

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

OFFICER-INVOLVED SHOOTING – 014-06

| <u>Division</u> | <u>Date</u> | <u>Duty-On(X) Off()</u> | <u>Uniform-Yes(X) No()</u> |
|------------------------|--------------------|--------------------------------|-----------------------------------|
| Harbor Area | 02/13/2006 | | |

| <u>Involved Officer(s)</u> | <u>Length of Service</u> |
|-----------------------------------|---------------------------------|
| Officer A | 3 years, 11 months |
| Officer B | 5 years |

Reason for Police Contact

Officers A and B responded to a domestic violence radio call. The officers engaged in a struggle with the suspect, who attempted to obtain the officer's service pistol. Fearing that the suspect would obtain a pistol, an officer shot the suspect.

| <u>Subject(s)</u> | <u>Deceased (X)</u> | <u>Wounded ()</u> | <u>Non-Hit ()</u> |
|----------------------------------|----------------------------|---------------------------|---------------------------|
| Subject 1: 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 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 01/16/07.

Incident Summary

Officers A and B received a radio call of a domestic violence incident. Officers A and B were directed to meet Victim 1 at a public telephone.

Officers A and B met Victim 1, who was speaking loudly in both English and Spanish. Officers A and B, who possess limited Spanish skills, determined that she had been Victim 1 of an assault by Subject 1.

Officer B asked Victim 1 for the exact location of the incident, and without warning she began walking on the sidewalk at a fast pace. Officers A and B, believing Victim 1 was leading them to a nearby area, followed her in their police vehicle. Officer B asked Victim 1 to specify the location, but she only pointed while continuing to walk at a fast pace.

At one point, Officers A and B lost sight of Victim 1. Officers A and B made a U-turn, and, shortly thereafter, observed Victim 1. Victim 1 stopped in front of a yard surrounded by a metal fence, then dragged a plastic traffic barricade and placed it adjacent to the fence. Victim 1 climbed over the barricade and fence.

Officers A and B, stopped, exited their police vehicle, and immediately heard Victim 1 and Subject 1 yelling. Officer A stepped up on the barricade, looked over a fence and observed Victim 1 and Subject 1. Subject 1 had one arm around Victim 1's neck while striking her in the head. Victim 1 was struggling with Subject 1 but unable to overcome his resistance. Officer A ordered Subject 1 to release his hold of Victim 1. Subject 1 refused and began dragging Victim 1 towards the rear of the yard.

Officer A, believing that Subject 1 was going to choke Victim 1, decided to climb over the fence. Officer B followed behind.

Officer B drew his service pistol in anticipation of an armed confrontation and used a flashlight to illuminate the yard.

Subject 1 dragged Victim 1 to the open door of a residence within the yard and lifted Victim 1 off the ground by Victim 1's underpants and pulled her inside. Subject 1 then turned off the lights inside the residence. Victim 1, while struggling to get away from Subject 1, was able to hit the light switch and turn the lights back on; but Subject 1 again turned them off. Subject 1 said in Spanish, "I am not going to let them take me" and armed himself with a knife.

As both officers approached the residence, they heard yelling coming from inside. Using the flashlight, both officers saw Subject 1 holding Victim 1 by the throat with one hand and punching her in the face with his other hand while yelling, "Shut up!" Victim 1 fought with Subject 1 while screaming, "Help me, help me."

Officer A grabbed the door handle of the residence and discovered it was locked. Officer A drew his baton and wedged it behind the door handle in an attempt to pry it open. Officer B used his baton to break out the window on the door. Subject 1 ran over towards the door as Officer B reached inside to unlock the door. Seeing this, Officer B removed Officer B's hand at which time Subject 1 turned and ran away out of sight. Officer B again reached inside the window and unlocked and opened the door.

Officer A entered the residence and observed Subject 1 running full-speed from the back of the residence towards Officer A. Subject 1 had his arms spread-apart wide and attempted to tackle Officer A. Subject 1 placed both of his arms around Officer A's waist.

The officers began punching Subject 1 to free Officer A from the hold. Subject 1 appeared unaffected by the punches and became more violent as he yelled profanities while holding on to Officer A. Officers A and B decided to take Subject 1 to the floor in an attempt to place him in handcuffs.

While on the ground, Subject 1 bit Officer A's left forearm. Officer A attempted to break free of the bite but was unable to do so. Subject 1 then began to pull on Officer A's holstered service pistol. Officer B struck Subject 1 in the back of the head approximately five times with a closed fist. The strikes did not appear to affect Subject 1. Officer B considered shooting Subject 1 to prevent him from removing the pistol from its holster, but was unable to shoot Subject 1 without risking the safety of Officer A and Victim 1.

Officer A pushed Subject 1 away, who then began fighting with Officer B. Officer A sprayed oleoresin capsicum (OC) spray in Subject 1's face. Subject 1 screamed loudly and continued fighting with Officer B.

Officer B, somewhat affected by the OC spray, was able to push the emergency/help button on his radio while attempting to pull Subject 1 towards the door. Subject 1 then bit Officer B on his left forearm. Officer B was able to pull his arm away as both officers continued to pull Subject 1 towards the doorway, causing the three of them to fall onto the dirt. Officer A broadcast a help call.

While on the ground, Subject 1 bit down on Officer B's right pinky finger. At the same time, both officers were able to stand. Officer B continued to struggle and was subsequently able to free his finger.

Using both hands, Subject 1 then grabbed Officer B's holstered service pistol in what appeared to be an attempt to disarm Officer B. Officer B yelled to Officer A, "[Subject 1's] got my gun! [...] Shoot him!"

Officer A drew his service pistol, pointed it at Subject 1, and fired one round, striking Subject 1 in the upper body. Subject 1 released his hold of Officer B's pistol/holster, clutched his chest and collapsed. Officer B then handcuffed Subject 1, broadcast "Shots fired," and requested a rescue ambulance.

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 Officer A and B's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

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

C. Non-Lethal Use of Force

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

D. Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that upon contacting Victim 1, Officers A and B immediately recognized a language barrier existed. Officers A and B should have requested a Spanish-speaking officer to respond to their location and obtain the pertinent information related to the incident.

Officers A and B did not take control of the situation and instead allowed Victim 1 to dictate their response to this incident. Officers A and B followed Victim 1 as she walked approximately one-half mile from their location without knowing where she was actually going, which limited the ability to prepare tactically and ensure the appropriate response to the incident.

As a result, Officers A and B allowed Victim 1 to come close to Subject 1, at which time Subject 1 immediately assaulted her and dragged her into a locked residence. Without providing an updated location to Communications Division (CD) and requesting assistance, Officers A and B placed themselves in a situation where a violent and life-threatening physical altercation occurred in an isolated location unknown to CD or other on-duty personnel.

Officers A and B placed a premium on their need to respond to the assault on Victim 1 rather than their sense of safety and therefore severely limited their tactical advantage over Subject 1 and access to additional Department resources.

The BOPC found Officer A and B's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officer A observed Subject 1 violently assault Victim 1. Officer A, in fear of an armed confrontation, drew his service pistol.

Officer B told Officer A that Subject 1 was attempting to remove his pistol during a struggle. Officer A observed Subject 1's actions and feared Subject 1 would be successful in removing the pistol from its holster. Officer A then drew his pistol.

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

C. Non-Lethal Use of Force

Immediately upon Officer A entering the residence, Subject 1 attempted to tackle Officer A. Subject 1 was unsuccessful in knocking Officer A down and became involved in a fistfight and violent struggle with both officers. At one point, Subject 1 turned his aggression away from Officer A and began attacking Officer B. Officers A and B successfully forced Subject 1 to the ground in an attempt to handcuff him. This resulted in Subject 1 biting the forearm of Officer A.

Subject 1 attempted to disarm Officer A by removing Officer A's service pistol from its holster. Officers A and B successfully prevented the disarmament by delivering a series of punches and strikes to the head and body of Subject 1. Officer A removed Officer A's canister of OC and sprayed Subject 1 in the face. The use of OC appeared to have an adverse impact on Officers A and B rather than on Subject 1.

During a subsequent struggle, Subject 1 violently bit the pinky finger of Officer B, which resulted in it being fractured.

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

D. Use of Force

Officers A and B forced Subject 1 outside the residence in an attempt to handcuff him. During the struggle, Subject 1 attempted to remove the service pistol of Officer B from its holster.

Officer B yelled to Officer A, "[Subject 1] is going for my gun [...] shoot [Subject 1]!" Officer A witnessed Subject 1's actions and realized the attempts to stop his actions had failed. Fearing Subject 1 might disarm Officer B and shoot Officer A, Officer B, and/or Victim 1, Officer A fired one round at Subject 1, striking him in the chest. This caused Subject 1 to release his hold of Officer B's service pistol/holster and collapse to the ground.

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