

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

HEAD STRIKE WITH AN IMPACT DEVICE – 043-08

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Hollenbeck	05/09/2008		

Officer(s) Involved in Use of Force	Length of Service
Officer A	9 years, 7 months
Officer B	10 years, 6 months

Reason for Police Contact

Officers A and B observed Subject 1 commit a traffic violation. When the officers attempted to detain Subject 1, he ran from the officers and Officer A pursued Subject 1 on foot. During the pursuit, Subject 1 drew a pistol, then tripped and fell. Subject 1 dropped his pistol. When Subject 1 reached for the pistol, Officer A kicked Subject 1 in his head.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
Subject 1: Male, 30 years old.			

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 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 April 21, 2009.

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.

Incident Summary

Officers A and B observed Subject 1 running across six lanes of traffic, dodging several vehicles. Officers A and B intended to stop Subject 1 for a vehicle code violation.

Note: The officers did not notify Communications Division (CD) of their unit's status and location.

The officers observed Subject 1 approximately 25 to 50 yards from their vehicle walking southbound on the street toward them. The officers parked in the roadway at the curb, facing a dirt lot. As Subject 1 walked onto the dirt lot, Officer A illuminated Subject 1 with the passenger side spotlight. Then both officers exited their vehicle and stood behind the vehicle doors.

Officer A ordered Subject 1 to raise his hands and turn around. Subject 1 instead ran across the dirt lot then continued onto the street.

Officer A chased Subject 1 on foot. Officer B re-entered the police vehicle and drove behind the foot pursuit. Officer A observed Subject 1 reach toward the waistband of his pants with both hands and believed he was reaching for a weapon. Officer A then drew his pistol.

Approximately 20 yards into the foot pursuit, Officer A observed Subject 1 reach into his waistband and withdraw a pistol. As Subject 1 continued to run, he looked over his shoulder at Officer A, then tripped and fell onto the street. Subject 1 dropped the pistol, and it landed a few inches away from his left hand.

Officer A then approached Subject 1 with his pistol pointed at Subject 1 and ordered Subject 1 not to move. Officer A observed Subject 1 looking toward the pistol and attempting to reach for it. Subject 1 did not comply with Officer A's order not to move. Officer A then kicked Subject 1 twice in the head to stop his movement.

Officer B then arrived and handcuffed Subject 1 while Officer A covered Subject 1 with his pistol.

Personnel from the Los Angeles Fire Department responded and administered medical treatment to Subject 1. Subject 1 was then transported 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 and B's tactics to warrant a Tactical Debrief.

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 B's use of non-lethal force to be in policy.

D. Lethal Use of Force

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

Basis for Findings

A. Tactics

In adjudicating the incident, the BOPC considered that:

Although Officer B stated that he was unable to broadcast their location prior to contacting Subject 1 due to continuous radio traffic on the radio frequency, Officers A or B had sufficient time to advise CD of their status and location via the Mobile Digital Computer (MDC). Officers are trained to advise CD when they conduct officer-initiated activities, which makes nearby units aware of their location and creates the circumstance wherein they can respond more rapidly if needed. Although circumstances may arise in which it would be unreasonable for officers not to make such a notification, in this incident the officers had sufficient time and the option to utilize the MDC as opposed to the police radio.

In this incident, the decision to pursue Subject 1 coupled with Officer A's reasonable belief that Subject 1 may be armed made it imperative that CD was aware of their status. One of the officers should have broadcast their pursuit of Subject 1, his description, and their direction of travel. Additionally, the officers should have requested a back-up or assistance, which would have alerted nearby units of the unfolding tactical situation.

Although the foot pursuit was relatively short lived, Officer A believed Subject 1 was armed and advised Officer B of his belief. At this point, Officers A and B should have

transitioned into containment mode, utilized available cover, and broadcast the foot pursuit, rather than remaining in apprehension mode.

In this instance, as Subject 1 fell to the roadway, Officer B stopped the vehicle and placed it into park. Officer B then observed Officer A kick Subject 1 twice on the head. Although the officers were temporarily separated from each other, Officer B never lost sight of Officer A during the foot pursuit and followed from a distance of approximately 25 feet. Officer B immediately exited the vehicle, handcuffed, and took Subject 1 into custody while Officer A covered Subject 1 and guarded against Subject 1 reaching for the pistol that was still lying adjacent to him.

B. Drawing/Exhibiting/Holstering

Based on the situation the officers were involved in and their belief that lethal force may become necessary, it was reasonable for Officer A to draw his service pistol.

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

C. Non-Lethal Use of Force

The BOPC determined Officer B's non-lethal use of force to be within Department guidelines and, therefore, in policy.

D. Lethal Use of Force

According to Officer A, as he pursued Subject 1 he observed Subject 1 pull the weapon out. As Subject 1 looked over his right shoulder, he stumbled and he dropped the pistol. Officer A stopped and warned Subject 1 not to move. Subject 1 failed to comply, and he reached for the pistol. Subject 1's attempt to rearm himself with a pistol would lead a reasonable officer to conclude that Subject 1 was attempting to arm himself with the intention of shooting at the officer. As such, Subject 1's actions elevated the incident to a situation in which the use of lethal force would be justified.

Therefore, the BOPC found that Officer A's use of lethal force was reasonable to protect himself and Officer B from the immediate threat of serious bodily injury or death and, therefore, in policy.