

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

OFFICER-INVOLVED SHOOTING – 084-07

| Division | Date | Duty-On(X) Off () | Uniform-Yes(X) No () |
|-----------------|-------------|---------------------------|------------------------------|
| Hollenbeck | 08/09/07 | | |

| Involved Officer(s) | Length of Service |
|----------------------------|--------------------------|
| Officer A | 8 years, 11 months |
| Officer B | 11 years, 9 months |

Reason for Police Contact

Officers responded to a domestic violence radio call, which resulted in an OIS incident.

| Subject(s) | Deceased (X) | Wounded () | Non-Hit () |
|---------------------------------|---------------------|--------------------|--------------------|
| Subject: Male, 30 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 Subject 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.

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 July 15, 2008.

Incident Summary

According to Victim A, the Subject struck her face and stomach with a closed fist. During the incident, Victim B and C ran to the aid of Victim A. Victim B tried to intervene and the Subject punched her in the face and pushed her. According to Victim C, the Subject kicked her in the palm of her left hand. As this incident unfolded, Victim A's roommate, Witness A left the apartment and went to assist Victim A, who told Witness A what had transpired. Witness A returned to the apartment and called 911.

Communications Division (CD) broadcast a battery domestic violence call, and shortly thereafter, Officers A and B responded to the location. CD provided Officers A and B with the updated description of the Subject and also informed them that he was possibly in the area. Officers A and B arrived on scene and were informed by Los Angeles Fire Department (LAFD) Captain A who was already at scene that, that Victim A had refused transportation, and was inside the apartment. Captain B also informed the officers that the Subject had walked down the street.

Officers A and B contacted Victim A outside the apartment building and told the officers that her boyfriend, the Subject, was a parolee, a gang member, had been drinking, and had hit her earlier on that day. The victim had visible injuries on her forearms.

Officer A stayed with Victim A while Officer B returned to their police vehicle, which was parked at the south curb, directly across the street from the apartment complex. The area where Officer A and Victim A were standing was considerably higher than where the police vehicle was parked on the street and afforded Officer A a view of Officer B's movements. Officer B walked back toward the apartment building and saw a male and asked the male his name.

The Subject continued walking eastbound as Officer B spoke with him. The Subject then stopped on the sidewalk in front of the apartment complex, just west of the driveway. Officer B estimated he was approximately ten to twelve feet east of Subject as he spoke with him. Officer B raised his voice a little bit so his partner was able to hear him talking to the Subject. Officer B asked the Subject to turn around and he complied. Officer B looked up and saw Officer A, running down from the apartment building toward the sidewalk. Officer B then placed his binder on the sidewalk.

Officer A did see Officer B retrieve the binder from their police vehicle and return, and heard Officer B announce the Subject was returning to the apartment. Officer A saw Officer B order the Subject to turn around with his hands behind his head and to spread his legs before Officer B approached. The Subject complied. The officers and Subject were now standing on the north sidewalk, facing westbound. Officer A was in a covering/guarding position, standing to Officer B's rear. Officer B ordered the Subject to place his hands behind his head and to spread his legs before Officer B approached. The Subject complied. Officer B grabbed both of Subject's wrists, then moved his left hand off of Subject's left wrist and grasped the fingers on both of Subject's hands. Officer B then removed his right hand from the Subject's right wrist and removed his handcuffs. As Officer B applied the handcuffs on the Subject's right wrist, the Subject quickly spun to his right and momentarily faced Officer B. Officer B recalled being on the ground, hitting his head on the sidewalk, with someone on top of him.

According to Officer A, as Officer B applied a manacle from Officer B's handcuffs to the Subject's right wrist, the Subject quickly turned to his right, passed his right arm over the top of Officer B's head, and wrapped his right arm around Officer B's neck. The Subject then pulled Officer B to the left and into his torso. Officer A immediately jumped up onto the Subject's back and applied a carotid restraint control hold (CRCH), because the Subject had rendered his partner unconscious.

The Subject continued to rotate to his left with Officer A still on his back, and the Subject and the officers then fell onto the apron of the driveway. According to Officer A, the Subject never released his right arm from around Officer B's neck during the entire incident, and the Subject violently threw Officer B to the ground. Officer A and B, and the Subject landed on the driveway apron, and Officer A fell off the Subject and no longer had the neck restraint on him. Officer B was prone on the driveway apron and the Subject was on Officer B's back. Officer A, who had lost the CRCH on Subject's neck, was still on Subject's back. Officer A punched the Subject in the back of his head with his right fist. Simultaneously, Officer A tried to reapply the CRCH to the Subject using his left arm, but Officer A was unsuccessful because the Subject dropped his chin toward his chest and raised his shoulders.

At this point, Officer A believed Officer B, who had not responded to Officer A's shouts, was unconscious. According to Officer A, he heard Officer B's holster unsnap. Officer A fired one round from his 9mm pistol into the Subject's head. Officer A recalled that he was on his knees and held his pistol in both hands. The gunshot to Subject's head incapacitated him, but the Subject's right arm was still around Officer B's neck. Officer A moved the Subject's arm and pulled Officer B out so he could breathe.

According to Victim A, Officer B went down to his car to get something. A few seconds later, Victim A heard a bang. According to Witness A, who heard the gunshot, but did not see the actual shooting. By the time Witness A saw both officers and the Subject, Officer A was straddling the Subject and using a radio to call for assistance. Officer B was lying next to the Subject and the Subject's arm was draped across Officer B's back.

Officer A contacted CD and requested help. Officer A recalled de-cocking his pistol, and holstering it as soon the Subject stopped moving, and Officer B had been freed from the Subject's grasp. Officer A observed that the retention strap on Officer B's holster was unsnapped, and his pistol had been partially pulled out of the holster. Officer A saw Officer B put his pistol firmly inside his holster and snap shut the retention strap.

Officer A contacted CD and requested a rescue ambulance (RA) for the Subject and Officer B. Shortly thereafter, uniformed Officers C and D arrived at the scene of the officer-involved shooting (OIS). Officer C observed Officer B sitting on the concrete wall with his head bleeding. Officer D observed the Subject laying on the floor faced down, not moving, not breathing, and unconscious. Officer D finished handcuffing the Subject and believed that Subject had a handcuff manacle on his left wrist, not his right wrist as described by Officers B and A.

Officers E and F also responded to the OIS scene. Officer E, assisted Officer B and removed Officer B's badge and equipment belt in order to make him more comfortable. Officer E recalled that the retention snap on Officer B's holster was unsnapped.

A RA arrived and after examining the Subject, LAFD Captain A determined the Subject to be dead.

Officer B was transported to a hospital and treated for contusions, an abrasion, concussion, and a laceration to the left side of his head, which required three staples to close, and a fractured left clavicle. Officer A was transported to the hospital in a marked police vehicle and treated for a sprained right hand and possibly torn strained ligaments.

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 determined that Officer A's tactics were appropriate and required no further action. The BOPC found Officer B's tactics to warrant formal training.

B. Drawing/Exhibiting/Holstering

- The BOPC found Officer A's drawing 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. 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 the analysis of the incident identified numerous instances of prudent tactical decisions and proper actions. Those actions were:
 - Officers A and B heard CD broadcast the initial radio call and requested that CD assign them the call.

- As Officer B retrieved the necessary paperwork from the police vehicle, Officer A maintained visual contact with him.
- Officer A was advised by a witness that Officer A could see the Subject approaching on foot and Officer A immediately joined Officer B on the sidewalk.
- Officer B noted the Subject matched the description of the Subject and confirmed his suspicion as he questioned him. Officer B raised his voice to alert Officer A that he was speaking with the Subject.
- Officer B did not approach the Subject to facilitate the handcuffing process until Officer A had joined him on the sidewalk, thereby maintaining their contact/cover roles.
- Officer A immediately identified the Subject's actions as a situation warranting lethal force and engaged the threat.
- Officer A continued to verbalize with both the Subject and Officer B throughout the incident.
- Unsuccessful in Officer A's attempts to apply a CRCH, Officer A utilized Officer A's service pistol as a last resort.
- After the OIS, Officer A freed Officer B from the Subject's grasp, maintained Officer A's composure and broadcast a request for "Help" along with a request for two RAs. Officer A further broadcast, "I need a RA quick for my partner."
- Upon hearing Officer A's request for two RAs, Sergeant A requested a second unit to respond Code Three.
- Officer E and Officer F, both certified EMT, provided emergency medical treatment to Officer B until LAFD paramedics arrived at the scene.

The Use of Force review Board (UOFRB) noted that Officer A displayed extreme courage and Officer A is to be commended for Officer A's actions during this incident. Officer A's decisive actions, coupled with Officer A's mental discipline ultimately saved Officer B's life.

The UOFRB was concerned with the assault on Officer B during the handcuffing process. Officer B ordered the Subject to turn away from him and face in a northerly direction, place his hands on top of his head and spread his legs. The Subject's demeanor, as he complied with all of Officer B's commands, gave the officers no indication of the impending attack. Officer B approached, reached up with both hands and grasped the Subject's wrists. Officer B then utilized his left hand to grasp the Subject's hands behind his head as he reached rearward with his right hand and obtained his handcuffs from his equipment belt.

B. Drawing/Exhibiting/Holstering

- The BOPC noted as Officer A delivered punches to the Subject's head, Officer A repeatedly ordered him to release his hold on Officer B; however, Subject ignored the officer's commands. At this time, Officer A heard what Officer A believed to be the Subject unsnapping of the retention strap of Officer B's holster. Believing the Subject was arming himself with Officer B's service pistol, Officer A drew Officer A's service pistol.

The BOPC determined that Officer A had sufficient information to believe that the situation had escalated to the point where deadly force had become necessary.

C. Non-lethal Use of Force

- The BOPC noted as the Subject forced Officer B to the ground, Officer A lost his grasp around the Subject's neck. Officer A attempted to utilize his left arm to apply a CRCH; however, Officer A's attempts were thwarted, as the Subject raised his shoulders and forced his chin against his chest. With limited options available to Officer A, he delivered approximately three punches to Subject's head.

While the head is not a recommended area to impact, as striking a hard bone area may cause self-injury resulting in an officer's ability to utilize other force options, the UOFRB determined that based on the totality of the circumstances, the force used by Officer A was appropriate, as she faced an immediate need to stop the Subject's deadly assault. The BOPC concurred with the UOFRB's recommendation and have determined that it was reasonable that Officer A utilized this level of non-lethal force.

D. Lethal use of Force

- The BOPC noted that Officer A jumped on the Subject's back, placed Officer A's right arm around the Subject's neck with the crook of the elbow placed under the Subject's chin. Although an officer would be justified in using a CRCH in this deadly force situation, it appears Officer A was unable to complete its application.

After Officer A attempted to apply the CRCH on the Subject proved unsuccessful, Officer A delivered approximately three punches to the Subject's head. Simultaneously, Officer A heard what Officer A believed to be the unsnapping of the retention snap of Officer B's holster. As Officer B was unconscious and Officer A was unable to see the Subject's left hand, Officer A believed the Subject was arming himself with Officer B's service pistol. Officer A, in immediate defense of Officer B's life, drew his service pistol and fired one round in a downward direction at the back of the Subject's head from a distance of approximately ½ of an inch.

Note: Officer D responded to the scene and provided emergency medical treatment to Officer B. Officer D removed Officer B's equipment belt, and upon doing so noted that the retention strap of Officer B's holster was unsnapped.

Based on the investigation, witness statements, and the postmortem examination conducted by the County of Los Angeles Deputy Medical Examiner, the UOFRB determined that Officer B was not in the line of fire when the OIS occurred. The BOPC concurred with the UOFRB's findings.

The BOPC has determined that Officer A reasonably believed that the Subject presented an immediate threat of serious bodily injury or death.