

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

HEAD STRIKE WITH AN IMPACT WEAPON, LAW ENFORCEMENT RELATED INJURY, IN-CUSTODY DEATH - 065-05

<u>Division</u>	<u>Date</u>	<u>Duty-On(x) Off ()</u>	<u>Uniform-Yes() No(x)</u>
Newton	07/25/2006		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Sergeant A	15 years, 9 months
Officer A	3 years, 6 months
Officer B	7 years
Officer C	9 years, 6 months
Officer D	10 years, 9 months
Officer E	2 years, 6 months
Officer F	5 years, 10 months
Officer G	1 year, 11 months
Officer H	10 years, 1 month
Officer I	3 years, 10 months

Reason for Police Contact

Officers responded to a radio call of an assault with a deadly weapon suspect. The officers located Subject 1. Subject 1 failed to comply with officers' orders, resulting in multiple officers applying varying degrees of force against Subject 1.

<u>Subject(s)</u>	<u>Deceased (x)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 1: Male, 33 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 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 July 18, 2006.

Incident Summary

In the early morning hours of July 25, 2005, Officers A and B responded to an "ADW¹ suspect there now" call in the Newton Area. When they arrived at the location, the officers were directed up the street by the reporting party to an individual (later identified as Subject 1) who kept attempting to get in the gate of the reporting party's business and fight with the reporting party's employees. The reporting party advised the officers that the reporting party believed Subject 1 was under the influence of narcotics.

The officers drove their marked police vehicle up the street and observed Subject 1 on the west sidewalk about half way up the block. The officers observed Subject 1 verbally challenging an individual and blocking the path of the individual who was attempting to walk south on the sidewalk. The officers exited their police vehicle and instructed Subject 1 to turn around and put his hands behind his head. The individual on the sidewalk was then able to move around Subject 1 and proceed south. Subject 1 then turned his attention toward the officers, assumed a fighting stance and repeatedly told the officers, "Come on. Come on. What? What?" Officer A removed Officer A's canister of Oleoresin Capsicum ("OC") spray and advised Subject 1 that if he did not comply, Officer A was going to spray him and it would hurt. Officer B broadcast a request for an additional unit. Subject 1 continued to ignore the officers' commands. Officer A sprayed a burst of OC spray in Subject 1's face. Subject 1 turned away and wiped the spray from his face, and then turned back and continued his challenge to the officers. Officer A sprayed a second burst of OC in Subject 1's face. Subject 1 appeared unaffected and continued his challenge to the officers.

Subject 1 continued to ignore the officers' commands. Officer A then returned his OC spray to its holder and removed Officer A's collapsible baton. Officer A snapped the baton into its fully extended position and advised Subject 1 that if Subject 1 did not comply with the officers' commands, Officer A would strike him with the baton and it would hurt. Subject 1 ignored Officer A's commands and warning. Officer A then struck Subject 1 in the left knee with his baton, but Subject 1 still did not comply. Officer A then struck Subject 1 in the left knee a second time. Subject 1 reached out and attempted to grab the baton from Officer A. Officer A was able to maintain control of the baton, but Subject 1 continued to ignore the officers' commands.

Officer A instructed Officer B to retrieve the TASER from their police vehicle. Officer B responded to their police vehicle and returned with the TASER but did not deploy it. Officer A instructed Officer B to hand the TASER to him, which Officer B did. Officer A turned the TASER safety off and aimed the laser sight at Subject 1's chest and abdomen. Officer A advised Subject 1 that if he did not comply, Officer A would use the TASER and it would hurt. Subject 1 then advanced toward Officer A. Officer A deployed the TASER at Subject 1, and it appeared that the TASER was initially effective. Subject 1 then turned, ran away from the officers and fell to the ground. Officer A instructed Subject 1 to stay on the ground. Subject 1 attempted to get up. Officer A activated the TASER a second time. The TASER appeared to be effective.

¹ Assault with a Deadly Weapon.

However, when the TASER's charge stopped, Subject 1 reached down and pulled one of the TASER darts out of his torso. This rendered the TASER ineffective. The officers advised Subject 1 to stay on the ground in both English and Spanish. Subject 1 then got up and resumed his fighting stance. Officer A handed the TASER to Officer B who discarded it onto the ground. In the interim, Officer B had broadcast a request for a supervisor and then, one minute later, a request for backup.

Subject 1 then charged the officers and a physical altercation ensued. Subject 1 punched at Officer A while Officer A administered baton strikes to Subject 1's knees. Subject 1 charged Officer A swinging his fists at Officer A and Officer A struck Subject 1 with his baton. Subject 1 then disengaged with Officer A, and Subject 1 and Officer A moved in a circular fashion while facing each other. This pattern was repeated multiple times. During this altercation, Officer A lost control of his baton and it fell to the ground. The altercation continued and Officer A used fists to engage Subject 1. At Officer A's request, Officer B was able to pick up Officer A's baton and returned it to Officer A. Officer A instructed Officer B to strike at Subject 1's knees. Officer B then began to assist Officer A by striking Subject 1 in the upper arm and legs with Officer B's baton. Realizing that the baton strikes to Subject 1's knees were not effective, Officer A altered his strikes and aimed at Subject 1's shoulder area. On more than one occasion, Officer A's strikes to the shoulder slid off Subject 1's shoulder and struck Subject 1 in the back of the head.

During the altercation, Communications Division broadcast an "assistance call" to the location of the initial radio call of the assault suspect.

Officer C heard the radio broadcasts and responded to the location. Officer C observed Officers A and B in an altercation with Subject 1. Officer C exited Officer C's police vehicle and assisted Officers A and B. Officer C grabbed Subject 1 and was able to take him to the ground. Subject 1 landed face down on the ground. The three officers then attempted to gain control of Subject 1 while additional officers responded.

Once Subject 1 was on the ground, Officer A threw Officer A's baton on the ground, grabbed Subject 1's arm and attempted to place it on Subject 1's lower back to be handcuffed. Subject 1 resisted, and Officer A used a knee strike to Subject 1's chin, which appeared to be effective. At this point, Subject 1 had sustained lacerations and was bleeding, making his arms slippery with blood. Officer A's grip on Subject 1 was slipping. Officer A then placed a foot on Subject 1's hand. Officer B grabbed Subject 1's legs and was able to apply a Hobble Restraint Device ("HRD") to Subject 1's ankles.

Officers D and E responded. They parked behind Officer C's police vehicle and exited their police vehicle. Officer D initially took a position on Subject 1's left side and Officer E took a position on Subject 1's right side. Officer D approached Subject 1's left side. Officer D grabbed Subject 1's left arm and was eventually able to apply his handcuffs to Subject 1's left arm. Officer D placed a knee on Subject 1's back and was able to bring Subject 1's left arm behind Subject 1's back. Officer E placed a knee on Subject 1's back and attempted to gain control of Subject 1's right hand.

Officers F and G also responded to the scene. Officers F and G both took positions on Subject 1's left side. Officer F grabbed Subject 1's left arm, but Subject 1 was able to pull it away. Officer F was then bumped away from Subject 1 by other officers attempting to control Subject 1. Seeing that Subject 1 was resisting, Officer G delivered four or five knee strikes to Subject 1's rib area. Officer G then placed body weight on Subject 1's waistline to control him.

Officers H and I also responded to the scene. Officers H and I both took positions on Subject 1's right side. Upon observing that there were multiple officers already engaged with Subject 1 and, based on Officer H's physical size, Officer H realized that if he attempted to "put hands on" Subject 1, Officer H would displace other officers. Officer H stood by ready to render any needed assistance. Officer I assisted other officers with getting Subject 1's right arm behind his back so that it could be handcuffed, and held down Subject 1's right shoulder to control Subject 1.

Sergeant A also responded to the scene. Sergeant A initially approached the area at Subject 1's feet. Sergeant A approached Subject 1 and observed that an officer was applying an HRD to Subject 1. Sergeant A then moved to Subject 1's head. Sergeant A observed Subject 1 resisting the officers. Sergeant A placed a foot on Subject 1's upper back/neck area to assist the officers in controlling him.

During the physical struggle with Subject 1 on the ground, Subject 1 grabbed the baton that Officer A had thrown on the ground. Officers E and C were able to wrestle the baton away from Subject 1, and Officer C collapsed it and put it in his pocket.

Also during the physical struggle with Subject 1 on the ground, Officer C's keys fell to the ground. Subject 1 grabbed the keys. Officer I was able to get the keys away from Subject 1 and push them out of reach, and another officer took control of them.

Once officers had applied one handcuff to Subject 1's left arm and put it behind his back, Subject 1 grabbed onto Officer E's left hand. Officer E advised the other officers that Subject 1 had grabbed Officer E's left hand and ordered Subject 1 to let go. Seeing that Subject 1 had grabbed Officer E's hand, Officer H delivered a kick to Subject 1's right rib cage. Officer H then placed a foot on Subject 1's right shoulder blade/back to control Subject 1.

Officer E applied a handcuff to Subject 1's right wrist. However, when Officer E was able to bring Subject 1's right arm back, Officer E observed that there was already a set of handcuffs on Subject 1's left wrist. Thus, the handcuffs that were already on Subject 1's left arm were used to handcuff his right arm and the handcuffs that Officer E had applied to Subject 1's right wrist were removed. Once Subject 1 was handcuffed, Officer D conducted a search of Subject 1's back for weapons.

Once Sergeant A observed that Subject 1 was handcuffed, Sergeant A requested a Rescue Ambulance.

Once Subject 1 was handcuffed, most of the officers and Sergeant A stepped back from Subject 1. Officers E, G and I continued to monitor Subject 1 to keep him from becoming combative again. Sergeant A instructed the officers to keep Subject 1 face-down on the ground to limit his ability to again become a threat to the officers.

Officer F stepped up and held onto the handcuffs because Officer F was already wearing gloves (Subject 1 was bloody). Officer F placed a knee on Subject 1's lower back and advised Subject 1 that Officer F would take his knee off of Subject 1 if Subject 1 would stop resisting. Subject 1 initially grabbed onto Officer F's gloved hand, but then let go and stopped resisting. Once Subject 1 stopped resisting, Officer F removed the knee from Subject 1.

Officer G observed that Subject 1 was still moving his legs. Officer G thus placed Officer G's knees of the back of Subject 1's thighs.

It was suggested that a TASER be ready in case Subject 1 became combative again. Officer E retrieved a TASER from Officer E's police vehicle. Officer E returned to Subject 1's location and placed body weight on Subject 1's right elbow to assist with keeping him under control.

Officer I held Subject 1's right shoulder down. As the paramedics approached, Officer I observed Subject 1 "all of a sudden kind of just settle down."

The Los Angeles Fire Department ("LAFD") responded, and, at the request of the firefighters, the handcuffs were removed from Subject 1's arms to facilitate the administration of medical treatment. The firefighters found that Subject 1 was pulseless and not breathing. They began cardiopulmonary resuscitation ("CPR") and, once the Rescue Ambulance arrived, Subject 1 was transported to the hospital. At the hospital, Subject 1 was given medical treatment and underwent surgery to repair a laceration to his liver. However, at the conclusion of the surgery, Subject 1 went into cardiac arrest and was pronounced dead.

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 Sergeant A's tactics to warrant administrative disapproval; Officers A and B's tactics to warrant formal training; and Officers C, D, E, F, G, H and I's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC found that the drawing and exhibition of a firearm does not apply to this incident.

C. Non-Lethal Use of Force

The BOPC found Sergeant A and Officers A, B, C, D, E, G, H and I's non-lethal uses of force to be in policy.

D. Less Lethal Use of Force

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

E. Use of Force

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

Basis for Findings

A. Tactics

The BOPC would have preferred that Officer A or B had holstered the TASER to their person before searching for Subject 1. The BOPC noted that Officers A and B did not update their location with Communications Division when they located Subject 1, and that Sergeant A and Officers C, D, E, F, G and I did not update their location when they arrived at the scene. The BOPC would have preferred that Officer A had requested "backup" instead of an "additional unit" when Subject 1 failed to comply with verbal commands and assumed a fighting stance. The BOPC noted that pursuant to Officer A's request for a TASER, Officer B left Officer A when Officer A was actively engaged with Subject 1. The BOPC would have preferred that the officers had requested a TASER or beanbag over their radio and had remained together. This was a dynamic situation and it was preferable that the officers address the circumstances jointly. The BOPC noted that Officer A deployed the TASER with Officer A's right hand while holding a collapsible baton in Officer A's left hand. The BOPC would have preferred that Officer A had secured the baton before deploying the TASER. After the TASER proved ineffective, Officer A handed it to Officer B, who discarded it onto the roadway. The TASER was subsequently run over by the Rescue Ambulance. The BOPC would have preferred that Officer B had properly secured the TASER. In the course of the team takedown, Officer A threw the collapsible baton to the ground. The BOPC would have preferred that Officer A had properly secured the baton to prevent it from possibly

being used against officers. The BOPC found Officer A's tactics to warrant formal training at Training Division.

The BOPC noted that Officer B did not assist Officer A during the initial stage of the altercation with Subject 1, and reverted to verbalization instead of deploying the TASER when Subject 1 continued his combative/aggressive behavior. Officer B did not engage Subject 1 until Officer A instructed Officer B to target Subject 1's knees with a collapsible baton. The BOPC noted that Officer B appeared hesitant to engage Subject 1 and lacked decisiveness. Based on these assessments, the BOPC found Officers B's tactics to warrant formal training at Training Division. This training is to specifically emphasize the Department's expectations regarding the proper assessment of and response to aggressive/combative suspects.

Sergeant A observed the application of handcuffs and the HRD to Subject 1, but made a conscious decision not to place him in an upright seated position because Sergeant A still viewed him as a threat. The BOPC found that the fact that the officers were in a prolonged, violent struggle with Subject 1 did not excuse Sergeant A from the responsibility of ensuring that Subject 1 was placed upright after the application of the HRD, in accordance with Department standards. The BOPC determined that Sergeant A's failure to ensure that Subject 1 was placed in an upright position immediately following the application of the HRD requires administrative disapproval.

The BOPC noted that although Sergeant A directed that Subject 1 be kept in a prone position after the application of the HRD, the officers present will be reminded through training that they have a responsibility to ensure that Department policies and guidelines are followed.

The BOPC found Officers C, D, E, F, G, H and I's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC found that the drawing and exhibition of a firearm does not apply to this incident.

C. Non-Lethal Use of Force

The BOPC noted that the involved officers utilized OC spray, baton strikes, knee strikes, firm grips, bodyweight, kicks and bodyweight with their feet to gain control of Subject 1. The BOPC noted that, although officers are discouraged from using their feet to control suspects, this incident was an exception due to the prolonged struggle and the amount of blood on Subject 1's body. The BOPC determined that Sergeant A and Officers A, B, C, D, E, G, H and I's non-lethal uses of force were reasonable to control Subject 1. The BOPC found Sergeant A and Officers A, B, C, D, E, G, H and I's non-lethal uses of force to be in policy.

D. Less Lethal Use of Force

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

E. Use of Force

The BOPC determined that Officer A's baton strikes to Subject 1's head were inadvertent. The BOPC found Officer A's use of force to be in policy.