant A observed Subject 2 running through the parking lot with Officer A running behind him. Sergeant A noted that Subject 2 matched the physical descriptors of a suspect wanted for attempted murder and drove into the parking lot to assist Officer A. As Subject 2 ran in front of Sergeant A's police vehicle, Sergeant A observed a handgun protruding from Subject 2's waistband. Subject 2 turned his upper torso, reached for the handgun, and looked directly at Sergeant A. Sergeant A intentionally struck Subject 2's body with his police vehicle.

The BOPC determined that Sergeant A reasonably believed that the suspect presented an immediate threat of serious injury or death and, therefore, using the vehicle as a weapon was reasonable.

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

The BOPC also noted that after being struck by Sergeant A's police vehicle, Subject 2 fell to the ground with the handgun still secured in his waistband. Officer A and Sergeant A struggled to handcuff Subject 2; however, Subject 2 attempted to reach for the handgun. Officer A began to lose his grasp on Subject 2's hand and Subject 2's fingers made contact with the handle of the handgun. Officer A applied a CRCH on Subject 2. The BOPC also noted that when Subject 2's resistance began to subside, Officer A released his hold and Subject 2 was handcuffed. Subject 2 was not rendered unconscious.

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