

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

HEAD STRIKE WITH AN IMPACT WEAPON- 037-10

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Foothill	04/30/10		

Involved Officers	Length of Service
Sergeant A	14 years, 6 months
Officer A,	13 years, 6 months
Officer B,	14 years, 2 months
Officer D	2 years, 4 months
Officer F	1 year

Reason for Police Contact

A Victim entered the police station and requested assistance from Officer A, who went outside. Once outside the police station, the officer was confronted by a Subject, which resulted in a head strike with an impact weapon.

Subject	Deceased ()	Wounded (x)	Non-Hit ()
Subject: 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, 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.

In accordance with state law divulging the identity of police officers in public reports is prohibited, so 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 March 29, 2011.

Incident Summary

Victim A left her residence and heard noise coming from the trunk of her vehicle. Victim A heard the Subject telling her to open up the trunk and that he was choking. In fear Victim A drove to the police station and parked across the street from the station. Victim A unlocked the trunk from inside the vehicle and the Subject got out of the trunk. The Subject had a knife in his hand and the Subject told Victim A that he was not going to do anything and he threw the knife on the ground. Victim A picked up the knife, ran across the street, and entered the police station looking for help.

Officer A was walking through the lobby and observed that Victim A was holding a knife, in a non-threatening manner. Officer A told Victim A to put the knife away and she put it in her purse. Officer A walked outside with Victim A, and pointed out a Subject who was sitting in the driver's seat of Victim A's vehicle. As Officer A was conversing with Victim A, Officer A observed that the Subject had exited the vehicle, walked onto the sidewalk, and glanced occasionally at Officer A. Officer A determined that the incident involved domestic violence and broadcast to Communications Division (CD) a request for a unit. CD advised Officer A that there were no units available to respond. Officer A then requested a Spanish speaking officer to assist him in communicating with Victim A. Officer A continued to try to obtain information from Victim A, when suddenly the Subject started screaming, kicked the vehicle door two to three times, and threw something at the vehicle window in an apparent attempt to break the glass. Officer A initially thought the vehicle belonged to the Subject; however, when he asked Victim A why the Subject was damaging his vehicle, she informed him that the vehicle belonged to her. Officer A gave commands to the Subject to stop and get down. The Subject was "flailing" his arms, walked backwards a few feet, and after they had gone about 100 feet, the Subject turned toward him and threw an unknown object at Officer A. Officer A was able to dodge the object and then withdrew, and extended, his collapsible baton (ASP). Officer A continued to order the Subject in English to "stop and get down," but the Subject responded by yelling at him in Spanish and "flailing his arms around." The Subject continued walking an additional 50 to 75 feet then turned and again, threw another unknown object at Officer A, which he was also able to avoid.

After throwing the object at Officer A, the Subject continued advancing toward Officer A, with his fist up, and screaming at him. Officer A recalled, "He [Subject] was already coming in swinging. By the time I drew back and hit him the first time, he was already in the middle of throwing his punch." Officer A used his ASP and struck the Subject several times on the left side of his body, including strikes to his elbow, forearm and hip. The Subject continued swinging his fists at Officer A, and Officer A recalled that some of the blows from the Subject glanced off of his chest, but twice the Subject landed "good shots" to the left side of Officer A's face. After he struck Subject with his ASP, Officer A was able to step back and broadcast a help call. As the Subject continued to advance, Officer A continued to strike the Subject with his ASP on the left side of his body. Officer A was attempting to strike to the Subject's upper left arm, when Subject ducked and moved to his right, which caused Officer A to miss the arm, and instead, strike the Subject on the left side of his head. According to Officer A, other than appearing to be

briefly stunned, the blow seemed to have little effect on the Subject. Officer A recalled that the Subject advanced on him after the blow to the head, swinging his arms in an effort to punch him. Officer A tried to block the blows from the Subject with his left arm, while continuing to use the ASP to strike the Subject. Officer A tried to keep the Subject in front of him and at a distance where he could use the ASP.

As the altercation continued, the Subject backed up to where he was against a fence, then charged at Officer A. Officer A backpedaled, tripped, and landed on the ground, then jumped back up. Officer A then aimed a strike with his ASP to the area of the Subject's elbow and shoulder, when he inadvertently struck the Subject in the head a second time. The Subject staggered and stumbled, but continued to punch at Officer A. The Subject charged again and as Officer A backed away, he tripped, and fell to the ground. The Subject came down on top of him and while they were both on the ground, the Subject struck Officer A on the side of his head with his fist. Officer A believed he possibly struck the Subject with his ASP one more time in the area of his shoulder, as he was trying to get out from under him. Officer A estimated that he struck the Subject 15 times, including the two inadvertent strikes to the head. Officer A also estimated that the Subject struck him three times with his fist, twice in the head, and once on his shoulder.

Victim A had followed a short distance behind Officer A and observed the Subject throw two objects at Officer A, and then strike Officer A in the face with his fist. According to Victim A, Officer A and the Subject were engaged in a struggle and Officer A used his ASP to strike the Subject. Victim A observed that one of the ASP strikes struck the Subject on the left side of his head, and Officer A then fell backwards and the Subject landed on top of Officer A.

In response to the help call, the following personnel responded to the scene Lieutenant A; Sergeant A , Sergeant B, Officers B,C,D,E; F, and G. According to Officer B, he observed the Subject taking an aggressive, boxing type stance. Officer B was not sure if the Subject pushed Officer A down, or if Officer A lost his balance, but he went to the ground with the Subject on top of him.

Officer F observed Officer A blocking blows from the Subject and trying to push him away. As the Subject got closer to him, Officer A stumbled, fell backwards and both the Subject and Officer A went to the ground. After Officer B had the Subject face-down on the ground, Officer F grabbed the Subject's legs with his arms and used his bodyweight to keep him from kicking.

According to Officer A, after Officer B tackled the Subject, he assisted Officer B by rolling the Subject over and then "pinned" the Subject's right arm to the ground as the Subject continued to struggle.

Officer D was at the end of his shift and had already changed out of his uniform, when he heard the help call and responded to the scene on foot. Officer D arrived at the

location, and recalled that the Subject was on the ground struggling to get up with Officer B on top of him. Officer D told the Subject in Spanish not to move, but the Subject did not comply. Officer D placed his knee on the Subject's buttock and his right hand on the Subject's back, and then used his body weight to control the Subject. Officer D then took control of the Subject's left arm and placed a handcuff on it.

In an effort to help control the Subject, Officer A placed his hand on the back of the Subject's neck to hold him to the ground. Officer A then placed the Subject's right arm behind his back, which allowed Officer D to handcuff the Subject. Witness A was driving past the police station, and observed Officer A order the Subject to "stop and get down." As Officer A approached the Subject, Witness A saw the Subject take a "fighting stance and throw a haymaker or a right handed roundhouse punch" at Officer A that appeared to miss him. Witness A was concerned for Officer A since he was alone, and turned his vehicle around stopping in the center median. According to Witness A, he saw the Subject throw several punches at Officer A and then Officer A pulled out his ASP and struck the Subject on his left side several times on the forearm and shoulder area. Officer A was continually ordering the Subject in English to "get down." Witness A did not see either of the head strikes.

Witness B was in a stopped vehicle on the street across from the police station, and observed the Subject advancing on Officer A, who backed up holding his ASP. According to Witness B, Officer A swung his ASP a few times, but it appeared that the Subject was not struck because the Subject continued to advance on Officer A. Witness B's attention was diverted by officers running across the street from the station, and when Witness B looked back, the Subject was on the ground. Witness B did not observe either of the head strikes.

Sergeant A arrived and observed the Subject was on the ground, with Officer F struggling to control his legs. Sergeant A briefly grabbed onto the Subject's right leg, but realized it was not necessary. After the Subject was handcuffed, Sergeant A broadcast a Code Four.

Sergeant B arrived at scene after the Subject had been handcuffed and the Subject was screaming profanities in Spanish and appeared to be intoxicated. Sergeant B noticed that Officer F was having to use his bodyweight to control the Subject's legs and directed him to place a Hobble Restraint Device (HRD) on the Subject. Officer F then applied the HRD to Subject's ankles, leaving the end unattached. The officers then immediately placed the Subject on his side.

Lieutenant A arrived at the scene and contacted Officer A, who was cleaning blood off of himself. Officer A informed him that he had hit Subject in the head with his ASP. Lieutenant A did not inquire as to whether the head strike was intentional or unintentional, only that it appeared there had been a Categorical Use of Force. Lieutenant A determined which officers were involved in the use of force and implemented separation protocols. Based on the Subject's head injury, Lieutenant A made a request for a Rescue Ambulance (RA).

LAFD personnel arrived at the scene and paramedics treated the Subject for numerous abrasions to his arms, face and head. The Subject continued to be uncooperative and at one point a “spit sock” was placed on his head. The RA subsequently transported the Subject to a medical center for treatment.

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 a finding of Administrative Disapproval. The BOPC found Sergeant A and Officer B, D, and F’s tactics to warrant a tactical debrief.

B. Drawing/Exhibiting/Holstering

Does not apply.

C. Non-Lethal Use of Force

The BOPC found Sergeant A and Officer A, B, D, and F’s non-lethal force to be in policy.

D. Use of Force

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

Basis for Findings

A. Tactics

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

On this point, the Board members agreed, that Officer A’s actions substantially deviated from approved Department tactical training. However, the majority opined that the deviation was justified based on Officer A’s experience and his reasonable belief that

Victim A did not present a threat and was in fact a victim. The minority of members believed that Officer A's actions were not justified and that his actions resulted in a significant tactical disadvantage. The BOPC considered Officer A's experience and the reasonableness of his perceptions. However, many instances arise where suspects appear disarming in their manner yet subsequently present a threat. Accordingly, any Los Angeles Police officer in similar circumstances would not be justified in taking similar action.

Accordingly, the Department has an expectation supported through training that armed subjects be treated as a threat and that officers maintain the greatest tactical advantage including securing any weapons possessed by subjects. In conclusion, the BOPC concurred with the minority of members that Officer A's actions substantially deviated from Department tactical training and that the deviation was not justified. This will be a topic of discussion at the Tactical Debrief and Extensive Retraining.

On this point, the Board agreed that Officer A's actions of walking outside to investigate without having a Spanish speaker interview Victim A, and without additional officers, substantially deviated from approved Department tactical training. Additionally, they concurred that Officer A should have notified his watch commander before going out to investigate the incident. The majority of the members believed that Officer A's actions and his deviation were justified in that he was merely intending to go out to investigate and additional resources were nearby should he need them.

The BOPC analyzed the Board's rationale and agree that Officer A's actions substantially deviated from approved Department tactical training; however, the BOPC did not agree that the deviation was justified. Accordingly, the BOPC concurred with the minority of members.

The BOPC appreciated that Officer A was confident in his decision to address the situation alone. However, Officer A should have considered that Victim A was likely armed with a deadly weapon to protect herself from a significant threat which was in front of the station. Additionally, the BOPC was also alarmed that Officer A did not request a fluent Spanish speaker to fully interview Victim A to obtain more information prior to contacting the other party (walking outside to where he would likely have contact). Officer A should have requested the assistance of at least one additional officer prior to leaving the station. In conclusion, Officer A's actions substantially and unjustifiably deviated from approved Department tactical training. This topic will be discussed during the Tactical Debrief and Extensive Retraining.

On this point the Board also agreed that Officer A's actions substantially deviated from approved Department tactical training. Officer A followed the Subject and came within an unsafe distance of "eight steps" apart. Officer A had viable option of awaiting the responding unit while monitoring the Subject. Additionally, during this time, Victim A was nearby, to Officer A's rear, and still armed with a knife. All Los Angeles Police officers are trained that domestic violence victims may become assaultive during an investigation and or arrest. In this case, Officer A had the option of awaiting additional

resources, while maintaining his distance and advantage. Accordingly, the BOPC concurred with the Board that Officer A's actions substantially deviated from Department approved tactical training.

In considering the majority's opinion that the deviation was justified, the BOPC considered that Officer A did not intend to contact Subject. However, by not maintaining sufficient distance and awaiting back-up, he allowed the suspect in this case to increase his advantage. In comparing those actions to another similarly situated Los Angeles Police officer with similar training and experience, the BOPC would not expect such a deviation. Officer A did not articulate any sense of exigent circumstances that would justify engaging with the suspect without awaiting backup. Accordingly, the BOPC found no justification for Officer A's deviation.

In conclusion, Officer A's actions substantially and unjustifiably deviated from approved Department tactical training. The BOPC will direct that this be a topic of discussion at the Tactical Debrief and Extensive Retraining.

Initially, Sergeant A was identified as not substantially involved and assigned to monitor the involved personnel at the police station. Once it was determined Sergeant A may have been involved in the CUOF incident, he was appropriately separated and monitored until the arrival of FID detectives.

While the BOPC expects supervisors to remain objective and assume a supervisory role, in this case, it was reasonable for Sergeant A to assist in controlling the suspect before assuming the role as supervisor. The BOPC concurred with the Board's unanimous recommendation that Sergeant A's actions did not substantially deviate from approved Department tactical training; however, the BOPC will direct that this be a topic of discussion at the Tactical Debrief.

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific. Each tactical incident inherently results in considerations for improvement.

This case resulted in significant discussion at the Board. Those discussions focused on Officer A's actions in light of Department expectations and approved Department tactical training. The BOPC appreciates the opinion of the majority of the Board, that Officer A's actions, while substantially deviating, were justified. However, in conducting an objective assessment of this case, the BOPC found that the tactics utilized by Officer A substantially deviated from approved Department tactical training, and that those deviations were not justified. Accordingly, the BOPC recommends a finding of Administrative Disapproval.

Additionally, after further assessment of this case, the BOPC found that the tactics utilized by Sergeant A along with Officers, F, B, and D did not substantially nor unjustifiably deviate from approved Department tactical training.

A Tactical Debrief is the appropriate mechanism for Sergeant A along with Officers, F, B, and D to evaluate the events and actions.

The BOPC will direct that Sergeant A along with Officers A, B, D, and F attend a Tactical Debrief and that, in addition, Officer A receive Extensive Retraining on the above points.

B. Drawing and Exhibiting

Does not apply.

C. Non-Lethal Use of Force

Officer A: Physical Force and Bodyweight.

Officer B: Firm Grip, Takedown, Physical Force, and Bodyweight.

Officer D: Wrist Lock, Bodyweight.

Officer F: Hobble Restraint Device, Bodyweight and Physical Force.

Sergeant A: Physical Force

In this instance, Officer B arrived on scene and observed the Subject on top of Officer A. Officer B ran towards their position, wrapped both arms around the Subject's torso and tackled the Subject removing him from being on top of Officer A.

The momentum of the tackle caused Officer B to land on his back while maintaining his hold of the Subject. With the assistance of Officer A, Officer B rolled the Subject onto his stomach and both officers utilized their bodyweight in an effort to control the Subject. Officer F approached the Subject's legs grabbed a hold of them and crossed his legs utilizing his bodyweight to control them.

Moments later, Officer D approached and placed his left knee on the Subject's buttocks and his right hand on Subject's back, utilizing his bodyweight to control his movements. Officer D proceeded to grab the Subject's left wrist utilizing a wrist lock to maintain control. D then placed the Subject's left arm behind his back and handcuffed his left wrist.

Upon Sergeant A's arrival to the location, he observed the officers controlling the Subject's arms and legs. In effort to assist in subduing the Subject, Sergeant A believed that he may have briefly grabbed the Subject's legs to prevent him from kicking the officers.

Officers with similar training and experience as Sergeant A as well as Officers A, B, D and F would reasonably believe that the application of Non-Lethal force would be justified to overcome the resistance presented by Subject and to take him into custody.

In conclusion, the BOPC found that the Non-Lethal force applications utilized by Sergeant A as well as Officers A, B, D and F was objectively reasonable and within Department guidelines.

D. Lethal Use of Force – Inadvertent Head Strikes

In this case, Officer A employed non-lethal force to overcome resistance and to take Subject into custody and that force resulted in an inadvertent head strike.

Here, Officer A gave repeated orders in English for the Subject to stop and lay down on the ground. The Subject ignored Officer A's commands and continued walking on the street flailing his arms and screaming in Spanish. Officer A maintained a safe distance from the Subject as he tracked his movement in effort to avoid losing sight of him. The Subject suddenly stopped, turned towards Officer A, closed the distance and threw an object at Officer A's head. With the Subject now within approximately eight steps of Officer A, Officer A removed his collapsible baton while ordering the Subject to stop. The Subject turned around westbound for a short distance before he turned once again towards Officer A and threw another unknown object at him.

The Subject then quickly approached Officer A while shouting and swinging his arms and struck Officer A several times in the chest and left shoulder. Officer A defended himself by striking the Subject with his collapsible baton in the left shoulder area. The Subject then ducked down as Officer A swung his collapsible baton inadvertently striking the Subject one time on the left side of his head.

Although stunned momentarily, the Subject continued to attack Officer A. Officer A continued to swing his collapsible baton in self defense, inadvertently striking the Subject a second time near the top of his head. The Subject then staggered backwards as he continued to swing his arms in effort to strike Officer A.

The Subject then regained his composure and charged Officer A forcing him to step backward causing Officer A to fall over a sofa located in the parkway area.

The evidence in this case indicates that although Officer A intended on striking the Subject in the elbow and shoulder area with his collapsible baton, he inadvertently struck the Subject in the head. Therefore, the BOPC determined that the non-lethal use of force, which resulted in an inadvertent head strike with the collapsible baton, to be objectively reasonable to overcome the aggressive resistance of the Subject. In conclusion, the BOPC recommends a finding for the unintentional Lethal Force for Officer A to be In Policy.

Additionally, because of the inadvertent strikes to the Subject's head, the BOPC directed that the issue of effective baton deployment and use be covered during the Tactical Debrief.