

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

LAW ENFORCEMENT-RELATED INJURY 060-14

| Division | Date | Duty-On (X) Off () | Uniform-Yes (X) No () |
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|--------|----------|--|--|
| Newton | 10/16/14 | | |
|--------|----------|--|--|

| Officer(s) Involved in Use of Force | Length of Service |
|--|--------------------------|
|--|--------------------------|

| | |
|-----------|--------------------|
| Officer A | 5 years, 5 months |
| Officer B | 8 years, 3 months |
| Officer C | 9 years, 6 months |
| Officer D | 14 years, 3 months |

Reason for Police Contact

Officers attempted to stop a subject riding a bicycle. The subject then fled on foot. Force was used as the subject was taken into custody.

| Subject(s) | Deceased () | Wounded (X) | Non-Hit () |
|-------------------|---------------------|---------------------|--------------------|
|-------------------|---------------------|---------------------|--------------------|

Subject: Male, 22 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 September 22, 2015.

Incident Summary

Detective A was working alone and was in plain clothes and driving an unmarked police vehicle. Detective A was monitoring an area, looking for individuals that matched the description of robbery suspects. He observed the Subject, whom Detective A determined matched the description of a robbery suspect. At the time, the Subject was riding a bicycle. Detective A observed the Subject commit several traffic violations. First, he observed the Subject travelling north against southbound traffic, and then he proceeded to cross the street in a northeasterly direction nearly colliding with oncoming traffic. Detective A requested a unit to assist in detaining the Subject.

Police Officers A and B were working together in the area and advised they would respond to assist Detective A. Police Officers C and D were also working together in the area and also advised they would assist. All four officers were in uniform and were in marked, black and white police vehicles.

Detective A told the officers that he wanted to get the Subject identified so his photo could be put in a photo lineup to possibly eliminate or identify him as a suspect in the robbery.

Detective A advised them of the Subject's location, direction of travel, his physical description, and the clothing he was wearing. While waiting for the officers, Detective A continued to watch and follow the Subject from a short distance behind him. The first black and white police vehicle to approach was manned by Officers A and B. Detective A updated them with the Subject's location, who was now riding his bicycle on the east sidewalk travelling north.

Officers A and B were in the lead vehicle and reached the location first. A short distance behind were Officers C and D. Officer A, who was driving, observed the Subject riding his bicycle on the sidewalk. Officer A continued north, drove past the Subject, and stopped his vehicle at the entry way apron of the driveway to a business. As Officer A stopped the police vehicle at the entry way of the driveway, he blocked the sidewalk with the car. By doing so, the Subject's travel was impeded which gave him an unobstructed view of the officers' clearly marked black and white police sports utility vehicle. Both Officers A and B were dressed in full police uniforms and exited the vehicle as the Subject quickly approached on his bicycle.

Officer B ordered the Subject to stop, and the Subject ignored the command and continued to ride his bicycle around the front of the police vehicle. Officer B ran after him and reached out to grab onto the bike. The Subject jumped off the bicycle and tossed it in the direction of Officer B. This momentarily inhibited the officers from reaching the Subject and gave him enough time to run away and distance himself from the officers. With several witnesses looking on, the Subject ran north, and then continued west crossing four lanes of traffic. Officers A and B ran after the Subject, as Detective A requested a backup, and broadcast the foot-chase. At this point, Officers C and D were still travelling north in their vehicle.

The Subject continued running west until the police vehicle driven by Officer C drove past him and stopped to prevent the Subject from continuing west. Officer D exited the vehicle and ran toward the Subject from the west. At this point, with Officer D ahead of him, the Subject turned and changed direction, heading east as he continued eluding officers by weaving in and around parked vehicles. Officer C ran back to retrieve his police vehicle while the other officers continued to pursue on foot.

Detective A observed the Subject change directions and saw him running east, back toward Detective A. He exited his vehicle, pulled out his badge attached to a necklace from underneath his shirt, stood directly in the path of the Subject, and spread his arms out to his side as the Subject neared. Detective A yelled out, "Stop Police!" The Subject simply evaded him and once again crossed the four lanes of traffic on the street that the foot pursuit had begun on. The Subject continued running east on the north sidewalk of the street adjacent to a local business.

The business was a single story, stucco building. The business was in operation with numerous employees inside. The business had video cameras throughout the interior of the location as well as three cameras located on the exterior. Two cameras were located on the exterior of the south wall.

Video footage from one of the cameras showed the Subject running east on the street in front of the business. The Subject ran, crouched down, and hid between two parked vehicles on the north curb. Within moments, Officer D was seen running east on the street, in the middle of the roadway, and Officer A was seen running on the north sidewalk.

Officer D saw the Subject cut in between two vehicles and saw him discard an item underneath one of the vehicles. The Subject emerged from in between the two parked vehicles onto the roadway and began running a short distance west. Officer D chased him and as he got near, the Subject turned toward him. Officer D swung his baton at the Subject, aiming for the thigh area. Simultaneously, the Subject moved away to avoid the swing, and fell down on his right side, then onto his stomach. The Subject had his arms stretched out perpendicular to his body. The video confirmed that the baton swing missed the Subject.

Officer B quickly approached and unholstered his firearm with his right hand and held it in a two-handed, low ready position aiming it toward the Subject as he fell to the ground. Officers A and D quickly dropped onto the Subject, holding him down with their bodyweight. Officer B holstered his weapon immediately after the Subject was held down to the ground.

While Officer A was struggling to control the Subject's right arm, Officer D was struggling with the Subject's left arm. Officer D said that it appeared to him that the Subject was trying to move his left arm underneath his body. Officer D repeatedly

verbalized with the Subject, telling him to comply and release his left arm, without success.

Once Officers A and D had the Subject contained on the ground, Officer B broadcast that the incident had been resolved (Code-4), because he did not want responding officers unnecessarily rushing to the backup request.

Within moments, Officer C arrived in his police vehicle and exited the driver's door. Officer C ran to where the officers had the Subject on the ground. Officer C said that he believed the Subject was attempting to secrete his arms under his body as he approached. Officer C kicked the Subject in the area of his left shoulder to assist Officer D in freeing the hand. In the video of the incident, it is unclear where Officer C's kick landed on the Subject. After delivering the kick, Officer C positioned himself on the Subject's left side. He bent down and placed his right knee onto the Subject's mid-lower back, and applied his bodyweight on him.

Officer B stated that once he saw there were three officers in physical contact with the Subject, he began walking away to look for the item that the Subject discarded in order to secure it.

Officer D stated that after Officer C kicked the Subject, he immediately loosened up his left arm and Officer D managed to get it out.

With Officers A and D holding onto the Subject's wrists, Officer D reached into the back of his utility belt and retrieved a pair handcuffs. Officer D said that when he cuffed the Subject's right wrist, the Subject immediately straightened and stiffened his left arm, preventing the officers from joining his wrists together to complete the handcuffing technique.

As the officers continued to handcuff the Subject, Officer C swung his left fist and struck him on the head, to cause him "discomfort," followed by three elbow strikes with his right forearm in rapid succession to the Subject's right side of his head. Officer C said that this allowed Officer A to gain control of the Subject's right hand and place it on his back.

After Officer C delivered the elbow strikes, his right knee came off the Subject's mid-lower back and he repositioned himself, placing his right knee onto the Subject's mid-back. Officer C said that he heard the Subject state that he was going to run again. According to Officer C, he then slapped the Subject on the forehead with his left palm to gain the Subject's attention and so that the Subject could accept that he was in custody. Within moments, Officer D was able to complete the handcuffing. Officer D then stood up and walked away to assist in recovering the item that the Subject had discarded behind the parked vehicle.

Officer C said that the Subject, who was now cuffed but had not been searched, began reaching into the rear of his boxers. Fearing that the Subject could be trying to retrieve

a weapon from inside his boxers, Officer C used his right knee and struck him on the left side of his torso while ordering him to remove his hands from his boxers.

Officer C said that the Subject continued reaching into his boxers, and Officer C then delivered two knee drops onto the Subject's back with his right leg. According to Officer C, this caused the Subject to remove his hands and allowed him to gain control of the Subject's wrists. Officer C utilized his bodyweight to maintain control. Officer C realized the Subject's hands were still cupped and ordered him to open them to verify he had not removed anything from his boxers. According to Officer C, the Subject did not comply with the order, and Officer C utilized a wrist lock to gain control and verify the Subject's hands were empty.

Based on the video, Officer A then began searching the Subject and began removing his property. Officer C was depicted pressing down on the Subject's back with his right knee. Within ten seconds, Officer A stood up and walked away. Officer A said he wanted to ensure his vehicle was secure.

Officer B was walking on the north sidewalk searching for contraband when he observed Officer C still maintaining bodyweight on the Subject. He could see that Officer C was sweating and breathing heavily. Officer B decided to assist Officer C, so that he could complete his search and catch his breath. He positioned himself by the Subject's legs and kicked the Subject's legs apart, which was ineffective. Officer B then bent over, reached down and with his right hand grabbed the Subject's legs and tried to separate them in order to position his shoes so that the inside of his feet and heels would be flat on the ground.

Officer B then stood on the Subject's feet. He stated that he was entirely convinced that he needed to apply some level of body weight in order to continue to prevent the Subject's escape.

A few moments later, Officer C stood up and lifted the Subject up by the handcuffs and left hand. Officer A assisted him and lifted the Subject by the right arm. As the officers carried the Subject, Officer B joined them and lifted the Subject's right leg. The three officers then proceeded to carry the Subject to a police vehicle and placed him in the back seat.

Sergeant A then arrived on the scene. He obtained a brief statement from Officer C regarding the use of force and then checked on the welfare of his officers and on the Subject's condition.

Officer B then requested a Rescue Ambulance (RA) for the Subject, who complained of shortness of breath.

Sergeant A determined that the video cameras belonging to the adjacent business had captured the Subject's arrest. He viewed the video along with Officers C and D and subsequently notified the Division Watch Commander about the incident.

The Subject was transported from the scene by ambulance to the hospital for medical treatment. Officer B rode in the back of the ambulance while Officer A followed behind in their police vehicle. The officers remained with the Subject until he was cleared by the attending physician and then transported him back to the police station.

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 of a firearm 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 that Officer D's actions warranted a Tactical Debrief. The BOPC found that the actions of Officers A, B, C, and Detective A warranted Administrative Disapproval.

B. Drawing/Exhibiting

The BOPC found Officer B's drawing and exhibiting to be in policy.

C. Non-Lethal Use of Force

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

Basis for Findings

A. Tactics

- In its analysis of this incident, the BOPC considered the following tactical issues:

1. Deployment of Vehicle/Pedestrian Contacts

The BOPC reviewed and discussed Officer A's tactical decision to drive past the Subject and then position the police vehicle in this manner for the purpose of

blocking his pathway. Officer A placed his partner and himself at a significant tactical disadvantage by positioning the police vehicle in this manner, blocking the pathway of a potentially armed robbery suspect. The Subject was able to approach the officers and pass them, and was afforded the opportunity to confront the officers while in this undesirable tactical position. Had the Subject been armed, the officers' safety would have been significantly compromised and operational success diminished.

Therefore, Officer A's practice of passing and blocking the pathway of a possibly armed subject is highly discouraged and in this instance, substantially and unjustifiably deviated from approved Department tactical training.

2. Foot Pursuits-Apprehension versus Containment

Detective A attempted to apprehend a potentially armed robbery suspect by blocking his immediate path of travel, without cover.

Detective A initiated and requested the response of uniformed officers to conduct a stop of the Subject, a potentially armed robbery suspect. Officers/detectives must consider tactical options and maintain the advantage during every foot pursuit and determine the safest action, apprehension or containment and when each is appropriate. In this instance, Detective A decided to block the Subject's path and order him to stop, without the tactical benefit of cover or concealment. This action placed Detective A at a significant tactical disadvantage, wherein the Subject was afforded the opportunity to close the distance on Detective A.

The BOPC determined that Detective A's actions substantially deviated from approved Department tactical training, without justification.

3. Body Armor

Detective A was not wearing body armor when he initiated enforcement contact with a potentially armed subject.

Detective A placed himself at a significant tactical disadvantage and diminished his level of safety by not wearing body armor throughout this incident and more so when he decided to initiate contact with the Subject.

In this instance, Detective A's decision to attempt to stop/detain the Subject, without wearing body armor, substantially deviated from approved Department tactical training, policy, without justification.

4. Tactical Communication

Throughout the use of force portion of this incident, Officers A, B, C and D's communication could have been better.

According to Officers A, C and D's statements, the Subject displayed ongoing resistance during the handcuffing process; however they did not ask Officer B to assist. Prior to the Subject being handcuffed or searched, Officer C advised Officer B to look for evidence. Additionally, Officer B broadcast that the incident had been resolved prior to the Subject being handcuffed and searched. While officers commonly broadcast "Code-4 Sufficient Units," in this instance Officer B did not, even though he believed the Subject was effectively contained and he did not want additional units to respond at this point.

Based on the totality of the circumstances, the BOPC determined that Officers A, C and D's actions did not substantially deviate from approved Department tactical training.

5. Securing of Police Vehicle

Officers A and B exited their police vehicle and did not ensure that it was properly secured prior to pursuing the Subject on foot.

Officers are trained to remove the keys from the police vehicle prior to pursuing a subject on foot, ensuring that the vehicle cannot be taken or moved without authorization. Officers also need to balance the urgency and exigency of the situation and weigh the factors surrounding each incident. During this incident, Detective A secured Officers A and B's police vehicle, as the officers continued in foot pursuit of the Subject.

Although this incident was fluid and evolved quickly, the BOPC would have preferred that Officer A ensured his vehicle was secured properly prior to pursuing the Subject on foot.

6. Stepping on Subject's Limbs

While the Subject was prone on the street and handcuffed, Officer B attempted to separate the Subject's crossed feet/legs by kicking them apart. Officer B then stepped on both of the Subject's feet/ankles in what he stated was an effort to prevent his escape.

The BOPC found Officer B's actions of standing for an extended period of time on the Subject's feet/ankles to be unreasonable and a substantial deviation from approved Department tactical training.

7. Control of Handcuffed Persons

After the Subject was handcuffed and searched, Officers A and C picked the Subject up from the street in a manner that was inconsistent with current procedure.

The BOPC noted that video of the incident depicts Officer C with one hand on the Subject's arm and one hand on the handcuffs, with Officer A on the opposite side, grabbing the Subject's other arm, lifting him upward. Officers must make every effort to gain the compliance and cooperation of subjects when transporting while handcuffed. Officers also must always remain cognizant of the potential for injury to the subject and the perception of the public when handling detained persons. The BOPC would have preferred that Officers A and C at least attempt to seek the Subject's cooperation, or make an effort to sit him upright, then ultimately to a standing position, versus quickly raising him by his arms and handcuffs in the manner depicted by the video.

- The BOPC also considered the following:

1. Punches to Bony Areas

During the struggle on the street, Officer C punched the Subject one time on his head, sustaining injury to his left hand. He was subsequently treated for his injury and medically cleared. Officer C is reminded that punches to bony areas can cause injury, as it did in this instance, reducing the officer's effectiveness and limiting their ability to defend themselves.

2. Audio/Video Recordings

There were three video recordings associated with this incident and recovered as evidence, all of which were fixed cameras on or inside of nearby buildings. One video recording included both interior and exterior footage from a nearby building. The use of force incident was captured by one of these outside cameras. The video recording from the sidewalk in front of a market, captured the officers' initial contact with the Subject and the beginning of the foot pursuit. The third video recording from a park did not capture the incident.

Sergeant A, along with two of the involved officers viewed the video that captured the use of force. Officer C recorded the video from the computer screen with his cellular phone to assist him with completing the arrest report. Sergeant A was aware of this recording.

An uninvolved Area sergeant responded to the scene and obtained a copy of the video.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

After a thorough review of the incident, the BOPC found that Officer D's actions

warranted a Tactical Debrief. The BOPC found that the actions of Officers A, B, C and Detective A substantially and unjustifiably deviated from approved Department tactical training and therefore warranted Administrative Disapproval.

B. Drawing/Exhibiting

- Once the Subject fell to the street, Officers A and D made contact with the Subject to detain him. Officer B approached the group and, believing the Subject might be armed, drew his service pistol. Officer B based this belief on the Subject being a possible robbery subject and that during the foot pursuit he had seen the Subject make several furtive movements toward his pocket area and toward his sock and/or shoe area. As soon as Officer B saw that the Subject was not armed, he holstered his weapon.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Officer B's drawing and exhibiting of a firearm to be in policy.

C. Non- Lethal Use of Force

- **Officer A** – Firm Grip, Bodyweight and Physical Force

Officer A joined Officer D as the Subject was on the street. Officer A placed both knees on the right side of the Subject's upper back. Officer A grabbed the Subject's right arm for handcuffing. Officer C delivered the kick and several other applications of force. Officer C placed the Subject's right arm behind his back and he was subsequently handcuffed. Officer A searched the Subject and removed property from his person. Officer A stood and walked away to ensure his vehicle was secure.

- **Officer D** – Firm Grip, Physical Force and Bodyweight

Officer D approached the Subject and swung his PR-24 baton at him, but missed. The Subject fell to the street. Officer D bent down and placed his right knee on the right side of the Subject's lower back. Officer D, with assistance from Officer A, reached across the Subject's body to grab his left arm, struggling to gain control of it, as the Subject attempted to bring his left arm under his body. Officer D stated he repeatedly verbalized to the Subject to comply and release his arm, but he refused. Officer D stated he voiced that he was having trouble controlling the Subject's left arm and Officer C kicked the Subject's left shoulder. Officer D was eventually able to gain control of the Subject. Officer D then stood and walked away to recover the item(s) the Subject discarded behind the parked vehicle.

After a thorough review of the incident, the BOPC determined that officers with similar training and experience as Officers A and D would believe the application of non-lethal use of force would be reasonable to overcome the Subject's resistance and prevent his escape.

- **Officer B** – Kick and Bodyweight

Officer B observed that Officer C appeared winded and assisted with applying a kick to the Subject's legs/feet to separate them from a crossed position. With the kick unsuccessful at separating the Subject's legs, Officer B reached down with his right hand and grabbed his legs to separate them. Officer B applied bodyweight to the Subject's feet/ankles by standing on them, one foot on each foot/ankle. Officer B said he did this to prevent the Subject's escape.

- **Officer C** – Kick, Punch, Elbow Strikes, Knee Strikes, Open-Hand Palm Strike, Firm Grip, Wristlock, Bodyweight and Physical Force

Officer C stated that he approached and observed Officers A and D on the street struggling with the Subject to detain him. The Subject was attempting to secrete his arms under his body, and Officer C delivered one kick to the Subject's left shoulder in an effort to free his left arm/hand. Officer C, on the Subject's left side, bent down and placed his right knee onto his mid-lower back and applied bodyweight.

Officer C stated that in an effort to cause the Subject "discomfort," he punched the Subject on his head with his left fist, followed by three elbow strikes with his right forearm in rapid succession to the right side of his head. Officer C repositioned himself, placing his right knee onto the Subject's mid-back. Officers A and D were then able to handcuff the Subject.

According to Officer C, the Subject stated he was going to run again, and Officer C slapped the Subject on his forehead with his open left palm to gain his attention. The Subject attempted to reach into the rear of his shorts and, believing he might retrieve a weapon, Officer C used his right knee and struck him on the left side of his torso while ordering him to remove his hands from his shorts. The Subject continued to reach into his shorts and Officer C delivered two knee strikes to the Subject's back with his right leg, causing the Subject to remove his hands. Officer C continued to apply bodyweight to control the Subject.

The Subject cupped his hands and Officer C ordered him to open them, believing he might be concealing contraband. The Subject refused to comply and Officer C utilized a wristlock to gain control and verify his hands were empty. Officer C stayed on top of the Subject, as he remained prone on the street.

Officer B observed that Officer C appeared winded and assisted with applying a kick to the Subject's legs/feet and bodyweight to the Subject's feet/ankles. The Subject attempted to move his handcuffed hands to the front of his body and Officer C pulled

his hands back. Officer C again slapped the Subject on his forehead with his left hand, then placed his left knee on the Subject's shoulder/neck area and remained on top of him with both knees.

Officers A and C stood the Subject up and with the assistance of Officer B, carried the Subject over to a police vehicle where he was seated.

The BOPC reviewed the video recordings captured at the scene of the use of force incident as well as the statements and other evidence. After a thorough analysis of all material, the BOPC found that Officers B and C's non-lethal use of force was not objectively reasonable under the circumstances. As depicted in the video and gleaned from individual statements obtained, it was clear to the BOPC that the force used was not reasonable, given the Subject's limited and unapparent resistance when Officers B and C physically contacted the Subject.

After a thorough and comprehensive review of the incident, the BOPC determined that officers with similar training and experience as Officers B and C would not believe their application of non-lethal use of force would be reasonable to overcome the Subject's resistance and prevent his escape.

In conclusion, the BOPC found Officers A and D's non-lethal use of force to be in policy, and Officer B and C's non-lethal use of force to be out of policy, warranting Administrative Disapproval.