

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

LAW ENFORCEMENT RELATED INJURY 013-10

Division	Date	Duty-On (X) Off ()	Uniform-Yes(X) No()
Northeast	02/13/2010		

Officer(s) Involved in Use of Force	Length of Service
Officer A	3 years, 4 months
Officer B	5 years
Officer F	2 years, 1 month
Officer H	1 year, 11 months

Reason for Police Contact

Officers responded to an assistance call made by the Los Angeles Fire Department (LAFD), which resulted in a law enforcement-related injury.

Subject	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). 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. 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 BOPC 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 January 25, 2011.

Incident Summary

The Subject resided with the following people at the time of this incident: his mother (Witness A), father (Witness B), cousin (Witness C), sister (Witness D), and his sister's boyfriend (Witness E). Witness D heard her mother screaming for someone to call an ambulance. Witness D found her mother and father in the Subject's bedroom, and saw the Subject lying on the floor having some type of seizure. Witness D told her parents to leave the room, and with Witness E's help, they attempted to turn the Subject on his side. The Subject was having difficulty breathing and his eyes were rolled back. Although the Subject was in his own house, he insisted that he wanted to go home to his uncle's house. Witness C had also joined them in the bedroom, and he called 911. Witness D assumed that the Subject was experiencing a drug overdose, as he had been a heroin user, on and off, for several years.

LAFD personnel arrived at the scene. Firefighter/Paramedic A had been to the location on at least three prior occasions and the Subject had been uncooperative each time. Firefighter/Paramedic A and Captain A entered the residence and contacted the Subject in his bedroom. Firefighter/Paramedic A noted that the Subject was sweating profusely and heard him say, "I'm jacked up." The Subject also told Firefighter/Paramedic A that he had injected cocaine, and it appeared to Firefighter/Paramedic A that the symptoms displayed by the Subject were more consistent with "acute PCP intoxication." Captain A believed that the Subject's vitals heart could have stopped and it was necessary to get him to the hospital. Based on the information that the Subject had injected cocaine, Captain A requested the assistance of LAPD for a drug overdose.

At one point LAFD personnel convinced the Subject to go to the hospital, and walked him outside to a gurney, but the Subject stated, "I ain't going. I want to go to my uncle's house." The Subject became aggressive, appeared delusional and, as he was walking around, struck a folding table with his fist causing it to break. Captain A recalled that the Subject made the statement that he "liked the Fire Department [...] and he loves to fight cops."

Communications Division (CD) dispatched Officers A and B to the location regarding an overdose. CD updated the call to LAFD requesting a backup, and Officers A and B advised they would respond in emergency mode. While enroute to the call, Officer A noted that the address was a "special location," with information that the resident, the Subject, was a gang member, had fought with officers in the past and had been recently arrested for an assault on a police officer. Based on the "special location" information, CD also dispatched Sergeant A. Based on information he had received from Firefighter/Paramedic A, Engineer A broadcast over the radio that they had a "large, violent cocaine overdose patient." Officers C, D, E, F, G, and H also responded to the location.

Officers formulated a tactical plan, which included Officer A being the contact officer, Officer B as the cover officer, and Officer F remaining outside with a beanbag shotgun. Officers A and E carried TASERS, and Officer F deployed the beanbag shotgun.

According to Officer A, as he entered the living room with Officer B behind him, he was able to look into the Subject's bedroom. Inside the room he observed the Subject with LAFD personnel. Officer A recalled that Captain A told him, "Hey, guys, you know, he's going to fight. Be careful. He's going to fight." Officer A noted that, despite the cool temperature, the Subject was wearing only a tank top and was sweating profusely. Additionally, the Subject appeared very agitated and was at times incoherent. Based on these observations, Officer A formed the opinion that the Subject was under the influence of some type of narcotics. The Subject observed the officers and stated, "What are you guys doing here? I don't need you over here." When the Subject noticed the TASER that Officer A carried he stated, "Yeah, I see your taser. You know, I've been tased before."

Officer A told the Subject that the officers were there to help him and to ensure that he received medical aid. The Subject's bedroom was very small, and LAFD personnel told Officer A that if the officers walked into the bedroom, the Subject would fight them. Officer A tried to convince the Subject to walk out of the bedroom so they would not be in such a confined area. While Officer A was attempting to communicate with him, the Subject heard the commotion outside involving Witness C. He became even more agitated, and stepped out to the bedroom doorway. Officer A then called Officer H from outside into the living room to assist them, since Officer H matched the Subject in physical stature. The Subject then walked by Officer A, into the living room and toward the front door where Officer B was standing.

When Officer H entered the residence, he had a brief conversation with Officer B regarding a tactical plan involving a team takedown of the Subject, if necessary.

Officer A observed the Subject continuing to walk toward Officer B, and Officer A warned him to stop or he would be "tased." The Subject took a fighting stance, clenched his fist, and started punching his fists again while staring at Officer B.

Officer A feared that the Subject was going to punch Officer B, so he aimed at the Subject's torso and discharged the TASER. Both probes made contact with the Subject. While the TASER was still cycling, the Subject looped the TASER wires around his arm and pulled the wires down and away from his body, which caused the wires to lose contact with the darts.

After the Subject pulled out the darts, he took a step back, picked up an artificial potted tree and threw it at Officer B. Officer B was able to catch the tree and placed it outside. Officer B asked the officers outside for a TASER. The Subject's attention was turned toward Officer A and had taken a "challenging" stance, and Officer B believed that the Subject was going to attack Officer A. Officer B discharged the TASER at the Subject, and the darts struck him on the left side of his rib cage. Again, the Subject grabbed the wires and again disconnected the wires from the darts.

After the second time the TASER was used on the Subject, Officer H was able to position himself to the rear of the Subject so that the officers could conduct a team takedown. As the Subject was pulling out the TASER darts, Officer H then wrapped his arms around the Subject's arms from the back, in a "bear hug" position, and Officer A grabbed onto the Subject's left shoulder and arm. The momentum of the officers grabbing onto the Subject caused him to fall to the ground, with Officer H landing on top of him. Officer H used his body weight in an attempt to control the Subject, who continued to struggle and tried to push himself back up with what seemed like "superhuman strength." As the officers struggled with the Subject, they continued to tell him to stop resisting. Officer A was able to gain control of the Subject's left arm, twisted it back and was able to place one handcuff on that arm.

Meanwhile, Officer F handed the beanbag shotgun to Officer E, and he entered the living room as the Subject went to the ground, with Officer H on top of him. Officer F grabbed onto the Subject's legs and held him down with his body weight as the Subject continued to struggle.

Officer B noticed that Officer A had control of the Subject's left arm, but his right arm was pinned underneath him. Officer B was unable to maintain a grip on the Subject's right arm. Being unable to gain control of the Subject's right arm, Officer B then applied the TASER to the Subject's right forearm, in direct contact mode, for approximately five seconds, but the TASER had no apparent effect on the Subject.

According to Officer H, as Officer B was attempting to gain control of the Subject's arm, the Subject continued to try and push himself back up in an effort to throw Officer H off of him. In response, Officer H repositioned himself and placed his knee on the upper back of the Subject to keep him on the ground.

Officer B told the Subject again to stop resisting or else the TASER would be used again. When the Subject continued to struggle, Officer B placed the TASER above the Subject's right elbow, in direct contact mode, for another five seconds. Officer B was able to gain control of the Subject's right arm and placed it behind his back. Due to the physical build of the Subject, he used a second set of handcuffs to handcuff the Subject's arms behind his back.

Officers broadcast that the Subject was in custody. After he was handcuffed, the Subject stated that he was having difficulty breathing, so the officers turned him on his side. While the Subject was in this position, Officer A conducted a pat down search for weapons, and then placed the Subject in a seated position. Once the Subject was in a seated position, he started to kick at the officers with his feet. Officer A asked for a Hobble Restraint Device (HRD) from Officer F. As the officers maintained the Subject in a seated position, Officer A used the HRD and placed it around the Subject's ankles to prevent anyone from being injured. The Subject indicated he was now able to breathe. Officer A then adjusted the HRD up to the Subject's knees and walked him outside to a gurney.

LAFD personnel transported the Subject to a medical center. Officers A and I rode with the Subject in the Rescue Ambulance (RA). While enroute to the hospital, the Subject stated, "Well, I have cocaine, heroin and anger in me and you guys are lucky I didn't have a gun."

It was subsequently determined by hospital personnel that the Subject would be admitted to the hospital. At that time, the incident was classified as a Categorical Use of Force. Lieutenant A then ensured that the officers were separated and monitored.

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, F and H's tactics to warrant a Tactical Debrief.

B. Non-Lethal Use of Force

The BOPC found Officers A, B, F and H's non-lethal uses of force to be in policy.

C. Less-Lethal Use of Force

The BOPC found Officer A and B's less-lethal uses of force to be in policy.

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

Prior to deploying the first TASER, Officer A advised the Subject to stop moving closer to Officer B or Officer A would deploy the TASER. Officer B deployed a second TASER to assist in effecting the Subject's arrest without providing a verbal warning. Officer B did not provide a verbal warning because he thought it wasn't feasible and because he thought he was going to charge at his partner.

In conclusion, a verbal warning was given to the Subject prior to the first activation of the TASER, thereby mitigating the necessity to provide another warning prior to the second activation (which occurred soon after the first activation). Therefore, Officer B's decision to deploy a TASER without providing a verbal warning did not substantially deviate from approved Department tactical training.

Once the Subject exited the bedroom and advanced towards Officer B and then Officer A, a circumstance was created wherein more than one officer simultaneously issued verbal commands. Although multiple officers are generally discouraged from giving commands as it may create confusion in the mind of the subject, in this situation, it was unavoidable. Confusion was minimized by the officers as they issued similar commands.

Officers made legal entry into the Subject's residence after a back up request from LAFD paramedics, who were waiting inside the house with the Subject. The officers articulated the fact that the Subject exhibited objective symptoms of being under the influence of narcotics. Additionally, the officers had been advised by LAFD personnel that the Subject was a "violent cocaine overdose patient." This established a legal basis for the officers to take the Subject into custody. However, during their interviews, the officers described their attempts to persuade the Subject to go with paramedics to receive medical treatment. Just prior to the use of the TASER, when the Subject tried to walk outside, Officer B attempted to stop the Subject. While the officers' detention of the Subject was legal in this case, statements made by officers that they sought to compel the Subject to receive medical attention may be indicative of an incomplete understanding regarding the legal bases upon which a person can be detained or arrested.

Officer A carried the TASER in his hand as opposed to using a holster. It would have been preferable for the officer to have used the holster, even though the Department's TASER directive does not specify whether a holster should be used to carry the device. As such, that the officer's decision to carry the TASER did not represent a deviation from approved Department training.

The BOPC found Officers A, B, F and H's tactics to warrant a Tactical Debrief.

B. Non-Lethal Use of Force

The BOPC noted that Officers A, B, F and H were confronted with an aggressive and combative subject who exhibited signs of being under the influence of a narcotic substance.

As the deployment of two TASER discharges proved ineffective, Officer H positioned himself behind the Subject, wrapped both arms around the Subject in a "bear hug," thereby immobilizing his arms. Simultaneously, Officer A utilized his right hand to grab the Subject's left shoulder and his left hand to grab the Subject's left arm. The

momentum of the contact forced the Subject to the floor in a prone position, with Officer H landing on top of the Subject's back. While Officer H maintained his bodyweight on the Subject, Officer F wrapped both arms around his legs to prevent him from kicking. Officer A maintained control of the Subject's left arm and forced it to a position of handcuffing; however, Officer B was unable to gain control of his right arm. The Subject then placed his right hand under his body and used it to push his torso off the ground. Unable to overcome the Subject's resistance and remove his right hand from underneath his body, Officer B delivered two drive stuns to the Subject's right arm. At the termination of the second drive stun cycle, Officer B was able to pull the Subject's right arm out and he was handcuffed. While he was in a seated position, the Subject continued to kick his legs, resulting in Officer A applying the HRD.

Given the degree of resistance the Subject presented to the officers by his sustained physical resistance to being restrained, including on two separate occasions pulling out the TASER darts, the force used against him was reasonable and consistent with Department policy. Moreover, the initial ineffectiveness of the force types used warranted the continuation of such force, including the TASER, until the Subject was controlled.

The BOPC found Officers A, B, F and H's non-lethal uses of force to be in policy.

C. Less-Lethal Use of Force

The BOPC noted that as Officers A and B responded to the radio call they received information from Communications Division that a resident at the location was a gang member who had a history of being aggressive toward officers and was recently booked for Battery on a Police Officer and Resisting Arrest. Noting the Subject appeared to be agitated and sweating profusely as he paced back and forth, the officers who responded to the scene formed the opinion that he was possibly under the influence of a narcotic substance.

The Subject exited the bedroom, walked directly toward Officer B and assumed a fighting stance. As Officer B redeployed rearward in an attempt to create distance, Officer A issued a less-lethal warning that the TASER would be utilized. The Subject ignored the officer's commands, continued to advance, and in response Officer A discharged a TASER at the Subject, making contact with his abdominal area, fearing that the Subject was going to punch his partner.

The Subject removed the TASER wires from the probes, disabled the activation cycle and turned his attention toward Officer A. Officer B believed that the Subject was going to attack Officer A and discharged the TASER a second time.

After Officer B deployed the second TASER, physical force was utilized to take the Subject to the ground in a prone position. Officer A positioned the Subject's left arm behind his back; however, Officer B struggled to remove the Subject's right hand from underneath his body, resulting in Officer B applying a direct stun to the Subject's forearm area. The Subject appeared unaffected as he continued to use his right hand

to push his torso upward and off the ground. In response, Officer B applied a second direct stun to the Subject's right elbow.

An officer with similar training and experience as Officers A and B would have reasonably believed that the application of less-lethal force would be justified to overcome the resistance presented by the Subject.

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