

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

**LAW ENFORCEMENT RELATED INJURY - 026-09**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
Hollenbeck	04/13/09		

<b>Involved Officer(s)</b>	<b>Length of Service</b>
Sergeant A	5 years, 9 months
Officer A	6 years, 2 months
Officer B	1 year, 1 month
Officer C	3 years, 10 months
Officer D	1 year, 5 months
Officer E	14 years, 6 months
Officer F	9 years
Officer G	1 year, 6 months
Officer H	4 years, 1 month
Officer I	1 year, 9 months
Officer J	9 months
Officer K	6 months
Officer L	14 years

**Reason for Police Contact**

A witness called 911 to report a man brandishing a gun.

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

Subject 1: Male, 27 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 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 March 23, 2010.

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.

### **Incident Summary**

Witness 1 was inside his residence when he heard someone screaming in the driveway below his window. Witness 1 looked out and observed two men standing in the driveway. One was brandishing a handgun and was arguing with a person subsequently identified as Subject 1. Witness 1 called 911 to report his observations.

Communications Division (CD) broadcast a “415 man with a gun” call. The call was assigned to Officer A and Officer B. Officer C and Officer D responded to the call and were the first officers to arrive at the scene.

Officer C and his partner detained a possible suspect. Witness 1 was observing from his window and called CD to advise that the officers had detained the wrong person and that the correct suspect was located behind the officers, north of their location. CD then advised the officers of Witness 1’s observation.

Officer C looked in the direction described by Witness 1 and observed a sport utility vehicle (SUV) parked on a driveway north of their location, with approximately six to seven men and women in the vicinity of the SUV. The officers released the suspect they had detained and drove further down the alley to turn around and redeploy on the group by the SUV.

**Note:** According to Officer C, he had discussed tactics with Officer D. It was decided that Officer C would be the contact officer.

Officer C parked their police vehicle and illuminated the driveway with the vehicle headlights and spotlights. The officers then exited, took cover behind the vehicle doors, and drew their pistols. Witness 1 confirmed with CD that the officers had contacted the correct suspects.

Officer C issued verbal commands to the group to, “Come forward of the vehicle. Turn around. Put your hands on top of your head and walk back towards me.” However, some members did not comply and walked away toward the rear of the driveway.

Several individuals in the group continued to stand behind the SUV, walking back and forth and waving their hands at the officers, ignoring them, saying, “F\*\*k you. Get out of here.” Some continued to linger around, walk around the front of the vehicle, and walk toward the back of the car. Officer C broadcast a request for additional officers and advised that suspects may be headed westbound.

Officer C observed a man wearing a baseball cap lean into an open door of the SUV and thought he could possibly have a gun. The officers did not know who the subject

was at this point. It appeared that that this person may have placed an object inside the SUV. The person then moved out of the vehicle, locked the trunk, waved his hand at the officers, said "F\*\*k you", and turned away.

**Note:** In reviewing video from a nearby security camera, Force Investigation Division (FID) detectives observed a male wearing a baseball cap; however, they determined that it was a different male who leaned into the SUV and appeared to place something inside.

Meanwhile, in response to the request for additional officers, the following officers arrived at the scene: Sergeant A and Officers A, B, E, F, G, H, I, J, and K. The officers deployed on both sides of Officers C and D's vehicle, using the cinder block walls on each side of the driveway for cover.

**Note:** Officers A, G, H, and K drew their pistols upon arrival.

Officer C updated the officers on what had occurred. It was determined by Officer C and other officers that the SUV had to be cleared first, prior to contacting any possible suspects. Officer C gave verbal commands for anyone inside the SUV to exit the vehicle. Subject 1 then walked out from the rear of the location toward the officers. According to Officer C, officers were telling Subject 1 to come out with his hands up, but he was not complying and was saying "F\*\*k you." Officer C said he was the only one giving commands to Subject 1; however, Officer G said he also gave commands to Subject 1.

Subject 1 began to walk toward the officers; however, when he was approximately 40 feet away, he stopped and placed his hands on his head and repeatedly turned around to look at the officers.

Meanwhile, Subject 1's Mother (Mother) walked toward her son and demanded to know what the officers wanted. Officer A heard Mother telling the officers in Spanish to leave. Officer A then spoke to Mother in Spanish telling her to calm down. Mother walked toward Officer A, continued to yell at the officers and flailed her arms. Officer A grabbed her to prevent her from going back into the residence or getting closer to Subject 1. Officer A indicated that she was in the way of the officers clearing the vehicle and detaining possible suspects that were behind the vehicle who were possibly armed.

Officer A reholstered his pistol and grabbed Mother's right arm. As he did so, she pulled away from him. Officer A then placed her in a wrist lock and placed his left hand on her shoulder. Officer F then arrived and took control of her left wrist. She then began to struggle to break free and Officer A decided to guide her to the ground. Officer D arrived to assist and grabbed Mother's right wrist from Officer A. Sergeant A arrived and took control of her left arm.

As Sergeant A and Officer D attempted to handcuff Mother, Officer I arrived and assisted them in rolling Mother onto her stomach, which allowed Sergeant A and Officer

D to handcuff her. Officer D and Sergeant A assisted Mother to her feet, then placed her against a wall and observed that she was handcuffed to her front.

Officers D and J escorted Mother to a police vehicle. Officer J requested a Rescue Ambulance (RA) when he observed a red mark on Mother's forehead, and she complained of a shortness of breath.

Meanwhile, Subject 1 observed the officers taking his Mother into custody and approached them, clenching his fist, angry, and saying something to the effect of, "Don't touch my mom. Don't touch my mom." He began advancing toward the officer who was with his mom. Officer C believed Subject 1 had the intent to hurt the officer.

As Officers C, G, H, J, and K approached Subject 1, he began to move away, flail his arms, and push them away from him. When Officer C approached Subject 1, he struck Officer C's face with his hands.

**Note:** Prior to approaching Subject 1, the officers had holstered their pistols. Officer B deployed a shotgun and moved to a position behind the left rear of Officer C and Ds' vehicle to cover the officers who approached Subject 1.

Officer C grabbed Subject 1 around his chest and shoulder area as Officers G and H grabbed his arms. Subject 1 spun around and Officer G lost control of Subject 1's right arm. According to Officer C they needed to take Subject 1 down to the ground and were not going to be able to control him in a standing position. The officers used their body weight and took him to the ground.

As Subject 1 fell, he landed on his left side and Officer K fell on top of Officer H. Officer G gained control of Subject 1's right arm. Officer H placed his right knee on Subject 1's shoulder blades. Officer J wrapped his arms around Subject 1's legs. Officer F arrived and placed his knee and right palm on Subject 1's left hamstring.

Subject 1 continued to resist efforts to take him into custody by kicking and moving around. Officer C felt Subject 1 needed to be subdued because he continued to fight. As a result, Officer C punched Subject 1 approximately three times in the face and believed Subject 1 punched him in the face as well during the struggle.

**Note:** Officers G, H, and K gave commands to Subject 1 to stop resisting.

According to Officers C, G, and H, during the struggle with Subject 1, an unknown officer yelled "Gun." There was no information regarding the location of the gun. As Subject 1 had not yet been searched and was still noncompliant, Officer C struck him with his elbow approximately three times in his right cheek/eye area.

Meanwhile, Officer G was in the process of handcuffing Subject 1 when he heard other officers yell "Gun." Subject 1's left hand was still free and Officer G felt that he was

going to arm himself, so he struck Subject 1 with two distraction strikes to the back of Subject 1's head with his right hand closed fist.

Officer H then stood up; however, he could not move his left foot. He thought Subject 1 was trying to grab his foot. He could not move. Officer H kicked at Subject 1's legs in order to free his foot.

**Note:** According to Witness 2, he observed an officer kick Subject 1 in the face.

According to Witness 3, he observed an officer kick Subject 1 and when the officers picked up Subject 1, his face was "all messed up."

The officers turned Subject 1 over onto his stomach, handcuffed him, and completed a pat-down search, which did not yield any weapons.

**Note:** During the struggle, Officer G's pistol had fallen out of his holster; however, he was unaware that this had occurred. After Subject 1 was handcuffed, an officer returned Officer G's pistol to him.

Meanwhile, Officer E drew his pistol and approached the driver's side of the SUV. Officer E utilized his flashlight to illuminate the inside of the locked vehicle. Finding the vehicle to be empty, Officer E proceeded to the front of the vehicle where he encountered Subject 1's father (Father).

As Subject 1 was being taken into custody, Father started yelling in Spanish, "Hey, what the f\*\*k you guys doing with my kid, to my wife? That's my wife. Leave her alone." Officer A tried to calm him down; however, Father started flailing his arms in an aggressive manner. Officer A then grabbed Father's left wrist; however, he began to struggle. Officers E and F responded to assist; Officer E grabbed Father's right side while Officer F grabbed his lower left arm, and the officers walked him over to a parked vehicle. As the officers placed him against the vehicle, he pushed himself away from it. As the officers pushed Father up against the vehicle again, he began to kick backwards at them. Officer L then moved in behind Father and applied two knee strikes to the back of his thigh. Father then stopped kicking at the officers. The officers handcuffed Father and released him to Officers F and H, who escorted him to a police vehicle.

Officer H ordered Father to sit down in the rear seat of the police vehicle; however, he did not comply and continued to yell and was trying to push through Officer F. Officer H gave him two or three commands to sit down, but he would not do so. Officer H applied a distraction strike with his left knee to Father's right upper thigh.

Meanwhile, Officer F applied two open handed strikes to Father's left shoulder when he lunged at Officer F while Officer F and Officer H were attempting to place him inside the vehicle.

Father then sat down inside the rear seat of the vehicle; however, once the door was closed, he began to kick the door panel. Sergeant A ordered the officers to place a Hobble Restraint Device (HRD) on Father. After Officer H applied the HRD to Father's ankles, he was seated in an upright position and the door was closed with the end of the HRD hanging outside the door. Father then complained of chest pain.

As the reported handgun was still outstanding and there were several individuals outside Subject 1's residence, a team of officers was formed to contact the remaining individuals and clear the residence. This occurred without incident. The officers on the entry team, except for Officer B who was armed with a shotgun, drew their pistols prior to the search of the residence. Video footage from a security camera showed Officer B with a shotgun to his shoulder with the weapon pointed in the direction of the other officers on the driveway as they approached Subject 1's residence.

Subject 1, Mother, and Father were transported from the scene in separate Rescue Ambulances (RAs). Subject 1 sustained an orbital fracture and was kept at the hospital for observation and possible admittance. He was subsequently transferred to the jail ward of the 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 that Sergeant A's and Officers A, B, C, D, E, F, G, H, I, J, K, and L's tactics warranted a Tactical Debrief. This finding was based on the following considerations:

1. Officers C and D appropriately notified CD of their status and location and observed six to seven males and two females standing in the driveway area of the radio call location. The group refused to follow commands issued by Officer C, told the officers to leave, then turned and walked away from the officers toward the rear of adjacent residences. It was at this point that Officer C elected to broadcast a request for an additional unit.

Given the situation, along with the aforementioned comments of the initial radio call, it would have been prudent for the officers to request a back-up and an airship when it was apparent that the potentially armed suspects were ignoring commands and attempting to flee.

2. Subject 1 was aggressive and combative as he stood on the driveway with his fists clenched. Officer C began to give Subject 1 verbal commands to place his hands on top of his head. Officer G indicated he and others were also giving commands to Subject 1.

In order to avoid confusion, officers are trained to utilize the concept of contact and cover in which one officer gives the verbal commands while the other provides cover. This is also applicable when multiple officers are at the scene. One common result of violating the contact and cover concept is multiple officers giving commands, which can lead to confusion in the mind of the suspect and possibly the other officers at scene.

3. Mother had become aggressive toward the officers and began to flail her arms, while yelling and actively interfering with the officers' ongoing investigation. Officers A and F elected to leave cover and approach Mother who was standing in the driveway between her son and the officers. The officers' decision to leave cover and approach so near to Subject 1 limited the amount of time available for them to respond to any threat posed by Subject 1 or the un-cleared vehicle, thereby placing them at a tactical disadvantage.

In conclusion, it would have been prudent for the officers to have kept a greater distance between themselves and Subject 1 and Mother and utilize available cover while evaluating the situation and the appropriateness of utilizing available less-lethal force options.

4. Subject 1 charged Officers A and F who were attempting to detain Mother. In order to prevent Subject 1 from reaching Officers A and F, Officers C, G, H, J, and K quickly advanced toward Subject 1.

Officer C recalled Subject 1 was angry and clenching his fist and was advancing toward Mother, stating words to the effect of "Don't touch my mom."

Upon observing the officers advancing toward him, Subject 1 turned and walked away toward the SUV parked on the driveway. The officers continued to advance toward Subject 1 and elected to perform a team take-down, consisting of all five officers. It would have been prudent for one officer to have been designated as an uninvolved team leader in order to provide direction to the other officers while performing the team take-down; however, in this situation, all five officers made physical contact with Subject 1 who was able to continue to walk backwards approximately 40 feet before the officers succeeded in taking him to the ground.

5. In an attempt to gain compliance with Subject 1 who was punching and kicking the officers, Officer C delivered approximately three punches to Subject 1's face. Immediately following the punches, Officer C heard an officer yell, "Gun, Gun," but he did not know where the gun was. He was aware, however, that Subject 1 had not been searched.

In fear that Subject 1 was attempting to arm himself with a handgun, Officer C struck Subject 1 on the face with his right elbow approximately three times.

In the interim, Officer G was also attempting to gain compliance with Subject 1 and heard an officer yell, "Gun!" In fear that Subject 1 was in the process of arming himself with a firearm, Officer G punched Subject 1 twice upon the back of Subject 1's head with his right fist.

Although Officers C and G's strikes were reasonable in an attempt to de-escalate the situation and gain compliance, the use of punches and elbow strikes to the face and head is discouraged due to the likelihood of self-injury to the officer, thus reducing their ability to utilize other force options if required.

6. Officers B and E, along with other officers, realized that the SUV had not been cleared to ensure that there were no additional suspects inside. The officers approached the SUV from both sides, cleared it and found it to be unoccupied; however, Officer B, who was armed with a Department shotgun, continued to walk down the driveway past the SUV. While doing so, he held the shotgun shouldered in a high ready position resulting in a potential crossfire situation as there were additional officers in front of him.

#### **B. Drawing/Exhibiting/Holstering**

The BOPC found the Officers A, B, C, D, E, F, G, H, K, and L drawing and exhibiting to be in policy, requiring no further action.

#### **C. Non-Lethal Use of Force**

The BOPC found the non-lethal use of force utilized by Sergeant A and Officers A, C, D, E, F, G, H, I, J, K, and L to be in policy, requiring no further action.

#### **B. Drawing/Exhibiting/Holstering**

In this instance, Officers A, B, C, D, E, F, G, H, K, and L were aware of the "415 Man with a Gun" radio call and the additional unit request associated with the radio call. Once the officers positioned themselves or deployed toward the target residence, they drew their service pistols and Officer B exhibited a Department shotgun.



In conclusion, due to Officers A, B, C, D, E, F, G, H, K, and L's reasonable belief that the situation may escalate to a point where deadly force could become necessary, the BOPC found their Drawing/Exhibiting to be in policy, requiring no further action.

### **C. Non-lethal Use of Force**

#### **Sergeant A**

- Firm Grip

#### **Officer A**

- Firm Grip
- Wrist Lock
- Physical Force

#### **Officer C**

- Firm Grip
- Takedown
- Physical Force
- Body Weight
- Punches
- Elbow Strikes

#### **Officer D**

- Firm Grip

#### **Officer E**

- Firm Grip
- Wrist Lock
- Physical Force

#### **Officer F**

- Firm Grip
- Wrist Lock
- Body Weight

#### **Officer G**

- Physical Force
- Takedown
- Body Weight
- Punches
- Firm Grip

#### **Officer H**

- Physical Force
- Takedown

- Firm Grip
- Knee Strike
- Body Weight

**Officer I**

- Firm Grip

**Officer J**

- Body Weight
- Physical Force
- Takedown

**Officer K**

- Body Weight
- Firm Grip
- Takedown

**Officer L**

- Knee Strikes

The BOPC noted that in response to the aggressive actions of Subject 1, Mother, and Father and their failure to comply with commands to stop resisting, Sergeant A, along with Officers A, C, D, E, F, G, H, I, J, K, and L, utilized Non-Lethal force to overcome the resistance presented by Subject 1, Mother, and Father and take them into custody.

The BOPC determined that the Non-Lethal force utilized by Sergeant A, along with Officers A, C, D, E, F, G, H, I, J, K, and L, was objectively reasonable and within Department guidelines and, as a result, to be in policy, requiring no further action.