

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

**HEADSTRIKE WITH AN IMPACT WEAPON 051-09**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On (X) Off()</u></b>	<b><u>Uniform-Yes(X) No()</u></b>
77 <sup>th</sup> Street	08/08/09		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	11 years, 1 month
Officer B	5 years, 4 months

**Reason for Police Contact**

Officers were on routine patrol when they observed a male Subject who they believed was drinking an alcoholic beverage in public. The officers decided to conduct a pedestrian stop.

<b><u>Subject</u></b>	<b><u>Deceased ()</u></b>	<b><u>Wounded (X)</u></b>	<b><u>Non-Hit ()</u></b>
Subject: Male, 42 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 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 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 July 27, 2010.

**Incident Summary**

Officers A and B were on patrol in a marked police vehicle. Officer A, who was driving the vehicle, observed a male standing on a street corner. The male Subject was holding an open glass bottle, which Officer A believed was an alcoholic beverage.

The officers conducted a pedestrian stop on the Subject. As the officers approached the Subject, he looked in their direction and ran, as the officers followed in their vehicle. The Subject proceeded to run up the steps of a fourplex residence and fell in front of one of the apartment doors.

Officer A parked the police vehicle in front of the fourplex, and Officer B exited the vehicle and used the vehicle's passenger door for cover as Officer A exited the vehicle and went to the front bumper area of the vehicle. Officer A observed the Subject, who was about 12 feet from him on the ground, with his back up against the doorway at the top of the steps. Officer A drew his pistol when he observed the Subject reach into his waistband with his right hand to arm himself with a revolver.

Officer B observed the Subject on the ground with his back against a doorway at the top of the steps. The Subject had his hands on his waistband and jumped out of the car, unholstered his weapon, and did not have a chance to go Code 6 on the radio.

Officer B ordered the Subject to stop moving and to get his hands out of his pants. Officer A also ordered the Subject to show him his hands and once he realized that the Subject was holding a gun, he told him to drop the gun.

The officers next pointed their weapons at the Subject. According to Officer A, the Subject pulled a revolver completely out of his waistband with his right hand and briefly pointed the revolver at the officers in a covering motion. The Subject made a tossing motion with his right hand. According to Officer B, he did not know whether the revolver accidentally fell out of the Subject's hand or whether the Subject had purposely discarded the revolver. The revolver landed about two to three feet away from the Subject.

According to Witness A, the Subject removed the revolver from his "groin area" with his left hand and threw it in the corner of the porch.

Officers A and B then approached the Subject with their weapons drawn to take him into custody. As Officer A approached the Subject, he observed him lean over to his right while extending his right arm down toward where he had discarded the revolver. Believing that the Subject was attempting to re-arm himself, Officer A firmly grasped his pistol in his hand and struck the Subject on the left portion of his temple. The Subject immediately collapsed to the ground on his back. Officer A then used his left foot to kick the revolver out of the Subject's reach, while Officer B holstered his weapon, rolled the Subject on to his stomach, gained control of his arms and handcuffed him.

Simultaneous, as Officer B was attempting to handcuff the Subject, Officer A observed the Subject slide his left hand underneath his body and fearing that the Subject might have another gun or some other weapon, placed his left foot into the "triangle area" formed between the Subject's body and his bent arm. Officer A used his boot to move the Subject's arm from under his body. The maneuver allowed Officer B to gain control of Subject's left arm. Officer A then holstered his revolver and broadcast his location and requested a supervisor to respond.

After the Subject was handcuffed, Officer A recovered the Subject's revolver, checked to see if it was loaded, and saw that it was not. Officer A secured the revolver in the trunk of the police vehicle. Officer A also secured the bottle that the Subject had possessed when he was initially observed by the officers.

The officers then placed the Subject into the backseat of the police vehicle. Shortly thereafter, the Subject attempted to kick out the rear window of the vehicle, whereupon the officers removed the Subject from the vehicle and placed him on the curb. Officer B then applied a leg restraint device around the Subject's legs. The Subject was then returned to and secured in the rear seat of the police vehicle.

Meanwhile, Sergeant A arrived at the location in response to Officer A's request for a supervisor. Officer A advised Sergeant A of what had occurred. Sergeant A assessed the situation and determined that a Categorical Use of Force (CUOF) had occurred.

Police Officers C and D arrived at the location in response to Sergeant A's request for assistance. Sergeant A then directed Officer C to call for a Rescue Ambulance (RA) for the Subject. Officer C broadcast a request for an RA.

Two Los Angeles Fire Department (LAFD) RAs responded to the location and the Subject was treated for a laceration and contusion to his forehead. The Subject was transported to a local hospital for further treatment and was subsequently admitted.

### **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 revolver 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 Officer A and B's tactics to warrant a tactical debrief.

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

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

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

The BOPC found Officer A and 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**

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 or substantially deviated from approved Department tactical training.”*

In conclusion, a Tactical Debrief is the appropriate mechanism for the significantly involved personnel to evaluate the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future. Therefore, the BOPC directed that Officers A and B attend a Tactical Debrief.

In their analysis of this incident, the BOPC identified the following tactical considerations:

#### **Debriefing Point No. 1: Deployment of Vehicle/ Cover/Concealment**

The BOPC noted that Officer A stopped the police vehicle parallel to where the Subject was located. This position placed the officers at a tactical disadvantage by limiting available cover for them to utilize. It would have been preferable for Officer A to have positioned the police vehicle in a manner that would have given both officers a position of a tactical advantage.

The BOPC further noted that the officers' decision to approach so near to the suspect limited the amount of time available to them to respond to any threat posed by the suspect and may have placed them at a tactical disadvantage. It would have been more consistent with Department training for the officers to have maintained positions of cover by their vehicle, rather than to approach the Subject in order to take him into custody.

The BOPC further noted that both Officers A and B gave the Subject simultaneous verbal commands. In so doing, they deviated from the contact and cover roles officers are trained to assume, and risked causing confusion on the part of the suspect.

## **Debriefing Point No. 2: Code 6**

The BOPC further noted that Officers A and B did not notify Communications Division of their location and status until after the Subject was taken into custody. The BOPC believed that Officers A and B would benefit from a discussion of the value of going Code-6 at the Tactical Debrief.

## **Debriefing Point No. 3: Simultaneous Verbal Commands**

The BOPC further noted that both Officers A and B gave the Subject simultaneous verbal commands while attempting to take him into custody. In so doing, they deviated from the contact and cover roles officers are trained to assume, and risked causing confusion on the part of the suspect.

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

In this instance, Officers A and B attempted to detain a fleeing criminal suspect. As Officers A and B exited their police vehicle, they observed the Subject reaching into his waistband area. Officers A and B believed that the Subject was attempting to arm himself with a weapon. As a result, Officers A and B drew their service pistols. It was reasonable for Officers A and B to believe that the situation could escalate to a level where the use of lethal force could become necessary.

In conclusion, the BOPC found Officer A and B's Drawing/Exhibiting to be in policy.

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

In this instance, Officers A and B were confronted with a suspect who was physically resisting their efforts to take him into lawful custody. As a result, the officers were forced to utilize a firm grip, physical force and their body weight to control the suspect in an attempt to handcuff him. In conclusion, the application of non-lethal force by Officers A and B to overcome the actions of the Subject was objectively reasonable and within Department guidelines and the BOPC found that Officers A and B application of non-lethal force to be in policy.

### **D. Lethal Use of Force**

In this instance, Officer A was confronted by a suspect who had just discarded a handgun, which remained within his reach. The Subject's action of attempting to re-arm himself would lead another officer with similar training and experience to believe that the suspect was going to attempt to use the weapon against the officers. Based on the Subject's action, it was objectively reasonable for Officer A to utilize lethal force in defense of himself and his partner.

In conclusion, the BOPC found that Officer A's application of Lethal Force to be in policy.