

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

**LAW ENFORCEMENT RELATED INJURY – 027-06**

<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>
Newton	04/15/06		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	7 years, 6 months
Officer B	7 years, 6 months

**Reason for Police Contact**

Officers saw a car with expired registration tags being driven down a street and followed the vehicle. The car continued for a short distance, then turned into a gated driveway and stopped. Upon stopping, the driver exited the vehicle and discarded what appeared to be narcotics. When the officers attempted to detain the driver, a struggle ensued.

<b><u>Suspect</u></b>	<b><u>Deceased ()</u></b>	<b><u>Wounded (x)</u></b>	<b><u>Non-Hit ()</u></b>
Subject 1	Male, 48 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 February 13, 2007.

### **Incident Summary**

On Saturday, April 15, 2006, uniformed Police Officers A and B were patrolling in a police vehicle.

The officers saw a car with expired registration tags being driven down a street and followed the vehicle. The car continued for a short distance, then turned into a gated driveway and stopped. Upon stopping, the driver and sole occupant of the car (Subject 1) immediately exited the vehicle. As Subject 1 exited his vehicle, the officers stopped behind him and exited theirs.

Officer A broadcast to Communications Division (CD) that he and his partner were conducting an investigation. However, CD did not receive the officers' location or call sign and requested that the information be repeated. Neither officer responded to this request.

As Subject 1 stepped out of the car, both officers saw him drop narcotics to the ground. Both officers believed the narcotics were crack cocaine. The officers looked at one another so as to verify that each had observed Subject 1's actions.

According to both officers, Subject 1 faced them, assumed a "combative" or "fighting" stance, and said, "What the [expletive] do you want with me?" Officer A walked towards Subject 1, followed by Officer B. Officer A told Subject 1 that he was being stopped for having an expired registration and for a narcotics investigation. Subject 1 told the officers that he wanted to talk to their captain.

Subject 1 called out, alerting family members inside their residence. A group of three individuals – Witness A, Witness B and an unidentified male – came out into the street and approached the scene of the stop. Witness B was carrying a toddler. The three made statements to the effect of "What are you doing?" and "Leave him alone."

Subject 1 then reached into his left pants pocket. Officer A reacted by grabbing Subject 1's left wrist. Officer A felt Subject 1 go rigid. Officer A told Subject 1 to turn around and that he was going to put handcuffs on him. Subject 1 pulled his left hand away from Officer A's grasp, then used that hand to strike Officer A in the neck area. Officer A broadcast a back-up request.

Officer B approached Subject 1, grabbed both of Subject 1's legs and attempted to pull Subject 1 to the ground. However, Subject 1 held onto the driver's door of his car with his right hand, which prevented Officer B from taking him down. Meanwhile, Subject 1 swung punches at the officers with his left hand, and Witness B advanced closer to Subject 1 and the officers, yelling and still holding the toddler. Officer A grabbed Subject 1 in the area of Subject 1's shoulders, and the officers pushed Subject 1 off balance and caused him to fall to the ground.

As Officer A diverted his attention to Witness A, Witness B and the third individual who had approached them, Officer B struggled with Subject 1 on the ground. Officer B positioned himself on top of Subject 1, as Subject 1 threw punches, kicks and elbows at him. Officer B was hit in the face "a couple of times" by Subject 1's blows.

As his partner struggled with Subject 1, Officer A split his attention between the ongoing fight and the three individuals approaching and shouting at the officers. At one point, Officer A moved to help his partner and was struck a couple of times in the chest by Subject 1's blows.

Subject 1 managed to rise to his feet. Officer A, believing that Officer B was losing control of Subject 1, sprayed "one quick burst" of Oleoresin Capsicum (OC) at Subject 1. However, Subject 1 raised his hands and deflected the spray.

Subject 1 then came towards Officer B, as if to re-engage in the fight, prompting Officer B to punch Subject 1 once in the face. Officer B then attempted to take Subject 1 down by grabbing and pushing Subject 1's upper thighs. Subject 1 did not go down, but instead grabbed Officer B by his uniform. Subject 1 then dug the fingers of his right hand into Officer B's face. Officer B moved his face to the side, and Subject 1 ran his fingers down the officer's face and into his mouth. Officer A, who had diverted his attention to keeping the three bystanders at bay, then re-engaged and assisted Officer B. The officers performed a takedown on Subject 1, causing Subject 1 to land on his back and strike his head on the ground.

Officer A disengaged in order to redirect his attention to the three bystanders, who continued to get close to the officers and to yell at them. Meanwhile, Officer B and Subject 1 struggled on the floor. Initially, Officer B was on top of Subject 1, but Subject 1 then got on top of Officer B. Officer B held Subject 1 by the back of his neck and pulled Subject 1's head close to Officer B's chest. Officer A then briefly assisted by pushing Subject 1, enabling Officer B to get back on top of Subject 1.

Subject 1 then took hold of Officer B's OC holster and pulled on it, tearing the holster from the officer's belt. Officer B grabbed the holster from Subject 1's grasp, then took the OC canister and delivered a two-second burst of OC to Subject 1's face. The spray did not appear to effect Subject 1. Officer B then kept hold of the OC canister in his right hand.

Subject 1 then reached towards Officer B's holstered pistol, took hold of the handle of the weapon and began to pull on it. Officer B capped the weapon with his hand and told his partner that Subject 1 was going for his gun. Officer A looked towards his partner and saw that Subject 1 had a firm grip of the pistol and its holster, and was pulling at it with sufficient force to cause Officer B's upper body to move.

Officer A moved to assist his partner and told Subject 1, "Let go of the gun, I'm going to shoot you in the head," to which Subject 1 replied, "Go ahead." Officer A did not draw his weapon. Rather, seeing that the snaps on Officer B's holster were still secure,

Officer A took hold of Subject 1's head and delivered two knee strikes to Subject 1's face.

When the knee strikes were delivered, Subject 1 released his grip on the holster and rolled over into a face-down position. Subject 1 then began to lift himself, as if to get up. Believing that Subject 1 was "fighting to the death," Officer A delivered two knee strikes into Subject 1's ribs. Subject 1 then fell back to the ground and the officers were able to handcuff him.

Sergeant A arrived on the scene. Sergeant A determined that the incident met the criteria for a non-categorical use of force and initiated a non-categorical use of force investigation.

Subject 1 was transported to a police station, where booking approval was given. Later, Subject 1 was transported from the station to a Jail Division Dispensary, where he was medically examined. Subject 1 was then transported to a hospital. Subject 1, who sustained a lacerated lower lip, a contusion to his scalp, rib fractures and a bruised lung as a result of the uses of force, was subsequently admitted to the hospital.

#### **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 divisional training.

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

Does not apply.

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

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

## **Basis for Findings**

### **A. Tactics**

The BOPC noted that Officers A and B observed a vehicle with expired registration tags and decided to conduct a traffic stop. The BOPC noted that, upon stopping, Subject 1 opened the driver's side door of his vehicle and stepped out, yelling expletives at the officers. The BOPC noted that Officer A observed Subject 1 drop narcotics to the ground and advised his partner of his observations, and that Officer A notified CD of their location and made contact with Subject 1. The BOPC noted that, based on Subject 1's aggressive demeanor, it would have been prudent for the officers to request a back-up unit during their initial broadcast. The BOPC additionally noted that neither officer acknowledged the request from CD for the officers to repeat their location.

The BOPC noted that Officer B did not retrieve his PR-24 baton when he exited the police vehicle, and that it is imperative that officers carry all the required equipment to effectively address any incident or threat that they may encounter. The BOPC further noted that, during the encounter with Subject 1, Officers A and B deployed their OC from a distance of less than three feet. The BOPC noted that this tactic is generally ineffective as the chemical has insufficient distance to activate prior to contacting the intended target.

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

### **B. Drawing/Exhibition/Holstering of a Firearm**

Does not apply.

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

The BOPC noted that, after Subject 1 struck Officer A, both officers attempted to take Subject 1 to the ground and that Subject 1 was able to hold onto the vehicle driver's side door and maintain his balance. The BOPC noted that Officer A pried Subject 1's hands away from the door causing Subject 1 to fall to the ground. The BOPC noted that, once on the ground, Officers A and B used their combined bodyweight in an attempt to control Subject 1. The BOPC further noted that Subject 1 continued to kick his legs and punched the officers, striking Officer A in the chest and Officer B on the left side of his jaw, then rose to his feet.

The BOPC noted that Officer A drew his OC canister from the holster and deployed a burst at Subject 1's face, and that Subject 1 was able to deflect the stream by placing his hands over his face.

The BOPC noted that, in fear that Subject 1 was assuming an offensive role, as opposed to fleeing, Officer B punched Subject 1 in the face. The BOPC further noted that Officer B then placed his arms around Subject 1's thighs and attempted to force

Subject 1 back to the ground, but that Subject 1 was able to maintain his balance by grabbing hold of Officer B's badge, which he subsequently ripped from the officer's uniform shirt. The BOPC noted that Subject 1 then attempted to gouge Officer B's eyes with his fingers, that Officer B turned his head to avoid contact with Subject 1's fingers, and that Subject 1 then scratched Officer B on the face and forced his fingers into Officer B's mouth.

The BOPC noted that Officer A re-engaged and, together with Officer B, forced Subject 1 to the ground a second time. The BOPC noted that Subject 1 continued to resist and took hold of Officer B's OC holster and tore it from the equipment belt. The BOPC further noted that Officer B immediately regained control of the OC holster from Subject 1, removed the canister, and deployed a burst of OC at Subject 1. The BOPC noted that the OC was ineffective.

The BOPC noted that Subject 1 continued to resist by reaching out and grabbing onto Officer B's service pistol holster and that, fearing Subject 1 would also tear the holster off his equipment belt, Officer B alerted Officer A and applied a weapon retention technique.

The BOPC noted that Officer A approached Subject 1 and warned him that if he did not release the gun he would be shot, to which Subject 1 replied, "go ahead." The BOPC noted that Officer A noticed that Officer B's service pistol was secure, and then delivered two knee strikes to the left side of Subject 1's face, causing Subject 1 to release his grip on Officer B's service pistol. The BOPC noted that Subject 1 quickly regained his composure and attempted to roll onto his stomach, and that Officer A utilized two additional knee strikes to Subject 1's right rib area causing Subject 1 to lose his breath. The BOPC further noted that Officers A and B were then able to handcuff Subject 1 without further incident.

The BOPC determined that Officers A and B's use of force was reasonable to overcome Subject 1's resistance and to affect his arrest and found the officers' non-lethal uses of force to be in policy.