

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

LAW ENFORCEMENT RELATED INJURY 003-10

Division	Date	Duty-On (x) Off ()	Uniform-Yes (x) No ()
Newton	01/09/10		

Involved Officer(s)	Length of Service
Officer A	8 years, 4 months
Officer B	8 years, 11 months
Officer C	11 years
Officer D	8 years, 9 months
Officer E	1 year

Reason for Police Contact

Officers observed a drug transaction and stopped to investigate.

Subject(s)	Deceased ()	Wounded (x)	Non-Hit ()
Subject: Male, 31 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 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, the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on December 21, 2010.

Incident Summary

Officers A and B were patrolling when they observed three males dressed in black clothing standing in a walkway in between two buildings. Officer A noticed that the males were engaged in an activity consistent with hand-to-hand narcotics transactions.

The males did not see the officers, so the officers drove past them and parked their police vehicle out of sight.

Officer B advised Communications Division (CD) that they were Code Six. Officers A and B exited their vehicle and moved to a position where they could observe the three males. Once again, Officer A saw what he believed to be a hand-to-hand narcotics transaction. The officers observed the males for another minute before walking towards them. As the officers approached the males, they smelled marijuana. The three males finally noticed the officers once the officers were about 20 feet away. One of the males put his hands up and got on his knees while the other two fled in opposite directions.

Officers A and B ran after one of the fleeing males. Officer B was running behind Officer A when he slipped and lost his balance, which caused him to fall further behind Officer A. While Officer A chased the male along one side of a building, Officer B decided to run parallel to Officer A along the other side of the building. Officer A believed that the male was armed because the male was grabbing his waistband as he ran. The male then approached the Subject, who was not one of the original three males Officers A and B observed. The male handed the Subject some baggies, and the Subject took the baggies and placed them in his mouth. Although the transaction was fast, Officer A had shined his flashlight on the two males during the transaction and saw the baggies, which contained what appeared to be marijuana. After the transaction, the Subject ran between two buildings. Officer A abandoned his initial pursuit and started chasing after the Subject.

Officer B was trying to unholster his radio to broadcast a foot pursuit when he collided with the Subject. At this point, Officer B did not know that the Subject was not the man he and Officer A had initially pursued. Officer B fell to the ground and the Subject continued running, with Officer A chasing after him. While running, Officer A turned around to make sure Officer B was all right and saw that Officer B had gotten up. Officer B started running parallel to Officer A, on the other side of the buildings.

Officer A told the Subject to stop and put his hands up. The Subject ignored Officer A's command and kept running until he reached a fence, which he tried to climb but was unable to. The Subject turned to face Officer A with his fists clenched. Officer A ran at the Subject, grabbed him, and threw him to the ground. The Subject got up on his hands and knees, so Officer A straddled him and ordered him to show his hands. The Subject attempted to buck Officer A off his back. Officer A told the Subject to stop resisting and struck the Subject in the head approximately ten times. Officer B joined Officer A and tried to help Officer A subdue the Subject. Officer B delivered seven or eight knee strikes to the Subject and punched him several times in the back. The officers were still unable to gain control of the Subject.

A large group of people had gathered to watch the struggle. The Subject called out to the group of people for help. The Subject then grabbed the area of Officer A's crotch, causing Officer A excruciating pain. While holding on to Officer A, the Subject hit Officer A in the face two or three times with the back of his head. Officer A was in such pain that he was going to tell Officer B to shoot the Subject, but then other officers

started to arrive. The Subject released his grip on Officer A, and Officer A fell off the Subject and passed out. Officer B broadcast a call for help.

Officers C and D responded to the area, but were initially unable to locate Officers A and B. Once they located the site of the altercation, Officer C approached the Subject and tried to gain control of his right arm. Meanwhile, Officer B used his bodyweight to try to gain control of the Subject's legs. Officer C struck the Subject four times with his fist and five times with his knee. Officer D tried to pull the Subject's left arm out from under him, but was unable to. Officer D struck the Subject three times in the side of the head. Officer C then asked if any of the officers had a TASER on hand.

Officer E, who had just arrived at the scene, told Officer C that he had a TASER. Officer E unholstered his TASER and removed the cartridge. Officer C instructed Officer E to "tase" the Subject. Officer E activated the TASER on the Subject's back, but got no response from the Subject. Consequently, Officer E activated the TASER again. According to Officer E, he did not give the Subject any commands or warning prior to deploying the TASER because the Subject was fighting the officers and needed to be controlled immediately. After Officer E deployed the TASER a second time, the officers were able to gain control of the Subject's arms. Officer C handcuffed the Subject. Officer D recovered two baggies of marijuana from the Subject's pants pocket.

Two officers who were trained Emergency Medical Technicians (EMTs) attended to Officer A. Soon, LAFD and a Rescue Ambulance (RA) arrived to treat Officer A, who was later transported to the hospital. Sergeant A noticed abrasions on the Subject's face so requested another RA. The Subject was later transported and admitted to the hospital.

Meanwhile, other officers were attempting to control a crowd of approximately 150 to 200 people who had gathered at the scene. Due to the hostile nature of the crowd, Lieutenant A ordered the officers to withdraw from the crowd and clear the scene.

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 and Officers C, D and E's tactics to warrant a tactical debrief.

B. Non-Lethal Use of Force

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

C. Less Lethal Use of Force

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

Basis for Findings

A. Tactics

In its analysis of this incident, the BOPC identified the following tactical considerations:

In this instance, Officers A and B observed three males possibly involved in narcotics sales. As the officers approached the males, the males became aware of the officers' presence and two of them began to run as one dropped to his knees on the sidewalk. One of the males grabbed his waistband as he fled, which made Officer A believe that the male was armed with a handgun. Officers A and B opted to chase the potentially armed male. There was no attempt made by either officer to establish containment or request additional personnel/resources while pursuing the potentially armed Subject. Additionally, the use of apprehension mode would not be appropriate in this incident due to the potentially armed Subject presenting a significant risk to the officers.

By utilizing and remaining in apprehension mode while pursuing the potentially armed Subject, Officers A and B unjustifiably and substantially deviated from approved department tactical training. Additionally, by running past the male who fell to his knees, the officers placed themselves at a tactical disadvantage by having the Subject in front of them and an unsearched male behind them.

In this instance, Officers A and B initially updated their status with CD by placing themselves Code Six; however, they did not broadcast their updated location or subsequent foot pursuit. This lack of communication proved to be problematic as the incident progressed and the officers were no longer in the area of their initial broadcast. This ultimately resulted in a delay of responding personnel locating Officers A and B as they struggled with the violent Subject later in the incident.

In conclusion, Officer A and B's failure to update their location and broadcast the foot pursuit unjustifiably and substantially deviated from approved department tactical training.

In this instance, Officer B elected to parallel his partner by running on the side of a building as Officer A chased the Subject on the other side of the same building. As a result of the separation between Officers A and B, Officer B was unaware of Officer A's exact location. Furthermore, Officer B did not know that the initial male had handed the Subject the plastic baggies and that Officer A had begun to chase the Subject instead of the initial male. After Officer B collided with the Subject and fell to the ground, Officer B again elected to parallel Officer A and the Subject.

Officers A and B's decision to separate during a foot pursuit to the point where each officer was not in a position to render immediate aid to his partner put them at a tactical disadvantage and unjustifiably and substantially deviated from approved department tactical training.

The Subject turned to face Officer A, who was running behind him. Officer A closed the distance and forced the Subject to the ground. Once on the ground, Officer A straddled the Subject while attempting to keep him on the ground. Here, Officer A placed himself at a tactical disadvantage by initiating physical contact with the Subject prior to the arrival of Officer B. Although a subject's actions sometimes require an immediate response from officers, here the Subject had taken a fighting stance. An immediate response from Officer A was not necessary. It would have been tactically advantageous for Officer A to order the Subject into a high-risk prone position and wait for Officer B to approach prior to initiating physical contact, thereby ensuring that the contact and cover concept was not compromised.

By becoming separated from Officer B and electing to engage in a physical altercation with the Subject prior to the arrival of Officer B, Officer A unjustifiably and substantially deviated from approved department tactical training.

In this instance, Officer B initially used his handheld radio to broadcast a back-up request. Due to the fact that the officers were unable to control the Subject, along with the Subject's violent attack on Officer A and the crowd becoming hostile, a request for help was warranted. Although he eventually upgraded the request, Officer B did not include the actual location where the help was needed. Since the officers had not broadcast the route of the foot pursuit nor updated their location upon making contact with the Subject, the officers placed themselves at a tactical disadvantage as the initial responding units were unable to locate Officers A and B as they violently struggled with the Subject.

By failing to provide responding personnel with pertinent information such as their updated location, Officers A and B unjustifiably and substantially deviated from approved department tactical training.

In this instance, Officers A, B and C used their fists to punch the Subject in the face during the physical altercation. The officers should be reminded of the increased potential for injury when striking a boney area with their fist, as was evident in this incident.

In this instance, Officer E arrived on scene and saw that the officers were involved in a physical altercation with the Subject. Officer E exited his police vehicle without updating his status or location with CD. Although officers are required as standard practice to update their status, in this incident, there were additional units already at the scene and Officer E was running to assist those officers. Additionally, Officer E updated his status after the Subject was in custody.

In conclusion, Officer E's actions were appropriate and did not substantially deviate from approved department tactical training.

Overall, the BOPC found that the tactics utilized by Officers A and B substantially and unjustifiably deviated from approved department tactical training, requiring a finding of administrative disapproval. The BOPC found that the tactics utilized by Officers C, D and E did not substantially and unjustifiably deviate from approved department tactical training.

B. Non-Lethal Use of Force

After the Subject failed to climb over the fence, he turned and faced Officer A, who grabbed him by the shoulders and forced him to the ground. Once there, Officer A used his bodyweight to hold the Subject on the ground. The Subject refused to comply with the officer's verbal commands and continued attempting to flee. Officer A used a combination of firm grips and punches to the right and left side of the Subject's face, none of which had any effect.

When Officer B arrived, he saw that Officer A was involved in a physical altercation with the Subject. Officer B delivered three knee strikes to the Subject's right side, followed by two punches. After realizing that his strikes were having no effect on the Subject, and given the arrival of additional personnel, Officer B stopped striking the Subject and instead used his bodyweight and firm grips to control the Subject's lower body until the Subject was taken into custody.

After striking the Subject with his fist, Officer C delivered five knee strikes to the right side of the Subject's face. Following the TASER activation, Officer C was able to force the Subject's hands out from under his body and apply handcuffs.

After parking the police vehicle, Officer D ran to join Officer C. Officer D punched the Subject three times on the left upper torso in an attempt to gain compliance. Following the TASER activation, Officer D pulled the Subject's wrist from under his body and assisted with the handcuffing.

Officers with similar training and experience as Officers A, B, C and D would reasonably believe that the application of non-lethal force would be justified to overcome the resistance presented by the Subject. Therefore, the BOPC found that the non-lethal force utilized by Officers A, B, C and D was objectively reasonable and within department guidelines.

In conclusion, the BOPC found Officer A, B, C and D's application of non-lethal force to be in policy.

C. Less Lethal Use of Force

Upon arrival, Officer E observed the other officers attempting to control the Subject. Officer E then heard an officer (Officer C) request that a TASER be used to control the Subject. Officer E drew his TASER, removed the TASER cartridge and delivered a drive stun to the Subject's back. After assessing the incident, Officer E noted that the Subject was still resisting and delivered a second drive stun to the Subject's back. According to Officer E, the officers were able to control the Subject after the second activation.

An officer with similar training and experience as Officer E would reasonably believe that the application of less-lethal force would be justified to overcome the resistance presented by the Subject. Therefore, the BOPC found that the less-lethal force utilized by Officer E was objectively reasonable and within department guidelines.

In conclusion, the BOPC found Officer E's application of less-lethal force to be in policy.