

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

LAW ENFORCEMENT RELATED INJURY – 044-07

Division	Date	Duty-On (X) Off()	Uniform-Yes(X) No(X)
Pacific	04/28/2007		

Officer(s) Involved in Use of Force	Length of Service
Officer A	9 years, 2 months
Officer B	8 years, 1 month
Officer F	3 years, 9 months
Officer G	3 years, 5 months
Officer H	8 years, 1 month
Officer I	10 years

Reason for Police Contact

Officer assigned to a special detail were participating in a burglary apprehension operation, which resulted in a law enforcement related injury (LERI) incident.

Subject	Deceased ()	Wounded (X)	Non-Hit()
Subject: male, 38 years of age.			

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 Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

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 April 1, 2008.

Incident Summary

The special detail operations consisted of Sergeant A and Officers A, B, C, D, E, F, G, H, and I. Officers A and B, were attired in plain clothes and deployed in an unmarked vehicle. Officer A and B had positioned their vehicle on the street near the bait vehicle. Officer A and B had an unobstructed view of the bait vehicle and communicated their observations to the rest of the team officers via radio. Officers F and G, were in full uniform and were deployed in a marked police vehicle. Sergeant A was in plain clothes, deployed in an unmarked vehicle, and positioned on the street. Prior to initiating the operation, Officer A requested assistance from Officer H and Officer I, who were deployed in a marked police vehicle

The Subject was observed looking into the bait vehicle, and repeatedly passing by the bait vehicle. The Subject returned to the bait vehicle, opened the passenger side door, removed a laptop case, and started walking. Officers A and B exited their vehicle, displayed the police badges that were hanging from chains around their neck and turned onto the street. Officers A and B observed the Subject walking toward them with the laptop case. Officer B yelled police and told the Subject to get down on the ground as he drew a pistol. The Subject stopped and dropped the laptop case on the ground. Officer B observing that the Subject did not have any weapons, so Officer B holstered his pistol. Officer A approached the Subject and grabbed his left arm, but the Subject pulled away and attempted to run. Officer A maintained his grip and then applied a firm grip to the Subject's left arm.

Officers F and G observed the Subject on his knees, swinging his arms and upper body. Officer F activated the vehicle spotlight and wailed their siren to draw the Subject's attention to them. Officers F and G exited their vehicle and ran to assist. The Subject continued to swing his upper body and arms and attempted to stand up. As the officers struggled with the Subject, the officers told the Subject to stop resisting and get on the ground as they attempting to use their bodyweight to control him. The Subject swung his arms and struck Officer A's face causing injury to his upper lip. The Subject was able to lift himself up with the officers on his back, which caused Officer G to fall on the ground and strike his head. Officer B attempting to control the Subject's legs, yelled for an officer to use OC spray. Officer G retrieved OC spray, but opted not to use it because he thought the other officers would be affected by the spray. Officer G then retrieved a TASER, and handed it to Officer B. Sergeant A arrived at the scene, observed the struggle, and directed Officer B to broadcast a request for assistance.

The Subject fell backward with Officer F landing on top of him. Officer F placed his right knee on the crook of the Subject's forearm. The Subject reached up with his left hand and began hitting Officer F's holster. Officer F believed the Subject was pursuing his gun. Officer F then repositioned his knee toward the Subject's wrist area and controlled the Subject's left arm.

Officers H and I arrived at the scene and immediately exited their vehicle and assisted by applying handcuffs.

Officer B told the Subject that if he did not stop resisting he would be tased, and placed the prongs of the TASER against the Subject's buttocks area, but did not activate them because he was told by Officers H and I that they had control of the Subject. The Subject was searched and eventually walked toward the police vehicle.

The Subject was transported to the station by Officers F and G, and upon arriving at the station, the Subject stopped talking and leaned against the rear passenger door. Officers F and G opened the rear passenger door and directed the Subject to stand up. Officer I said that the Subject began to step out of the car, but then refused to do anything. According to Officer G, the Subject was unresponsive and breathing heavily, but Officer G believed he was faking it. The Subject refused to stand up, became limp and began making a growling sound. Officer G grabbed the Subject by the left arm, and Officer H placed his arm underneath the Subject's other armpit. The Subject did not stand up, so Officer F grabbed his legs, and the Subject was carried face-down, into the police station by the officers.

The Subject was presented to the Watch Commander's for a pre-booking interview. Sergeant B questioned the Subject, who was unresponsive, but was conscious, with no visible injuries. The Subject's breathing was labored, so Sergeant B requested a rescue ambulance (RA) to respond to the station. Sergeant B directed the officers to place the Subject inside a holding tank as they waited for the RA. Officers A and F lifted the Subject by his arms and carried him to a holding tank. Inside the holding tank, the Subject was placed in a kneeling position with his head supported by the bench. Shortly after the officers left, the Subject's upper body slid off the bench and his head grazed the sidewall in the process and he landed on the floor onto his back.

The Los Angeles Fire Department (LAFD) arrived at the station, and noted that the Subject was unconscious, unresponsive, and was experiencing difficulty breathing. The Subject was transported to a hospital. Sergeant B was informed by one of the monitoring officers at the hospital that the Subject had sustained blunt head trauma, and was going to be moved to the Intensive Care Unit and hospitalized.

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, B, and Sergeant A's tactics to warrant divisional training.

The BOPC found Officer F, G, H, and I's tactics to be in policy.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer B's drawing to be in policy.

C. Non-lethal Use of Force

The BOPC found Officer A, B, F, G, H, and I's non-lethal use of force to be in policy.

D. Other

The BOPC found that Sergeant B's actions warranted divisional training.

Basis for Findings

A. Tactics

The BOPC noted that the bait vehicle was deployed with Officers A and B assigned to monitor it from a distance. Officers A and B, along with Officers F and G, were positioned in one direction of the bait vehicle, while Sergeant A was positioned in another. Officers H and I were appropriately deployed in yet another direction, as their four-wheel drive vehicle was capable of driving on the sand if necessary; however, there were no officers positioned in the fourth direction of the bait vehicle. When conducting surveillance on a vehicle it is essential that each compass point surrounding the target be covered to prevent the subject's escape.

The tactical pre-planning for the operation appropriately incorporated uniformed personnel. Unfortunately, this resource was not effectively utilized. The Subject walking away from the bait vehicle without attempting to conceal the stolen property indicated that he was unaware of the tactical operation. At this point there was no urgency to apprehend the Subject. It would have been safer for uniformed personnel to initiate contact with the Subject as they were equipped with additional use of force tools. The BOPC noted that the TEAM team's tactical approach was commonly initiated by plainclothes personnel. Sergeant A should have noted this tactic as problematic.

The Subject attempted to flee and a struggle ensued. Officers F and G arrived at the location and attempted to restrain the Subject. Shortly thereafter, Sergeant A arrived at the scene and advised the officers to put out an assistance call. Officer B, who was struggling to control the subject, broadcast a request for assistance over the tactical frequency. With all the officers actively attempting to control the subject, Sergeant A should have broadcast the request.

The BOPC determined Officer A, B, and Sergeant A's tactics to warrant divisional training.

The BOPC found Officer F, G, H, and I's tactics to be in policy.

B. Drawing/Exhibition/Holstering

The BOPC noted that as Officers A and B approached the Subject to take him into custody, Officer B assumed the role of the cover officer and drew a pistol, believing that the Subject was a felony suspect that was potentially armed with burglary tools or a handgun. The BOPC determined that Officer B had sufficient information to believe that the incident may escalate to the point where deadly force may become necessary.

The BOPC found Officer B's drawing to be in policy.

C. Non-lethal Use of Force

The BOPC noted that Officer A approached the Subject and applied firm grips to one of his forearms in an effort to handcuff him. Officer A maintained his hold while Officer B placed firm grips on the Subject's right hand and by utilizing their combined bodyweight, forced him against the wall of an adjacent building and ultimately to the ground.

While Officer G was on the ground, The Subject's body was leaning over Officer G as he struggled to break free from the grasps of Officers A, B, and F. To prevent The Subject from falling, Officer G delivered a front kick to the Subject's left thigh. Simultaneously, Officer F grabbed the Subject around the upper torso, and the Subject fell to the ground with the weight of Officers A, B, and F on top of him. Officer G re-engaged and applied bodyweight to the Subject's legs.

Officers H and I arrived at the scene and observed The Subject with Officers A, B, F, and G attempting to control him. Officers H and I applied firm grips and facilitated the handcuffing process. After The Subject was handcuffed he continued to struggle, such that Officer A crossed The Subject's legs and held them down until the officers were ready to stand him up.

The BOPC determined that Officers A, B, F, G, H, and I's use of force was reasonable to control the Subject.

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

D. Other Issue

The BOPC noted that the Subject was escorted to a police vehicle and Officers F and G transported him to the station. Throughout the drive, the Subject engaged the officers in conversation. Once at the station, the Subject was directed to exit the police vehicle.

The Subject initially stepped out of the vehicle then became limp and he was subsequently carried to the watch commander's office. In an attempt to complete the detention log, Sergeant B asked the Subject if he was in need of medical attention. The Subject, although conscious and breathing, was not responsive to the question or any additional inquiries.

The BOPC was concerned with the supervisory oversight of the Subject once the rescue ambulance was requested. Sergeant B should have continuously monitored The Subject's condition and directed officers to maintain the Subject in a seated position while awaiting the arrival of the rescue ambulance in the holding cell. The BOPC noted The Subject's actions preceding their arrival at the station caused the credibility of his medical condition to be questioned; however, regardless of this perception, without definitive evidence to discount a medical condition, Sergeant B should have ensured proper protocol was followed.

The BOPC found Sergeant B's actions to warrant divisional training.