

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

UPPER BODY CONTROL HOLD – 049-05

| Division | Date | Duty-On (x) Off () | Uniform-Yes (x) No () |
|-----------------|-------------|----------------------------|-------------------------------|
| Foothill | 06/26/2005 | | |

| Involved Officer(s) | Length of Service |
|----------------------------|--------------------------|
| Officer A | 1 year, 11 months |
| Officer B | 5 years, 10 months |

Reason for Police Contact

While en route to an additional unit request, Officers A and B observed Subject 1 choke Subject 2. Concerned for Subject 2's safety, Officers A and B confronted Subject 1. When Subject 1 resisted arrest, Officer A utilized an Upper Body Control Hold to effect Subject 1's arrest.

| Subject | Deceased () | Wounded (x) | Non-Hit () |
|-----------------------------------|---------------------|--------------------|--------------------|
| Subject 1: Male, 37 years of age. | | | |
| Subject 2: Female, age unknown. | | | |

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 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 June 13, 2006.

Incident Summary

In the mid-morning hours of Sunday, June 26, 2005, Officers A and B responded to an additional unit request when they observed Subject 1 choke Subject 2 with both of his hands. Wanting to stop Subject 1 from "choking [her] out," Officer B negotiated a U-turn and parked his police vehicle several feet from the couple. When the officers exited their police vehicle, Subject 1 continued to choke Subject 2, causing her to reach for his hands to loosen the grip he had around her neck. Officer B then advised Communications Division ("CD") of their "Code-Six" location and drew his service pistol.

When Subject 1 realized the presence of the officers, he turned toward them while maintaining his grip around Subject 2's neck and walked backward until his back was against a wall of a building. In describing the incident, Officer B indicated that Subject 2 screamed for help and fought with Subject 1 to get him off of her. At one point during the struggle, Subject 1 picked Subject 2 up by her neck with his hands, causing her eyes to roll back in her head. Officer B also indicated that Subject 2 could barely "get a breath out or a word because Subject 1 wasn't allowing her to breathe." At one point, Officer B noted that he could "barely, not even hear [Subject 2] and that she appeared to lose consciousness." According to Officer B, "it basically looked like a hostage situation."

Despite the officers' repeated commands to release Subject 2, Subject 1 did not comply and apparently hid something behind Subject 2's back. Believing that immediate action was necessary, Officer B holstered his duty weapon and, by using both of his hands, pulled Subject 1 from Subject 2 while Officer A continued to give verbal commands. When Officer A attempted to gain control of Subject 1's right arm, he heard something fall to the ground. When he turned to see what it was, Officer A saw a gun several feet from Subject 2's feet. As Subject 2 had grown hostile toward the officers and had demanded that they release Subject 1, Officer A retrieved the gun, ensured that its hammer was not cocked, and secured it inside the rear portion of his utility belt.

When Officer A re-engaged Subject 1, Subject 1 continued to resist and widened his stance to prevent the officers from forcing him to the ground. Throughout the struggle, Subject 2 moved close to the officers and demanded that they release Subject 1, causing Officer A to yell, "Backup," several times. At one point, Subject 2 came within several feet of the officers; however, she never made physical contact with them. Officer B then requested a backup and advised CD of their location. Although the officers had forced Subject 1 to the ground, he continued to resist and flailed his elbows wildly, striking Officer B in the face several times. Physically exhausted from the altercation and concerned that his partner would lose consciousness due to repeated elbow strikes to his head, Officer A feared that he would not be able to control Subject 1 and that Subject 1 could gain access to his partner's gun. Moreover, Officer A believed that the ever-increasing hostility of Subject 2, combined with the possibility of confronting two suspects if his partner lost consciousness posed a threat to officer safety warranting the use of deadly force to stop Subject 1's actions. Officer A then applied a Carotid Restraint Control Hold ("CRCH") on Subject 1 for several seconds without rendering him unconscious, allowing Officer B to handcuff Subject 1 without further incident. Officer A then approached Subject 2 and handcuffed her as well while Officer B informed CD that Subject 1 was in custody.

Officer A did not draw his weapon during the entirety of the incident.

Sergeant A arrived at the scene and spoke with Officers A and B and learned that a Categorical Use of Force had occurred. Although Sergeant A was aware that a CRCH was used during the struggle, he did not request a Rescue Ambulance ("RA") until approximately 35 minutes after arriving to the scene nor did he ensure that Subject 1 was transported to a contract hospital. When the RA unit arrived, the Emergency Medical Technicians ("EMT") attempted to treat Subject 1; however, he refused to be

evaluated. Subject 1 was then transported to the Foothill Area Police Station where he was arrested for Penal Code § 69, Resisting/Deterring a Police Officer.

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.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer B's drawing/exhibiting/holstering of a firearm to be in policy.

C. Non-lethal Use of Force

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

D. Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that Officers A and B were responding to an additional unit request when they observed Subject 1 choking Subject 2 on the sidewalk. When Officer A communicated his observations to Officer B, Officer B conducted a U-turn and stopped their vehicle a few feet away from the couple. The officers exited the vehicle and approached the couple with the intention of stopping Subject 1's actions. Officer B keyed his radio while it was affixed to his equipment belt to advise CD of their location, but CD did not receive the broadcast. The BOPC would have preferred Officer B had removed his radio and properly transmitted their location to CD to confirm that it was received.

Officers A and B simultaneously ordered Subject 1 to release his hold of Subject 2. Subject 1 did not comply and continued choking Subject 2 and appeared to conceal something behind Subject 2's back. Observing Subject 1's actions, Officer B drew his service pistol fearing an armed confrontation but failed to communicate these observations to his partner. Officer B then holstered his service pistol and grabbed Subject 1 in an effort to separate him from Subject 2, again without communicating to his partner. The BOPC noted both officers gave commands to Subject 1 simultaneously, possibly causing confusion. The BOPC would have preferred one officer had been the contact officer and the other had been the cover officer. The BOPC also noted Officer B did not communicate his observation that Subject 1 appeared to be concealing an object behind Subject 2 to his partner. In addition, Officer B holstered his service pistol and attempted to physically detain Subject 1 without communicating his intentions to his partner. The BOPC would have preferred both Officers A and B had communicated with one another more effectively, which may have assisted with the detention effort.

During the struggle, a pistol fell to the sidewalk. Neither officer communicated their observations of the pistol falling on the sidewalk, as each believed that their partner had observed the pistol fall. Officer A retrieved the pistol, visually inspected it to ensure the hammer was not cocked, and secured it inside the rear portion of his equipment belt to prevent Subject 1 or Subject 2 from obtaining the pistol and using it against the officers. Officer A rejoined his partner as he continued to struggle with Subject 1. The BOPC noted that this may have been the only choice available to secure the pistol and exemplified quick and effective thinking on behalf of Officer A.

Officer B continued to struggle with Subject 1 and broadcast a backup request to CD after the pistol fell to the sidewalk. The BOPC would have preferred that a backup request had been broadcast upon the officers' arrival or prior to the physical confrontation with Subject 1.

Officer A rejoined Officer B in the struggle with Subject 1. Subject 1 violently struck Officer B several times with his elbow during the struggle. Officer A believed that Officer B was being seriously injured due to Subject 1's violent actions. Officer A applied a CRCH on Subject 1 for approximately one to two seconds. Officer B was then able to gain control of Subject 1's arms and handcuffed him without further incident.

The BOPC found Officers A and B's tactics to warrant tactical training at Training Division. (Formal training)

B. Drawing/Exhibiting/Holstering

Upon exiting the police vehicle, Officer B observed Subject 1 choke Subject 2 while appearing to conceal an object behind her back. The BOPC noted that Officer B believed the incident may rise to the level where deadly force may be justified when he drew his service pistol. The BOPC found Officer B's drawing of his service pistol to be in policy.

C. Non-lethal Use of Force

Officers A and B observed Subject 1 choke Subject 2 on the sidewalk. Officer B approached Subject 1 and grabbed his right arm in an attempt to separate Subject 1 from Subject 2. When Subject 1 resisted and pulled away from Officer B's grasp, Officer B grabbed Subject 1 around his waist with both hands while Officer A assisted by grabbing Subject 1's right arm. Officer B then grabbed Subject 1 around both legs and pulled him to the ground.

The BOPC determined that Officers A and B's use of force was reasonable to control Subject 1. The BOPC found Officers A and B's non-lethal use of force to be in policy.

D. Use of Force

During Officers A and B's struggle with Subject 1, both officers observed a pistol fall to the sidewalk. Officer A retrieved the pistol and secured it inside his equipment belt to prevent Subject 1 or 2 from obtaining the pistol and possibly using it against them. Officer A rejoined his partner and continued to struggle with Subject 1. Subject 1 violently struck Officer B several times with his elbow during the struggle. Officer A believed that Officer B was being seriously injured due to Subject 1's violent actions. Officer A believed he would be left to fight Subject 1 alone. Officer A also became increasingly concerned with Subject 2's actions as she became increasingly agitated and walked to within approximately two feet of the officers as they struggled to detain Subject 1.

Due to Officer A's physical exhaustion, the potential for Officer B being rendered unconscious, the increasingly agitated actions of Subject 2 and the placement of the pistol in the rear of his equipment belt, Officer A believed the incident had risen to the level where deadly force was justified to stop Subject 1's actions. Officer A applied a CRCH on Subject 1 for approximately two seconds to stop his aggressive actions. Officer B was then able to gain control of Subject 1's arms and, subsequently, handcuffed him without further incident.

The BOPC determined that Officer A's use of force was reasonable to control Subject 1. The BOPC found Officer A's use of force to be in policy.