

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

LAW ENFORCEMENT RELATED INJURY – 021-06

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Foothill	03/22/2006		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer B	11 months
Officer C	10 years
Officer D	1 year, 3 months

Reason for Police Contact

Officers A, B, C, and D formulated a plan to scout an area they believed to have narcotics-related activity. During a traffic stop of a suspicious vehicle, Subject 1, the driver, exited his vehicle, discarded a gun, and fled from the officers. Officers B, C, and D used various non-lethal techniques to apprehend Subject 1.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject 1: Male, 48 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 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 02/13/07.

Incident Summary

Officers A and B were on patrol when they observed a large amount of pedestrian activity they believed was related to narcotics transactions occurring in the area. Officers A and B initiated contact with an unidentified female, who indicated that there was a man involved in selling narcotics and in possession of stolen vehicles who lived in a residence on that street. The unidentified female provided the officers with a description of the residence.

Officers A and B notified Officers C and D of the information they received and the officers developed a plan: Officers A and B would approach the area of the residence on foot in order to write down the license plate numbers of the vehicles in the immediate area, while Officers C and D remained in the vicinity.

Officers A and B attempted to locate the residence described by the unidentified female. They observed a residence that matched the description. Officers A and B drove past the residence, and parked their marked police vehicle nearby. Officers A and B exited their police vehicle and walked toward the residence. Meanwhile, Officers C and D stayed out of sight, parking their police vehicle approximately one block away from the target location.

As Officers A and B neared the target residence, Officer A observed pedestrian activity. Not wanting to be spotted, Officers A and B walked to the opposite side of the street and took a position of concealment behind shrubbery in the front yard of a neighboring residence.

Officers A and B noticed a male exit the target residence and approach a vehicle that arrived at the target location. The vehicle then left the target location. Officer A requested via his radio that Officers C and D locate the vehicle as it drove away in order to run the vehicle's license plate to determine if the vehicle was reported stolen. However, Officers C and D were unable to locate the vehicle.

Officers A and B then noted Subject 1 enter a second vehicle that was parked in the driveway of the target residence. Officers A and B observed the vehicle reverse out of the driveway onto the street, and then continue to reverse along the street. As this was occurring, Officer A noted that the vehicle did not display a rear license plate, in violation of California Vehicle Code.

Officer A relayed the violation and direction of travel to Officers C and D via his radio and requested that Officers C and D "check out" the vehicle.

In response, Officers C and D drove their marked police vehicle toward Subject 1's vehicle. Officer D turned the vehicle's headlights off in order to attempt a stealthy approach towards Subject 1's vehicle. As Officers C and D approached the vehicle head-on, Officer D activated the police vehicle's headlights and Officers D and C both activated their respective side-mounted spotlights and aimed them at the vehicle. Officer D parked the police vehicle in the center of the street, facing toward the vehicle. The police vehicle's headlights and spotlights were also pointed in the general direction of Officer A and B's position of concealment. Officers A and B noted that the lights caused their vision of the vehicle, Subject 1, and Officers C and D to be obscured.

As Officers C and D approached, Subject 1 exited the driver's door of the vehicle. Subject 1 appeared startled. When Subject 1 exited the driver door, he turned around and began to walk at a quick pace toward the rear of the vehicle. As he walked, Subject

1 looked back at Officers C and D and put his hands near his waistband and fumbled around in that area. Officers C and D then exited their police vehicle. Subject 1 then walked behind his vehicle and ran on the sidewalk, past his vehicle. Officer C ordered Subject 1 to stop.

Officers C and D initiated a foot pursuit of Subject 1. Officer D chased Subject 1 from a position directly behind Subject 1 on the sidewalk. Officer C paralleled Subject 1's movements by running in the street. As they ran, Officer D noticed Subject 1 looking over his shoulder toward Officer C. Officer C then saw Subject 1 remove a gun from his waistband. Officer C then observed that the gun was thrown into the street. Officer C immediately yelled out his observations. Officer C broadcast to Communications Division (CD) that the officers needed back-up, and provided their location and a direction of travel.

After chasing Subject 1 a short distance, Officer D tackled Subject 1 from behind, causing Subject 1 and Officer D to fall to the ground.

Officer C joined in on the tackle. Subject 1 fell into a prone position. Officer D landed half on top of Subject 1, half on the ground. Once Subject 1 and Officers C and D were on the ground, Subject 1 began to resist the officers by pushing himself off the ground. Officers C and D ordered Subject 1 to stop resisting.

Officers C and D used bodyweight in an unsuccessful attempt to hold Subject 1 down on the ground. They also tried twist locks and control holds on Subject 1 without success. Subject 1 refused to put his hands behind his back, straightened his arms out, pulled his arms away from the officers, and placed his arms underneath his body.

Despite the officers' efforts to keep Subject 1 on the ground, Subject 1 was able to rotate his body from his prone position to a position on his back.

In order to control Subject 1, Officer C grabbed Subject 1's arm, placed his arm underneath Subject 1's arm, and flipped Subject 1 back over to a prone position. Officer C was then able to put one of Subject 1's arms behind his back and Officer D placed Subject 1's other arm behind his back. Subject 1 continued to struggle with the officers during this time.

Meanwhile, Officers A and B, with their vision still obscured by the police vehicle's lights, heard the sound of multiple people running away and Officer A heard someone say "Stop. Police."

Officers A and B left their location of concealment and ran toward the vehicle. However, their vision was still obscured by the spotlights from the police vehicle. Once they passed the lights, Officers A and B noticed Subject 1 and Officers C and D on the ground struggling. Officer B approached the group and assisted Officers C and D by using physical force to control Subject 1's arms and handcuff Subject 1.

Note: Subject 1 indicated that two officers kicked him twice in the face and punched him in the face. Subject 1 also indicated that officers struck him with their knees. Subject 1 indicated that he slightly resisted the officers when he was being handcuffed but he did not attempt to get up and complied with the officers from the beginning. Subject 1 denied that he hit his face on the ground when his body hit the ground. Subject 1 admitted that he was smoking cocaine the night of the incident.

Officer D denied using any force other than wrist locks, twist locks, and bodyweight and specifically denied striking Subject 1. Officer C did not indicate that he punched or kicked Subject 1.

At or about that time, Officer C informed Officer A that Subject 1 had thrown a gun into the street. Officer A recovered the gun.

Officer C broadcast to CD that Subject 1 and his gun were in custody. Officer C requested that a supervisor and rescue ambulance (RA) respond to the scene. The officers observed Subject 1 with a swollen left eye and blood coming from his nose and/or mouth.

When the rescue ambulance arrived, Subject 1 refused to be transported to a medical facility. As such, Officers E and F, who had arrived at the scene, transported Subject 1 to the police station. Subject 1 was later transported to a hospital, where he was admitted for treatment of an orbital fracture.

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 divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC determined that drawing/exhibiting/holstering did not apply.

C. Non-Lethal Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that Officers A and B pedestrians loitering in the area. Believing the activity was possibly narcotics related, Officers A and B initiated an investigation. During the course of their investigation, an unidentified female pedestrian provided information regarding a male, who she indicated was allegedly selling narcotics in the area and in possession of stolen vehicles. The female indicated the illicit activity was occurring at a nearby residence.

Officer A contacted Officers C and D. Officer A advised Officers C and D that he had information regarding possible narcotic and stolen vehicle activity. A plan was developed in which Officers A and B would scout the area on foot for possible illicit activity, and attempt to obtain vehicle license plate numbers. Officers C and D would provide support.

The officers also agreed they would maintain communication via a tactical channel on their radios, and that that one officer from each unit would monitor the area frequency.

Officers A and B observed a residence that matched the description of the residence provided to them by the unidentified female. Officer A parked his police vehicle nearby. Officers A and C notified CD of their status and location. The BOPC determined that it would have been prudent for the officers to notify a field supervisor of their intentions.

Officers A and B exited their police vehicle and walked toward the target residence. Prior to reaching the location, Officers A and B observed individuals exit the residence and enter a vehicle. To avoid detection, Offices A and B crossed the street and concealed themselves behind some shrubbery in a residential front yard. Subject 1 then exited the residence and walked toward the same vehicle and appeared to engage the driver in a short conversation. As the vehicle left the location, Officer A contacted Officers C and D and requested that they follow the vehicle in an effort to obtain the vehicle's license plate number. Officers D and C attempted to locate the vehicle without success.

Shortly thereafter, Officers A and B observed Subject 1 enter a second vehicle that was parked in the residence's driveway. Officer A noted that the vehicle did not display a rear license plate, in violation of the California Vehicle Code. Officer A contacted Officers C and D and requested that they conduct a traffic stop on the vehicle.

Officers C and D responded to A's request. Officer D, in an attempt to gain a tactical advantage, turned off the vehicle's headlights. As Officers D and C approached the area, they observed the vehicle next to the curb facing them with its headlights on.

Officers C and D observed Subject 1 exit his vehicle, at which time Officer D engaged the vehicle headlights and both officers activated the police vehicle's spotlights. The BOPC determined that Officer A should have informed Officers C and D of Subject 1's direction of travel and advised them on their direction of approach. This lack of information caused Officers C and D to conduct an unconventional traffic stop.

Once Subject 1 was illuminated, he looked in the direction of Officers C and D and appeared to be surprised by their presence. Subject 1 walked around the rear of his vehicle with his hands concealed near his front waistband. Upon reaching the sidewalk, Subject 1 ran with his hands in his front waistband. As Officers C and D exited their police vehicle, Officer C ordered Subject 1 to stop. Subject 1 did not comply and continued to run.

Officers C and D elected to pursue Subject 1 on foot. The BOPC noted that the officers believed that there was a possibility that Subject 1 was armed with a weapon based on the location of his hands. In addition, the BOPC determined that the totality of the circumstances in this incident reasonably led the officers to believe that Subject 1 was a Grand Theft Auto suspect and/or was attempting to discard narcotics.

Officer C observed Subject 1 drop a handgun from his hand onto the pavement. Officer C immediately alerted Officer D as to his observations. Officers C and D continued to give chase as Officer C requested a back-up.

The BOPC determined that although there were many examples of sound tactical decisions that were made during this incident, Officers A, B, C, and D would benefit from additional tactical training.

The BOPC found Officers A, B, C, and D's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC determined that drawing/exhibiting/holstering did not apply.

C. Non-Lethal Use of Force

The BOPC noted that, as the foot pursuit continued, Officer D tackled Subject 1 by placing his arms around Subject 1's upper arms and torso, pinning his arms/hands against his torso. Almost simultaneously, Officer C jumped on Subject 1's upper back area. Subject 1 fell with Officers C and D on his back.

Once on the ground, Officer C attempted to control Subject 1 by placing his bodyweight on Subject 1's upper back area. Officer D applied his bodyweight to Subject 1's upper back area. While on the ground, Subject 1 continued to resist Officers C and D's efforts to take him into custody by continually twisting and turning his body and moving his arms about. At one point during the altercation, Officers C and D attempted to

administer twist/wrist locks to Subject 1's arms/wrists without success. Subject 1 was able to push himself up off the ground.

In response, Officer D applied his bodyweight to Subject 1's back and dislodged his arm, which caused Subject 1 to fall onto his stomach. Throughout the altercation, Officers C and D repeatedly ordered Subject 1 to stop resisting and put his hands behind his back; however, he did not comply. As the altercation continued, Subject 1 was able to rotate from his stomach onto his back and into a seated position facing Officer C. Officer C grabbed Subject 1's arm, hooked his arm under Subject 1's arm, and rotated him back onto his stomach. Officer C was then able to bring Subject 1's arm behind his back and Officer D placed Subject 1's arm behind his back.

In the interim, Officers A and B ran toward the altercation. Upon arrival, Officers A and B observed Subject 1 on the ground and Officers C and D on their backs. As Officer B arrived on scene, he assisted Officers C and D by using physical force and firm grips to overcome Subject 1's resistance and handcuff him.

The BOPC determined that Officers B, C, and D's non-lethal use of force was reasonable to overcome Subject 1's resistance and effect his arrest.

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