

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

**LAW ENFORCEMENT RELATED INJURY - 022-06**

<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>
West LA	03/31/2006		

<b><u>Involved Officer(s)</u></b>	<b><u>Length of Service</u></b>
Officer A	10 years, 9 months
Officer B	1 year, 1 month
Officer C	2 years, 4 months
Officer D	4 years, 11 months

**Reason for Police Contact**

While conducting surveillance, officers noticed a vehicle with a broken rear window and a suspect. Officers used force to subdue and arrest the suspect, who attempted to flee from the officers.

<b><u>Subject(s)</u></b>	<b><u>Deceased ( )</u></b>	<b><u>Wounded (X)</u></b>	<b><u>Non-Hit ( )</u></b>
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Subject 1: Male, 29 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 02/06/07.

**Incident Summary**

Officers A and B were contacted by Sergeant A and were advised that a plan to address an increase of burglaries and thefts from motor vehicles had been developed. The plan called for uniformed police officers to conduct surveillance of targeted areas for the purpose of suppressing burglaries and thefts from motor vehicles. Sergeant A told Officers A and B that the plan would be in operation during their shift, staffed by them and Officers C and D.

The officers and supervisor assigned to the detail were assigned a tactical radio frequency for communications between themselves and the assigned supervisor. However, the officers were permitted to utilize the area frequency to conduct Department of Motor Vehicle (DMV) inquiries as well as warrant and wants checks.

The briefing, conducted by Sergeant A, included discussing tactical considerations, selected targeted areas, and officer responsibilities. At the conclusion of the briefing, Officers A and B were assigned to deploy in an unmarked car. Sergeant A and Officers C and D were deployed in police cars.

Officers A and B observed a male (Subject 1) exit an alley behind a parking structure. Subject 1 was not carrying anything in his hands. While on patrol, Officers A and B noted that vehicles parked along the street appeared to be intact and showed no signs of having been tampered with or being burglarized.

Officers A and B then turned and waited for Subject 1 to pass them. After approximately two minutes, Subject 1 had not yet walked past the officers nor did they have a visual on him. Officers A and B continued driving and observed that the back window of a parked vehicle had been shattered. They further observed Subject 1 walking carrying a duffel bag. Subject 1 walked to a parking structure, followed by Officers A and B, who stopped and exited their police car. Subject 1 appeared startled and dropped an aluminum baseball bat, which landed on the stairwell. Officer A identified himself and Officer B by yelling, "Stop. Police, come back here." Subject 1 ran up the stairs holding the duffel bag.

Officers A and B pursued Subject 1 and broadcast to Officers C and D to respond to their location. Officer A then broadcast he was Code Six at the location and requested an airship. A perimeter was established, but a check of the area for Subject 1 was met with negative results.

After the search, a Code Four was broadcast and Officers A, B, C and D went back to the location of the vehicle with the broken rear window. Information inside the car linked it to a nearby residence. The owner of the vehicle confirmed that when he parked the car, the rear window was intact. He also confirmed that the car had been burglarized and that a duffel bag containing personal property was missing from the interior.

Officers A and B continued their investigation. A check of the area resulted in the discovery of a second vehicle with a broken right front passenger window. Several empty shoeboxes lying on the ground were next to it. Parked nearby in an alley was a vehicle that did not appear to be tampered with. A DMV check was conducted and the vehicle came back registered to Subject 1.

Officers A and B decided to observe Subject 1's vehicle. Officers C and D parked out of sight to assist. Approximately 25 minutes into the surveillance, Subject 1 was observed still carrying the duffel bag. Subject 1 walked over to his vehicle, but then continued walking through the alley and into the stairwell of the parking structure, out of sight.

Officers A and B drove up the parking structure ramp and observed Subject 1. Subject 1 looked in the officers' direction, turned around and ran down the stairwell and out of the parking structure. Officer A yelled, "Stop. Police." Subject 1 refused to comply.

Officer A broadcast that he was in foot pursuit of a burglary suspect and provided his location. Subject 1 ran out of sight. Officer A then broadcast Subject 1's direction of travel. Officers C and D, hearing the broadcast, drove to establish a perimeter and contain Subject 1. As they entered the alley, they observed Officers A and B at the opposite end of an alley.

Officer C stopped their vehicle and Officer D exited to maintain a position in the alleyway. Officer C maintained a perimeter position. Officers A and B conducted a brief search of the alley and advised Officers C and D they were going to walk onto the street to check for Subject 1.

Officers A and B observed Subject 1 walking into an apartment complex. Subject 1 saw both officers and ran. Officer A then broadcast that they were in foot pursuit again. Subject 1 continued running while Officers A and B ran parallel down an adjacent walkway.

Hearing the broadcast from Officer A, Officer D, without notifying Officer C or CD, ran through the alley towards where he believed he would find Subject 1. Officer D observed Subject 1 and ordered Subject 1 to stop running. Subject 1 then turned and began running in the direction of Officer D holding his right pants pocket as if he was concealing something. Officer D extended his arm to grab a hold of Subject 1. This caused Officer D's arm to strike Subject 1 in the chest area and fall to the ground.

Subject 1 raised himself from the ground, got on his hands and knees, and attempted to get up. Officer D, unsure if Subject 1 had a weapon in his pocket, used his body weight to lay on top of Subject 1, causing them both to go to the pavement. Subject 1 began flailing and kicking. Officers A and B ran into the alley and observed Officer D and Subject 1 moving on the pavement. Officer D was able to hold Subject 1's right arm using both of his hands while he held him to the pavement with his body weight.

Officer A placed both of his knees on Subject 1's shoulders and utilized body weight to control his flailing. Officers A and D both verbalized to Subject 1 to stop resisting and give them his hands, but he refused. Officer B approached, placed her hands on Subject 1's thighs, and utilized her body weight to control Subject 1's flailing legs.

Officers A and D were unable to gain control of Subject 1, who continued to resist their efforts to get both of his hands behind his back. Officer A struck Subject 1 in the area of his right shoulder blade with his right fist. Subject 1 stopped moving his arms and Officer A placed one of handcuff on his right wrist. However, Subject 1 moved his left arm under his body, which prevented Officer A from completing the handcuffing. Officers A and D were able to free Subject 1's left arm and apply the other handcuff.

Officer C arrived on scene and saw that Subject 1 was handcuffed. Subject 1 complained of pain to his ankle and Officer C, who was driving a police car without a caged divider, placed Subject 1 in the rear of his police vehicle pending the arrival of paramedics.

### **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 C and D's tactics to warrant formal training. The BOPC found Officers A and B's tactics to warrant divisional training. The BOPC found Sergeant A's tactics to be appropriate.

#### **B. Use of Force**

The BOPC found Officers A, B, and D's use of force to be in policy.

### **Basis for Findings**

#### **A. Tactics**

The BOPC noted that as Officers A and B observed Subject 1, they continued driving past him and noted that none of the vehicles parked along the curb showed signs of burglary. When Officers A and B drove back out onto the street from a parking lot, they observed a vehicle with a broken rear window and Subject 1 carrying a black duffel bag. Subject 1 then entered the stairwell of a parking structure. Officer A ordered Subject 1 to stop, but he refused and ran up the stairwell. Officers A and B went in foot pursuit.

Using the tactical frequency, Officer A contacted Officers C and D and requested they respond to the area. Officer C drove to the area and saw Officers A and B's vehicle parked with the headlights on. However, they were unable to locate them either visually or via the designated tactical frequency from which they had earlier broadcast. Officer C then switched to the area frequency and heard Officer A broadcast that he was in foot pursuit.

The BOPC determined that Officer A's initial broadcast to Officers C and D on the designated tactical frequency should have included that he was in foot pursuit and included a suspect description and direction of travel. This would have given Officers C and D the tactical foresight to initiate containment, thus increasing the likelihood of apprehension.

Officers A and B then located a vehicle that might have belonged to Subject 1. Officers A and B monitored the vehicle, but did not broadcast their observations. A short time later, they observed Subject 1, who turned and fled. Officers A and B, now in foot pursuit, broadcast the foot pursuit and their direction of travel.

Had Officers A and B broadcast their initial observation of Subject 1 to Officers C and D and CD, additional resources, such as back-up units and an airship, may have been in a position to more easily contain Subject 1.

Officers C and D heard the broadcast and drove toward the alley to help establish a perimeter. Although Officers C and D were able to contain three sides of the perimeter by separating from each other, they were a considerable distance from each other and unable maintain an effective line of sight. Further, Officer D left his position and ran toward Subject 1. Officer A and B subsequently arrived and assisted with the detention of Subject 1.

After Subject 1 was handcuffed, Officer C arrived and assisted in bringing Subject 1 to his feet and into a standing position. The magnitude of the distance separating Officers C and D is apparent by the fact that Officer C arrived at the location after Subject 1 was handcuffed. Officer C was unable to assist Officer D when he encountered Subject 1.

The BOPC noted that the three-sided perimeter containment requires that officers remain highly disciplined and tactically aware of their partner's actions. In this case, Officer D did not maintain his discipline and decided to confront Subject 1. Officer C was unaware of his partner's movements towards confrontation and was of no assistance to his partner.

Sergeant A took initiative and devised an operational plan to address the burglary and theft from motor vehicles. The plan was submitted and subsequently approved for implementation. The involved officers were present and discussed the logistics of the operation with Sergeant A. Sergeant A monitored the operation from the field and was the first supervisor to respond to the incident.

The BOPC found Officers C and D's tactics to warrant formal training. The BOPC found Officers A and B's tactics to warrant divisional training. The BOPC found Sergeant A's tactics to be appropriate.

## **B. Use of Force**

While fleeing from Officers A and B, Subject 1 ran toward Officer D. As Subject 1 closed the distance, he attempted to evade Officer D by running to the left and then

shifting to his right. Subject 1 ran into Officer D's extended right arm and fell to the ground. Subject 1 got on his hands and knees and grabbed his right front pants pocket, as if he were holding something. Officer D, believing Subject 1 was attempting to arm himself, placed his torso across Subject 1's lower back and grabbed Subject 1's right arm with both hands.

As Officers A and B approached, they observed Subject 1 kicking with both legs and flailing his left arm. In an attempt to restrain Subject 1, Officer A placed both knees on Subject 1's back and Officer B placed her body weight on his legs. Although the combined weight of the officers immobilized Subject 1's body, he continued to flail his left arm. Officer A punched Subject 1 three times in the back, at which time Subject 1 stopped flailing his left arm, and was handcuffed without further incident.

The BOPC found Officers A, B, and D's use of force to be in policy.