

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

HEAD STRIKE WITH AN IMPACT WEAPON – 056-05

Division	Date	Duty-On (x) Off ()	Uniform-Yes (x) No ()
Foothill	07/08/2005		

Involved Officer(s)	Length of Service
Officer A	11 year, 7 months
Officer B	9 years, 1 month

Reason for Police Contact

Officers A and B were patrolling a community housing development when they went in foot pursuit of Subjects 1 and 2, documented gang members who were in violation of a gang injunction. When Subject 1 fell to the ground, Officer A detained him while Officer B continued his pursuit of Subject 2. When Officer A attempted to handcuff Subject 1, Subject 1 reached for Officer A's holster. Officer A struck Subject 1 multiple times on the head with Officer A's service pistol.

Subject(s)	Deceased ()	Wounded (x)	Non-Hit ()
Subject 1: Male, 17 years of age.			
Subject 2: Male, 17 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 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 27, 2006.

Incident Summary

On the evening of Friday, July 8, 2005, Officers A and B were patrolling a community housing development ("the Development") when they observed four male Hispanics sitting on a cinderblock wall near the parking lot. As Officer B drove through the Development, he recognized two of these individuals as Subjects 1 and 2, documented gang members. According to Officer A, Officer B indicated that Subject 2 was a "Code

Six Charles"¹ suspect and that both subjects had been served with a gang injunction. When the officers neared these four individuals, the individuals immediately fled on foot. Officer A exited his vehicle and gave chase while Officer B remained in the police vehicle. Officer A then advised Communications Division ("CD") that he needed a backup in the Development and, approximately 10 seconds later, broadcast a request for a Code-3 response.

Wanting to cut off the subjects' avenue of escape, Officer B followed them in his police vehicle while Officer A paralleled the pursuit on foot. During their pursuit of the subjects, the officers separated and, at times, lost sight of each other. As the officers followed the subjects, Officer B informed CD of the subjects' location and requested additional police units. When Officer B saw Subjects 1 and 2 run through the Development, he stopped, exited his police vehicle and pursued them on foot. Officer A, who heard his partner's broadcast, joined Officer B in the foot pursuit and followed the subjects toward the Development's Community Center.

When the subjects reached the Community Center, Subject 1 tripped and fell on the sidewalk while Subject 2 continued to run. As Subject 2 ran away, he reached for his waistband. Believing that Subject 2 was possibly armed, Officer A drew his service pistol. Meanwhile, Subject 1 stood up and attempted to run from the officers while holding his waistband. Based on Subject 1's actions, Officer A believed Subject 1 was armed as well. Officer B, who lost sight of Subject 1's hands and was also concerned that Subject 1 was possibly armed, drew his service pistol and ordered Subject 1 to stop and to lie down. When Subject 1 complied and lowered himself facedown on the ground, Officers A and B agreed that Officer B should continue his pursuit of Subject 2.

When Officer B left Officer A alone with Subject 1, Officer A walked toward Subject 1 with the intention of placing him into custody. Without first holstering his service pistol, Officer A walked toward Subject 1 and fell onto Subject 1's upper-back with his knees and left hand. Once on Subject 1's back, a struggle ensued wherein Subject 1 rolled to his right and reached for Officer A's holster. Officer A's service pistol was "not completely in the holster." Officer A pulled his service pistol out of Subject 1's reach and struck Subject 1 on the head with it, causing Subject 1 to bleed profusely.

According to Officer A, once his service pistol was secured in its holster, Subject 1 again reached for his holster. Officer A then struck Subject 2 in the head two times with a closed fist. Officer A was then able to secure Subject 1's left arm behind Subject 1's back with Officer A's knees. At that time, Officers C and D arrived on scene and assisted Officer A in handcuffing Subject 1.

Officer B, who was unaware that his partner was involved in a use of force, continued to search for Subject 2 until Sergeant A observed Subject 2 in the Development and arrested Subject 2 without incident.

Sergeant B arrived on scene and obtained a Public Safety Statement from Officer A. When Officer A told Sergeant B that Officer A had struck Subject 1 in the head with his

¹ "Code Six Charles" indicates a subject has a felony arrest warrant.

pistol, Sergeant B separated Officer A and told him not to discuss the incident with anyone. A Rescue Ambulance was requested and responded to the scene. Subject 1 was then treated for two lacerations to the left side of his head and transported to an area hospital where his lacerations were sutured.

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 administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A and B's drawing and exhibiting of a firearm to be in policy.

C. Non-lethal Use of Force

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

D. Lethal Use of Force

The BOPC found Officer A's use of lethal force to be out of policy, warranting administrative disapproval.

Basis for Findings

A. Tactics

The BOPC noted that when the officers drove toward the subjects, two of whom were known gang members, the subjects immediately fled the location on foot. In response, Officer A exited the police vehicle and chased the subjects on foot while Officer B remained in the police vehicle. As he exited the police vehicle, Officer A requested a backup, followed ten seconds later by a request for a Code-3 response. The BOPC would have preferred that Officer A had broadcast that he was in foot pursuit, given his location, the subject's description, and direction of travel.

The BOPC also noted that, as the foot pursuit progressed, the officers separated a significant distance from one another and, at times, lost sight of each other. At one point during the officers' pursuit of the subjects, both Officers A and B confronted Subject 1. Prior to Subject 1 being taken into custody, Officer B, again, separated from Officer A and continued his pursuit of Subject 2 while Officer A remained with Subject 1. The officers separated, losing sight of one another, resulting in Officer A becoming involved in a use of force with Subject 1 by himself. The BOPC was critical of the officers' decision to separate from one another, which placed them in a tactically disadvantaged situation and is contrary to the Department's training.

After Officer B continued his foot pursuit of Subject 2, Officer A began to approach Subject 1 to take him into custody. As he approached Subject 1, Officer A began to holster his service pistol. Prior to being able to holster his service pistol, Officer A tripped and fell on top of Subject 1. The BOPC noted that Officer A should have holstered his service pistol prior to approaching Subject 1 and that he attempted to take Subject 1 into custody by himself. The BOPC would have preferred that Officer A had maintained his position and awaited the arrival of additional officers prior to approaching Subject 1.

The investigation revealed that this was Officers A and B's first day working together. The BOPC noted that the officers did not adequately discuss tactics prior to their start of watch, and did not communicate between each other as the incident unfolded. Finally, the BOPC also noted that Officer A left his baton in the police vehicle when he exited to pursue the subjects.

Based on the foregoing, the BOPC found Officers A and B's tactics to be seriously deficient, requiring administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC noted that during the foot pursuit, the officers observed Subjects 1 and 2 running together. The officers observed Subject 1 trip and fall to the ground. Subject 2 continued running and, according to Officer A, reached for his waistband. Believing Subject 2 was possibly arming himself, Officer A drew his service pistol. When Subject 1 fell to the ground, Officer B stated that he lost sight of Subject 1's hands. Officer B feared Subject 1, whom he knew was a gang member and had fled from them, was possibly arming himself. In response, Officer B drew his service pistol.

The BOPC determined that, at the time they drew their service pistols, Officers A and B had sufficient information to believe that the incident may escalate to the point where deadly force may be justified. Thus, the BOPC found Officers A and B's drawing and exhibiting of a firearm to be in policy, requiring no action.

C. Non-lethal Use of Force

The BOPC noted that when Officer A approached Subject 1 to take him into custody, Officer A tripped and fell on top of Subject 1, who was lying prone on the ground. Officer A stated that as he attempted to holster his service pistol, Subject 1 rolled onto

his left side, reached back with his right hand, and grabbed Officer A's holster. Officer A positioned his service pistol next to his body and then struck Subject 1 two times in the head with his service pistol. Officer A then holstered his service pistol. Officer A stated that Subject 1 again reached back and grabbed his holster. In response, Officer A punched Subject 1 two times on the right side of his face. The punch caused Subject 1 to release his grasp of Officer A's holster. Subject 1 was ultimately taken into custody with the assistance of additional officers.

The BOPC determined that Officer A's non-lethal use of force was reasonable to overcome Subject 1's resistance. Thus, the BOPC found Officer A's non-lethal use of force to be in policy, requiring no action.

D. Use of Force

The BOPC noted that when Officer A approached Subject 1 to take him into custody, the officer tripped and fell on top of Subject 1, who was lying prone on the ground. Officer A stated that as he attempted to holster his service pistol, Subject 1 rolled onto his left side, reached back with his right hand, and grabbed Officer A's holster. Officer A pulled his service pistol away from Subject 1's reach and positioned it next to his body. Officer A then struck Subject 1 two times on the left side of the head with his service pistol.

The BOPC was critical of Officer A's decision to intentionally strike Subject 1 in the head with his service pistol. Officers are only authorized to intentionally strike a suspect in the head with an impact device to defend themselves against the threat of serious bodily injury or death. At the time Officer A struck Subject 1 with his service pistol, Subject 1 was grabbing at Officer A's empty holster. Officer A had pulled his service pistol out of Subject 1's reach. The BOPC would have preferred that Officer A had considered disengaging with Subject 1 pending the arrival of additional officers. Moreover, using a firearm as an impact device increased the likelihood of a negligent discharge. It also placed the service pistol in close proximity to Subject 1, increasing the likelihood of the subject grabbing the weapon.

The BOPC determined that it was not reasonable for Officer A to intentionally strike Subject 1 in the head with an impact device. Thus, the BOPC found Officer A's use of force to be out of policy, requiring administrative disapproval.