

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

OFFICER-INVOLVED SHOOTING – 099-07

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Newton	10/31/2007		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	12 years, 0 months
Officer B	10 months
Officer C	23 years, 1 month

Reason for Police Contact

Subject 1, riding a bicycle, fled from officers when they attempted to stop him for a traffic violation. Subject 1 abandoned his bicycle and fled on foot. The officers caught Subject 1, a struggle ensued, Subject 1 tried to take Officer A's handgun and Subject 1 was shot.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject 1: Male, 19 years.			

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 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 09/23/08.

Incident Summary

Officers A and B were on patrol when they observed a bicyclist, Subject 1, riding on the wrong side of the roadway. Officer A observed Subject 1 place his cupped right hand into the front pocket of his sweatshirt and ride with his left hand on the handle bar. Officer A, the driver, chirped the emergency siren to get Subject 1's attention. Subject 1 looked back, took his right hand out of his sweatshirt pocket and started peddling faster. Subject 1 looked back a second time and put his right hand back into his sweatshirt

pocket. Officer A told Officer B that he believed Subject 1 had a gun. Officer A then broadcast that he was in foot pursuit of a man with a gun.

Officers A and B followed Subject 1 and yelled commands from their police vehicle ordering him to stop. Subject 1 ignored the commands. As Subject 1 approached mid-block, his bicycle started to wobble out of control. According to Officer A, Subject 1's bicycle went down with Subject 1 falling forward over the handlebars and landing hands first on the pavement.

Note: According to Officer B, Subject 1 jumped off the bicycle, as the bicycle was still moving.

Note: According to Subject 1, the front of the police vehicle struck the rear tire of his bicycle while he was still astride, at which point he jumped off.

Note: A traffic collision reconstruction expert analyzed physical evidence related to the traffic collision to determine whether Subject 1 was astride the bicycle at the time the police vehicle struck it. It was determined that the bicycle was upright on two wheels when struck by the police vehicle based on tire marks and pedal gouges. It was further determined that Subject 1 was not astride the bicycle at the time of the collision based on the absence of evidence that Subject 1 came in contact with the police vehicle and the absence of evidence that Subject 1 sustained abrasion type injuries to his wrists, forearms, legs, knees or the palms of his hands as a result of contact with the pavement.

Subject 1 got to his feet and ran toward his residence. As the police vehicle came to a stop, Officer B exited and chased Subject 1. As Subject 1 reached his front porch, he was caught and tackled by Officer B. On the ground, Officer B grabbed Subject 1's left arm and applied a wristlock. The hold did not control Subject 1 or stop him from resisting. With his fist, Officer B struck Subject 1 three times in the back of the head in an attempt to gain control. Subject 1 continued resisting and trying to get to his feet.

In the meantime, Officer A exited the police vehicle and ran to assist Officer B. Officer A observed Subject 1 reach for his right sweatshirt pocket at least twice. Officer A believed Subject 1 was armed and reaching for a weapon.

Officer A grabbed Subject 1's right arm and the two officers wrestled to control Subject 1. Officer A repeatedly told Subject 1, "Don't go for the gun." Believing that Subject 1's actions escalated the danger of the situation, Officer A used a clinched fist to punch Subject 1 twice in the face. The blows did not slow Subject 1's resistance. Officer A used his radio to broadcast a request for assistance.

Note: According to Subject 1, he was trying to overpower the officers, get to his feet and get away.

At this point, Officer A believed he was about to lose the fight and that Subject 1 was going to arm himself with a gun. Officer A applied a modified carotid restraint hold on Subject 1 while continuing to use his right hand to prevent Subject 1 from getting into his sweatshirt pocket. The hold was not effective, in that Subject 1 was lifting himself up off the ground and he was again reaching for his right sweatshirt pocket.

Subject 1 slipped out of the carotid restraint hold and behind Officer A. Officer A felt a hard thrust on his gun. Officer A immediately cupped his hand over Subject 1's hand, which was on Officer A's service pistol. Officer A could feel his gun moving up and down in its holster and yelled, "He's got my gun."

Note: According to Subject 1, he touched Officer A's gun belt in a threatening manner.

In the mean time, Officer C arrived on scene. As he exited his vehicle, Officer C could immediately see Subject 1 and the two officers on the ground in a struggle. As Officer C approached, he heard Officer A say, "He's got my gun." Officer C drew his service pistol. Subject 1 and the two officers were in a bear hug type struggle.

At this point, Subject 1 and both officers started to get up off the ground. Officer C, unable to see Subject 1's hands, observed that Subject 1's right shoulder and arm were exposed, presenting an available target area. Officer C fired one round from his pistol, striking Subject 1 in the right upper arm. Subject 1 and the officers separated following the gunshot.

In an effort to take Subject 1 into custody, Officer A used a front kick to strike Subject 1 in the stomach and force him backward. Officer A then used a bear hug grip on Subject 1 and forced him to the ground. Officer B reengaged in the struggle grabbing Subject 1's leg.

In the mean time, Newton Area Officers E and F arrived on scene. As the officers approached, they observed Officers A and B on the ground struggling with Subject 1, attempting to take him into custody. Officer F grabbed Subject 1's right arm and pulled it out from under his body. Officer E was able to handcuff Subject 1. Once in custody, Officer E searched Subject 1's sweatshirt pocket and recovered a handgun and one round. A loaded magazine was recovered on the ground near the area of the struggle.

Los Angeles Fire Department personnel administered emergency medical treatment to Subject 1 for a gunshot wound and transported him to a hospital.

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, B and D's tactics to warrant a tactical debriefing.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer C's drawing 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. Lethal Use of Force

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

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

1. Officer A briefly activated the siren to gain Subject 1's attention and both officers verbally instructed Subject 1 to dismount the bicycle.

Officer A should have activated his forward facing red light along with the siren when attempting to conduct the enforcement stop. This would have left no question of the officers' intention to conduct the stop. It was also noted that Officers A and B could have utilized the Public Address system in the police vehicle rather than yell at Subject 1 from the car window.

2. Officer A said that he broadcast the foot pursuit while driving the police vehicle.

Officer A, the driver, should have advised his partner to broadcast on the radio. As the passenger officer, it would have been tactically safer for Officer B to assume the role of communications officer and complete the broadcast.

3. The investigation revealed that Officer A struck Subject 1's bicycle immediately after Subject 1 dismounted it.

Officer A may have followed Subject 1 too closely, especially in light of the belief that Subject 1 may be armed with a handgun. It would have been tactically safer for Officer A to create more distance between Subject 1 and the police vehicle in this instance.

4. Officer B chased and tackled Subject 1, even though Subject 1 was believed to be armed with a handgun.

Believing Subject 1 to be armed, once he fled on foot, it would have been safer for Officer B to initiate containment in the form of a perimeter rather than tackle Subject 1 from behind.

5. Officers A and B punched Subject 1 on the head during the struggle.

It would have been preferable for Officers A and B to select a different area to strike in order to minimize potential injuries to the officers. Previous incidents during which officers have struck hard bone areas of a suspect with a closed fist have frequently resulted in injury to the officer. This may render the officer's hand unusable for the remainder of the altercation.

6. While struggling with Subject 1 whom he believed was armed, Officer A broadcast a request for assistance.

The BOPC determined that, during this incident, Officer A should have considered broadcasting a request for help based on the belief that Subject 1 was armed, his ongoing aggressive/combatative actions and his unwillingness to surrender.

7. After the officers took Subject 1 into custody, it appeared that there may have been a delay in searching Subject 1 for weapons.

Once Subject 1 had been handcuffed, he should have been immediately searched for the handgun that the officers believed he possessed. Officer statements indicated that a magazine was observed on the ground near Subject 1 and that the handgun was still inside of Subject 1's right jacket pocket. It is incumbent upon each and every officer to immediately and thoroughly search subjects upon being taken into custody, especially when they are believed to possess a weapon.

8. During the investigation, it was determined that Officer C was not wearing his ballistic vest during the incident. It was also noted that Officers A and D were not equipped with their respective batons.

Officers A and D are reminded to have all of their required equipment with them while performing field duties. The wearing of a ballistic vest is vital to officer safety

and the possession of the baton affords officers with an additional force option should it become necessary.

The BOPC found Officers A, B and D's tactics to warrant a tactical debriefing.

B. Drawing/Exhibiting/Holstering

The BOPC evaluated the circumstances relevant to Officer C's drawing and determined that he had sufficient information to reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may become necessary.

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

C. Non-Lethal Use of Force

The BOPC determined that Officers A and B's use of firm grips, body weight, wrist lock and closed fist head strikes were reasonable in an attempt to overcome resistance and take Subject 1 into custody.

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

D. Lethal Use of Force

The BOPC evaluated the circumstances relevant to Officers A and D's lethal use of force. The BOPC determined that Officers A and D had sufficient reason to believe that it was necessary to protect themselves and the other officers who were present from the immediate threat of death or serious bodily injury.

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