

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

CAROTID RESTRAINT CONTROL HOLD – 091-08

Division	Date	Duty-On (X) Off ()	Uniform-Yes(X) No()
Rampart	10/24/2008		

Officer(s) Involved in Use of Force	Length of Service
Officer A	10 years, 3 months
Officer B	7 months

Reason for Police Contact

Subject 1 threatened to kill his ex-girlfriend, Victim A. When Subject 1 arrived at Victim A's residence and attempted to unscrew the door hinges to get inside, she called the police. Officers arrived and detained Subject 1, using a carotid restraint hold.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
Subject 1: Male, 25 years old.			

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 September 22, 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

Subject 1 called his ex-girlfriend, Victim A, on the telephone. Subject 1 was verbally abusive to Victim A and accused her of cheating on him. Victim A indicated that

Subject 1 threatened to come stab and kill her and would burn the apartment if she did not open the door when he arrived.

At the time of the telephone call, the apartment was occupied by Victim A, her mother, her sister, her brother, her four-year-old daughter, and her one-year-old son.

Subject 1 arrived at Victim A's residence and began to bang on the front door, demanding entrance and threatening to kill Victim A. When Victim A and the other family members refused him entry, Subject 1 continued to knock and started taking the screws out of the door. Victim A called 911.

Officers A and B responded to Victim A's address. The officers advised Communications Division (CD) that they had arrived. Officers A and B entered the apartment complex and went up a stairwell to Victim A's apartment but did not see Subject 1 at that time. Victim A told Officers A and B about the criminal threats Subject 1 made over the phone as well as those made through her front door. Victim A and her sister then left the apartment to assist the officers in locating Subject 1.

The residence was an apartment complex comprised of 29 apartment units spread over 3 floors. There are stairwells at the front and rear of the building.

Officer B attached a TASER to his belt. Officer A said he did not tell Officer B to bring the TASER nor did he know Officer A was in possession of it when they entered the apartment complex.

As the officers descended to the first floor, Officer A saw a male standing in the second floor walkway but did not identify him at that time. Officers A and B then searched the first floor area but did not find Subject 1. Officers A and B followed Victim A and ascended the stairs to search the rest of the apartment complex. Just prior to reaching the second floor, Victim A's sister saw Subject 1 and told Officers A and B that he was there.

Officer A observed Subject 1 in a carpeted hallway, facing the officers, when he started to argue with Victim A, saying, "don't do this to me, don't do this to me." The officers approached Subject 1. Officer A ordered Subject 1 to turn and face away from him, walk backwards, and place his hands on his head. Subject 1 complied.

Officer A took hold of Subject 1's hands with his left hand and, with his right hand, removed a lighter from Subject 1's right hand, dropping it to the ground. As Officer A placed his right hand onto Subject 1's hands to handcuff him, Subject 1 spun and partially broke the officer's grip. To avoid being struck, Officer A stepped to his left and threw Subject 1 to the hallway floor while still holding onto Subject 1's left hand.

Subject 1 landed face-down, near the stairwell railing, with Officer A on his left side. To provide room for Officer B on Subject 1's opposite side, Officer A dragged Subject 1 away from the railing by his left arm. Officer A placed Subject 1's left arm behind his

back and applied a wrist lock. Officer B, on Subject 1's right side, attempted to gain control of Subject 1's right hand, but Subject 1 was flailing his right arm and Officer B was unable to gain control. Officer A told Officer B to request backup, which he did.

Both officers ordered Subject 1 to stop resisting, but he did not comply. Subject 1 started to roll over, and Officer A placed his right knee in the center of Subject 1's back as Subject 1 continued to roll. As Officer A continued to attempt to take control of Subject 1's right arm, Officer B observed that Subject 1 had grabbed Officer A's baton with his right hand. Officer B grabbed Subject 1's right arm in an attempt to regain control of the baton. Subject 1 then bit Officer B's left forearm. Officer B told Officer A about the bite. Officer A, while still holding Subject 1's left arm behind his back, punched Subject 1 three to four times on the right eye and cheek area.

After being struck, Subject 1 released Officer B from his bite and the baton from his right hand. Officer A regained control of his baton. Officer A observed that Officer B still did not have control of Subject 1's right arm. Utilizing his baton, Officer A struck Subject 1 twice in the right calf in an attempt to take him into custody.

After striking Subject 1 with his baton, Officer A dropped the baton on the floor of the hallway. Subject 1 continued to struggle while Officer A had his left hand on Subject 1's left wrist. Meanwhile, Officer B did not have control of Subject 1's right arm. Subject 1 again took hold of Officer A's baton with his right hand.

Officer A told Officer B to put out an "officer needs assistance" broadcast. As Officer B removed his radio, Subject 1 again bit Officer B's left forearm. Officer B told Officer A that Subject 1 was biting him and had possession of the baton. Officer B did not know how the officers were able to get Subject 1 to subsequently release his bite; however, Officer B grabbed the baton and pushed it away from Subject 1. Officer B then punched Subject 1 a couple of times in the face, fearing he would bite again. Officer B also broadcast a "help" call.

Officer A believed the situation called for using deadly force and said that if he was going to take a shot, it would be a head shot, since Subject 1 was biting his partner's arm. So, Officer A decided the best thing to do would be to apply a neck restraint. Officer A then placed his right arm around Subject 1's neck/shoulder area, placed his body on top of Subject 1's, and employed a modified carotid restraint hold.

The application of the restraint hold caused Subject 1 to release his grip on the baton and Officer B's arm. Subject 1 continued to struggle during the time that the carotid hold was used. Officer A, who maintained the carotid hold on Subject 1 until backup arrived, did not believe that Subject 1 lost consciousness.

Meanwhile, Officers C and D arrived. The officers ran to the second floor of the apartment complex and saw Officers A and B with Subject 1, and Officer B struggling to get Subject 1's right arm behind his back. Officer C saw Subject 1 on the ground with Officer A on top of him. Officer A told the arriving officers to take control of Subject 1's

legs, which Officer C accomplished with his body weight. Officer C pulled Subject 1's right arm from under his body and placed it behind his back. Officer B handcuffed Subject 1's right wrist. Once this was done, Officer A released the carotid restraint control hold on Subject 1 and brought Subject 1's left arm to his back for handcuffing. After the first set of handcuffs wouldn't latch or lock, Officer B completed the handcuffing with a second set of handcuffs.

During the handcuffing process, Officer A told Officer D to place the Hobble Restraint Device (HRD) on Subject 1's legs. Officer D placed the HRD on Subject 1's ankles. Subject 1 was then placed into a seated position, leaning against a wall.

Two rescue ambulances (RAs) were requested by Officer C for the bite Officer B had sustained and for Subject 1, who had multiple scratches and blood on his face.

The RAs responded and examined Subject 1. Subject 1 was placed into full spinal immobilization and soft restraints and transported to a local 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, C, and D's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

Does not apply.

C. Non-Lethal Use of Force

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

D. Lethal Use of Force

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

Officers A and B made contact with Victim A and her sister, determined that a crime had occurred, and proceeded to follow the civilians downstairs in search of Subject 1. By allowing the victim and witness to participate in the search for Subject 1, the civilians were placed at unnecessary risk. Therefore, in order to ensure the safety of Victim A and her sister, Officers A and B should have obtained a detailed description of Subject 1, directed them to remain inside their residence, and then conducted a systematic search of the building. Upon locating and detaining a potential subject, a field show-up would be the proper way to confirm or eliminate him as the subject.

The BOPC noted that when Officer A descended the stairs to the second floor, he observed Subject 1 sitting on the fire escape. Although Officer A noted that the individual matched the description of the subject, he neither informed his partner of the observation nor utilized the victim to confirm or discount the individual as the subject. Instead, they continued down to the first floor of the apartment building. Therefore, in order to ensure a threat does not remain behind the officers, Officer A should address all potential subjects prior to continuing a search.

Officer A directed Officer B to broadcast a “back-up” request. Officer B broadcast the following, “*Can you get us a back-up?*” As Subject 1 was actively resisting, a broadcast for “assistance” or “help” would have been more appropriate.

Additionally, when future attempts to utilize firm grips, body weight, punches, and baton strikes failed to subdue Subject 1’s aggressive actions and the struggle continued, Officer A directed Officer B to broadcast a request for “assistance.” Given the totality of the circumstances a broadcast for “help” was actually warranted.

The investigation revealed that although Officer A directed Officer B to broadcast a request for “assistance,” Officer B appropriately requested “help.” Therefore, in order to ensure responding personnel are aware of the seriousness of the situation at hand and respond appropriately, the topic of when to request back-up and help will be discussed at the Tactical Debrief.

Alerted that Subject 1 had grabbed his baton and was biting Officer B, Officer A responded by punching Subject 1 three to four times in the face. Subject 1 stopped biting Officer B; however, as noted, Subject 1 was able to bite Officer B a second time as the struggle continued. When Subject 1 attempted to bite Officer B a third time, Officer B punched Subject 1 one to two times in the face. Current Department guidelines state that punches to boney areas, such as the face, may cause self-injury resulting in an officer’s inability to utilize other force options. Therefore, Officers A and

B should have considered the use of additional force options, such as an open palm strike, which lessens the possibility of self-injury.

During the struggle, Officer A's side handle baton became dislodged from his baton ring and Subject 1 grabbed it in his right hand. Officer A regained control of the baton; however, Officer A was unable to secure the baton without relinquishing his hold on Subject 1's left arm. As the struggle continued, Officer A's ability to fully engage Subject 1 was hindered by the baton in his right hand and he subsequently put it down. Subject 1 once again gained possession of Officer A's baton and held it in his right hand.

Therefore, Officer A's decision to relinquish his hold on the baton was reasonable as previous baton strikes had proven to be ineffective, and he decided to transition to alternate force options which required the use of both of his hands. Although it was concerning that Subject 1 was able to gain control of the baton a second time, to place the baton at a greater distance from the officers could have proven problematic had the victim, witness, or nearby residents been prompted to intervene.

Equipped with a TASER loaded with a live cartridge, Officer B considered deploying it but discounted its application because he didn't feel he would be able to use it and also maintain control of the subject.

Officer B was reminded that the application of the drive stun can be utilized without a cartridge, with an expended cartridge or a live cartridge.

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. Each tactical incident inherently results in considerations for improvement. In this instance, although there were identified areas for improvement, the tactical considerations neither individually nor collectively *"unjustifiably and substantially deviated from approved Department tactical training."*

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

B. Drawing/Exhibiting/Holstering

Does not apply.

C. Non-Lethal Use of Force

As Officer B struggled to gain control of Subject 1's right arm, Subject 1 kicked his legs, grabbed Officer A's baton, and bit Officer B on the forearm on two occasions, thereby forcing Officers A, B, C, and D to utilize a combination of non-lethal force types to overcome his resistance and take him into custody.

In this instance, Officers A and B utilized several different levels of force before the use of the Carotid Restraint Control Hold. As Subject 1 continued to resist arrest, Officers A and B used firm grips and body weight to immobilize the subject. As the struggle progressed to the point where Subject 1 was biting Officer B and had gained control of Officer A's baton, their response to his actions were measured and controlled. Upon the arrival of Officers C and D, their body weight and firm grips were used to complete the arrest of Subject 1.

Officers A, B, C, and D's non-lethal applications of force were appropriate in their efforts to overcome the level of resistance presented by Subject 1.

The BOPC found Officers A, B, C, and D's Non-Lethal Use of Force to be in policy.

D. Lethal Use of Force

Subject 1's act of biting Officer B would cause a reasonable officer to believe the subject posed a risk of serious bodily injury to the officer. Therefore, it was objectively reasonable for Officer A to believe that it was necessary to protect Officer B from the immediate threat of serious bodily injury presented by Subject 1's actions.

The BOPC found Officer 1's lethal use of force to be in policy.