

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

OFFICER INVOLVED SHOOTING - 016-06

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Foothill	02/26/06		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	17 years, 3 months

Reason for Police Contact

Uniformed Police Officers A and B observed a vehicle driving erratically on the street. Officer A decided to try to catch up to the vehicle due to the vehicle's unsafe speed and erratic driving. A pursuit ensued. At one point during the pursuit, the subjects maneuvered their vehicle face-to-face with the police vehicle and attempted to ram their vehicle into the police vehicle. Officer A managed to avoid the collision by driving his car in reverse. The pursuit continued until it ended when the subjects' vehicle drove down a slope, skidded, and collided with a parked vehicle and a wall. Subject 1 attempted to flee. When Officer A caught up with Subject 1, he turned around and engaged Officer A in a struggle. Believing Subject 1 was attempting to arm himself during the struggle, Officer A fired one round into Subject 1's thigh.

<u>Suspect</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject 1 Male white, 34 years.			

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 January 13, 2007.

Incident Summary

On Sunday, February 26, 2006, uniformed Police Officers A and B were driving in the streets of Los Angeles. The officers observed a vehicle driving on the street. As the vehicle approached an intersection, the vehicle steered wide to the left across the centerline and completed a right turn. Officer A indicated that the vehicle "swung wide quickly and then darted down [the street]." It -- it was a really bizarre move." The vehicle drove down the street at a high rate of speed and as the vehicle turned on another street, the vehicle's tires lost traction and the vehicle began to slide to the right.

Officer A, who was driving the police vehicle, decided to try to catch up to the subjects' vehicle due to the vehicle's unsafe speed and erratic driving. The vehicle continued south and then turned again on a different street, failing to stop for a posted stop sign. As the officers turned to follow the vehicle, the vehicle pulled over to the right shoulder, approximately 300-400 feet from an intersection. Officer A parked the police vehicle behind the vehicle.

Note: According to Officer A, after the vehicle pulled over to the shoulder, the officers activated the police vehicle's forward-facing floodlights and parked behind the vehicle. Officer A later indicated that his lights and siren were activated but did not state at what time this occurred. According to Officer B, the vehicle stopped because the officers activated their lights and siren.

Officer B exited the passenger door of the police vehicle and began to issue commands to the driver (Subject 1) of the vehicle and front passenger (Witness A). At that time, Subject 1 reversed the vehicle into a driveway. Subject 1 then began to yell something out of the vehicle's window toward the officers. Officer A instructed his partner, Officer B, to get back inside the police vehicle, believing that the vehicle was going to flee. Officer B complied.

The subjects' vehicle then exited the driveway and turned left, now facing the front of the police vehicle. Officer A believed that the driver of the vehicle was going to ram the police vehicle and as such, Officer A began to reverse the police vehicle. As he did so, the subjects' vehicle also drove toward the police vehicle. According to Officer A, the distance between the reversing police vehicle and forward-driving vehicle was only eight to nine feet.

The subjects' vehicle then abruptly stopped, reversed into a driveway and then drove away from the police vehicle. Officer A instructed Officer B to notify Communications Division that the officers would be in pursuit of the vehicle. Officer B requested a backup unit and air support.

The subjects' vehicle turned left on a street and then made another left on another street with the officers in pursuit. As the vehicle was driving down a slope, Subject 1 applied the brakes on the vehicle, locked the tires, and skidded down the slope and

collided with a parked vehicle and finally with a wall. Officer A parked the police vehicle behind the subjects' vehicle.

When the vehicle stopped, Officer A noticed that the passenger door opened and closed. The driver door also opened, and Officers A and B noticed that Subject 1 exited the vehicle and ran along the side of a parked van. Officer A exited his vehicle and paralleled Subject 1's movements by running on the other side of a parked passenger car, which was parked next to the aforementioned van.

Subject 1 then ran but was unable to proceed because of a fence and/or gate blocking his path. At that time, Officer A jumped over the front of the parked passenger car into the area between the passenger car and parked van. From that location, Officer A began to issue commands to Subject 1 such as "let's see your hands! Get your hands up!" In response, Officer A stated that Subject 1 said, "Excuse me, no, wait, wait, wait. No, you got it wrong."

Subject 1 faced Officer A and initially brought his hands to his mid-chest level. Subject 1 then lowered his hands to his waist area and charged at Officer A. Subject 1 put his head down and collided with Officer A's mid-torso, driving Officer A back approximately four to five feet. This collision occurred in the area between the parked van and a garage door directly in front of the van. According to Officer A, Subject 1's left hand was grasping Officer A's waist, pulling back and forth, and was "searching." Subject 1's right hand did not appear to be doing anything at the time. Officer A noted, "he's fighting, but it wasn't consistent with a fight... whatever he was doing with his hands."

Officer A applied what he called a "shiver" from football, wherein he used his left arm to push Subject 1's body in an upwards motion. This technique enabled Officer A to move Subject 1 from a hunched-over position to a standing position, so that Officer A and Subject 1 were now face-to-face.

At that time, Officer A indicated that Subject 1 started to throw punches with both arms, missing Officer A. Officer A used the opportunity to grab Subject 1 under his left armpit, grab him around the front of his torso, and lift Subject 1 off the ground. Officer A then pushed Subject 1 into the nearby garage door headfirst. Subject 1 emerged from the collision with the garage door in a "praying position" on his knees in front of Officer A in the area between the parked van and passenger vehicle. Subject 1 was "hunched down" and Officer A put his left hand straight down on Subject 1's back telling him, "Hey, just put your hands on your head. We don't have to do this. You know, put your hands on your head." At that time, Officer A felt a tug on his gun.

Officer A immediately capped his gun and realized that Subject 1 did not have his hand on his gun but instead had his hand on Officer A's belt line, where the gun holster extension was attached to his duty belt. Officer A turned his body to try to break Subject 1's grasp on the extension. Officer A then pushed Subject 1's body back so that Subject 1 was now lying on his back.

After this maneuvering, Officer A indicated that Subject 1 was on his back with his knees bent up in the air. Officer A was laying on top of Subject 1, with most of his body pressure on Subject 1's bent right leg. Officer A also extended his legs backwards in an effort to break Subject 1's grasp on his holster. In that position, Officer A and Subject 1 continued to punch towards one another.

Officer A then noticed that Subject 1 leaned forward and grabbed the top of Officer A's service pistol, which was still in its holster. During this struggle, Subject 1 succeeded in removing Officer A's pistol from its holster. Officer A and Subject 1 struggled for control of the pistol.

Officer A discharged one round from his pistol. The round entered Subject 1's left posterior thigh. After the shot was fired, Subject 1 released his grip on the pistol and said, "You shot me for no reason! Why would you shoot me? You shot me for no reason."

Meanwhile, following the vehicle collision, Officer B noticed the driver flee and noticed Officer A follow. Officer B decided not to follow his partner because he wanted to get the passenger in the vehicle (Witness A) in custody as soon as possible. From behind his police vehicle's passenger door, Officer B drew his service pistol due to the fact that he did not know who he was dealing with and the driver of the vehicle had earlier attempted to hit the officers with the vehicle. Officer B ordered Witness A to exit the vehicle. Officer B heard Witness A state, "I've been kidnapped." Witness A also placed his hands outside of the right rear window of the vehicle but did not exit the vehicle.

Officer B then approached the vehicle, took a position behind the back tailgate of the vehicle, and again ordered Witness A out of the vehicle. Witness A complied and exited the vehicle in a prone position. Officer B then re-holstered his pistol, handcuffed Witness A, and patted him down for weapons.

As he was handcuffing and searching Witness A, Officer B noticed that his partner was struggling with Subject 1. Officer B heard a gunshot and saw a muzzle flash but could not determine who fired. Officer B re-drew his service pistol and ran towards Officer A, who informed him that he was okay and that it was he who shot Subject 1. Officer B then re-holstered his pistol.

After the single shot was fired, Officer A continued to instruct Subject 1 to put his hands on his head and according to Officer A, Subject 1 began to struggle again. At that time, Officer B approached to assist Officer A. According to Officer A, Officer B said something to get Subject 1 to put his hands on his head. Officer A used the opportunity to de-cock and holster his pistol.

Note: According to Officer A, he instructed Officer B to go back and check on Witness A. Officer B did so and, having noted that Witness A was still handcuffed and not moving, returned to assist Officer A with handcuffing Subject 1.

Officers A and B then attempted to handcuff Subject 1, however, Subject 1 continued to struggle from his position on his back. Officers A and B then pulled Subject 1 away from the garage area in order to have more space to operate, but before they reached the back of the parked vehicles, they placed Subject 1 on the ground again face down, to attempt to handcuff him. At that location, Subject 1 continued to struggle with the officers by pulling his hands away from them, but he was eventually handcuffed when the officers used their body weight and control holds to control Subject 1.

After Subject 1 was handcuffed, Officers A and B dragged him to a location near the street, so that the officers could maintain their sight of both Subject 1 and Witness A and so that Subject 1 could receive medical attention.

After he was handcuffed, Subject 1 started to pull ampoules¹ out of his jacket and started to roll around on the ground. Officer A believed that Subject 1 was attempting to crush the ampoules and as such, he removed them from the ground.

Note: According to the FID Report, the ampoules were recovered and the liquid inside was later tested and found to be lidocaine.

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 make specific findings in the following areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a pistol by any involved officer(s); the Use of Force by any involved officer(s) and any additional pertinent issues. All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve the 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 and B's tactics to warrant formal training.

B. Drawing/Exhibiting/ Holstering

The BOPC found Officers A and B's drawing and exhibition of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC found Officers A and B's drawing and exhibition of a firearm to be in policy.

¹ An ampoule is a small glass vessel that is used to hold a solution for hypodermic injection.

D. Lethal Use of Force

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

Basis for Findings

Tactics

- The BOPC noted that Officer B was a relatively new probationary police officer. This was the first time that he and Officer A had worked together. At the beginning of their watch, Officer A discussed the handling of calls for service and general tactics with the probationer. A more detailed discussion regarding critical tactical scenarios such as high-risk stops and vehicle and foot pursuits would have better prepared the officers for any of these tactical eventualities.

The BOPC also noted that during the pursuit, Subject 1 drove on the wrong side of the roadway, entered the T-intersection and braked hard, but was unable to stop. Continuing straight, the vehicle skidded through the L-intersection and brushed against the rear bumper of an unattended mini-van, which was parked perpendicular to the curb. The front end of the vehicle continued past the mini-van, then drove over a raised curb, before colliding into, and coming to rest against a six-foot concrete pilaster and wood slat fence. The impact with the curb broke the front axle and flattened the right front tire, effectively disabling Subject 1's vehicle.

Once the suspect's vehicle became involved in a collision it would have been preferable for Officer B to have advised Communications Division of the status and pertinent details of the termination, alerting responding units to the situation at hand.

The BOPC noted that Officer A positioned the police vehicle behind and just north of the disabled vehicle. Officers A and B deployed behind their respective open doors and were beginning to issue commands when the driver's door of the vehicle opened and Subject 1 emerged from the vehicle apparently uninjured. Witness A heard the officers' command, "Get out of the car!" He also heard Subject 1 state he was not going to jail and then exclaim, "Run! Run!" While Subject 1 exited to flee, Witness A remained in the car, swiveled around toward the pursuing police unit, and extended both arms out the open right rear window.

The BOPC further noted that upon exiting the vehicle, Subject 1 ran toward the curb and along the passenger side of the parked mini-van. Officer A could see Subject 1's head and upper torso through the windows of the van, but absent a view of Subject 1's hands, was unable to adequately assess the fleeing felon's actions or intentions. Concerned that Subject 1 might circle around the front of the van and outflank the protection provided by the police unit's open driver door, Officer A left that cover and mirrored the suspect's lateral movement by shielding himself alongside a sedan, which was parked alongside of the van. The BOPC determined that had Officer A notified Officer B of his intentions, Officer B would have had additional information from which to draw upon to make any tactical decisions of his

own.

The BOPC noted that instead of circling around the front of the van toward Officer A, Subject 1 moved to a dead-end extension of the sidewalk. Subject 1 stopped inside the enclosed sidewalk extension and appeared to hesitate. Officer A jumped over the hood of the sedan and ordered Subject 1 to raise his hands. Subject 1 turned around to face Officer A and complied by raising his hands to mid-chest level and said, "Wait! No! You got it wrong!" Subject 1 suddenly ceased talking, dropped his hands to his waist area, lowered his head and shoulders, and charged directly at Officer A. The BOPC determined that Officer A's decision to jump over the hood of the sedan effectively removed any barrier between him and Subject 1, thus closing the distance between them. The reduced distance and diminished cover limited Officer A's options by reducing the time he had to react to any potential actions by Subject 1. The BOPC determined that it would have been tactically safer for Officer A to maintain cover between himself and Subject 1.

The BOPC noted that in the interim, Officer B, who had deployed behind the open passenger door of the police vehicle, drew his service pistol and ordered Witness A to get out of the car. In response, Stanton opened the passenger door, rolled out onto the pavement, and assumed a prone position next to the right rear quarter panel of the disabled vehicle. From this position, Officer B cleared the passenger compartment for possible additional occupants and became aware that his partner was now down on the pavement wrestling with Subject 1. It was noted that from this position Officer B reportedly broadcast a request for additional units and repeated his location. The BOPC determined that based on Officer A's involvement in a violent encounter with Subject 1, it would have been prudent for Officer B to broadcast an assistance or help call. Officer B then holstered his service pistol, handcuffed Stanton, performed a cursory pat down search for weapons, and responded to aid Officer A.

The BOPC noted that it may have been tactically safer for Officers A and B to maintain their positions of cover, and wait for additional units to gain a superior tactical advantage.

The BOPC determined that Officer B's decision making during this incident was generally well founded. Officer B had an unsecured threat in the vehicle and had to deal with that threat as soon as possible to then quickly aid his partner. Under the tense circumstances, his performance was very sound.

The BOPC noted that Officer A was faced with a life or death struggle. The suspect was exceptionally large and apparently had preplanned his attack on Officer A. Officer A's will to survive during this violent struggle was commendable. In his interview, Officer A gave credit to the instructors of the Arrest and Control Cadre for the techniques that they taught him. This incident is evidence how real-life training is a valuable officer safety asset to Department personnel.

The BOPC found Officers A and B's tactics to warrant formal training.

Drawing/Exhibiting/Holstering

- The BOPC noted that at the termination of the vehicle pursuit, Officer B deployed behind the open passenger door of the police vehicle and drew his service pistol. Prior to handcuffing Witness A, Officer B holstered his service pistol. As Officer B moved to assist his partner, he heard a single gunshot and observed a muzzle flash between the cars where his partner and Subject 1 were engaged in a physical altercation. Unsure as to who fired the shot, Officer B drew his service pistol.

The BOPC further noted that during the altercation, Subject 1 was able to partially draw Officer A's service pistol out of its holster. Officer A utilized a retention technique that failed to release Subject 1's hold on the handgrip of the pistol. During the ongoing struggle, the pistol was pulled completely clear of the holster, and was ultimately controlled by Officer A. The BOPC determined that Officers A and B had sufficient information to believe the situation may escalate to the point where deadly force may become necessary.

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

Non-Lethal Use of Force

- The BOPC noted that Subject 1 failed to comply with Officer A's commands and charged directly toward Officer A where a violent altercation ensued. During the course of the altercation, both Subject 1 and Officer A ended up on the ground. In an attempt to overcome Subject 1's aggressive/combatative actions, Officer A used physical force, bodyweight, punches, and firm grips in an attempt to gain control of Subject 1.

Following the officer-involved shooting, Officer B responded to Officer A's location, used physical force and firm grips to control a still-resisting Subject 1, and completed the handcuffing.

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

Use of Force

- The BOPC noted that during the altercation, Subject 1 was on his back with Officer A face down on top of him. Subject 1 leaned forward and took hold of Officer A's holstered service pistol and unsnapped the single retention strap. In reaction, Officer A reached down to cap the weapon with his right hand, but Subject 1's fingers remained between Officer A's palm and the pistol grip. Despite Officer A's counter efforts, Subject 1 was able to draw the pistol partially out of its holster. Officer A utilized a retention technique that failed to release Subject 1's hold on the handgrip of the pistol. Ultimately, the service pistol was drawn from the holster with

Subject 1's hand in direct contact with it, and Officer A's hand capping Subject 1's hand.

Exhausted from the sustained physical exertion, Officer A feared Subject 1 would gain control of his service pistol and use it against him. While Subject 1 continued to maintain his grasp on the pistol under Officer A's capping right hand, Officer A turned the muzzle of the weapon down in the general direction of the semi-seated Subject 1 and discharged one round at Subject 1 from a distance of approximately 12 inches. Subject 1 immediately released his grasp on Officer A's weapon.

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