

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

OFFICER-INVOLVED SHOOTING – 039-07

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Mission	04/11/2007		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	5 years, 6 months

Reason for Police Contact

Witness A pulled up along Officer A as they were driving. From inside their vehicle, Witnesses B, C, and D told Officer A that a male driving a truck, Subject 1, had just crashed into their vehicle. They also directed Officer A to Subject 1's last known route of travel. Officer A made contact with Subject 1, who ultimately assaulted Officer A with Officer A's baton. Officer A shot Subject 1 to stop the assault.

<u>Subject</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 1: Male, 23 years.			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate the 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 03/18/08.

Incident Summary

Officer A stopped at a red traffic light at an intersection in his marked police vehicle. Witness A, who was driving with Witnesses B, C and D, pulled up next to Officer A. From inside their vehicle, Witnesses B, C and D told Officer A that a male, Subject 1, was driving a truck and had just crashed into their vehicle. They also directed Officer A to Subject 1's last known route of travel.

Officer A started driving in the direction indicated by the witnesses. Officer A then observed some individuals standing on the street and pointing toward a driveway behind a church. An male pointed toward the same driveway and said, "He went that way." Officer A asked the male, "Is this from the crash?" and received an affirmative response. Officer A then drove into the parking lot behind the church.

While driving through the parking lot, Officer A observed Subject 1 walking away from a truck. Officer A turned on his lights and siren, and Subject 1 turned around and walked toward him. Officer A had grabbed the microphone from his vehicle's radio in order to broadcast his location when he noticed Subject 1 walking toward him. Officer A decided to forego his attempted broadcast and move to a more tactically sound position by exiting his vehicle.

Officer A observed that Subject 1 had his right hand in his pocket, and he ordered Subject 1 to take his hand out of his pocket. Subject 1 failed to comply and continued walking toward Officer A. When Subject 1 came within approximately five to eight feet, Officer A drew his pistol and repeatedly told Subject 1 to back up. Subject 1 continued to approach Officer A. As he did so, Subject 1 was repeatedly saying, "I'm sorry. I'm sorry. I'm sorry."

Subject 1 reached out with both hands and grabbed Officer A's pistol. Officer A pulled the pistol away from Subject 1, who then turned around and began walking away from Officer A. Officer A holstered his pistol and requested back-up.

Officer A followed Subject 1, who climbed over a sliding gate. Officer A slid the gate partially open and walked through, continuing to follow Subject 1, who had turned into a courtyard that was surrounded by buildings on three sides.

Around this time, Witness E and Witness F were inside an office on the grounds of the church. After hearing some noise outside, Witnesses E and F exited and saw Subject 1 running through the courtyard, with Officer A following him. Subject 1 ran toward Witnesses E and F and then lunged at Witness F. Subject 1 slapped Witness F approximately four times, and used his fingernails to scratch Witness F's face. Subject 1 told Witness F, "I'm sorry, guy. I'm sorry, guy."

Officer A continued to follow Subject 1 into the courtyard, verbally identifying himself as a police officer and commanding Subject 1 to stop. Subject 1 initially ignored Officer A's commands, then he turned around and began walking toward Officer A again. Subject 1 slapped at Officer A's face and knocked Officer A's sunglasses off. He then grabbed hold of Officer A's holster. Officer A pulled away and twisted his waist in order to move his pistol away from Subject 1. Subject 1 then used a finger to gouge Officer A's left eye. Officer A then punched Subject 1 in the upper corner of his left eye. Officer A pulled away from Subject 1, and Subject 1 took up a fighting stance.

Officer A drew his baton, extended it with his right hand, and swung the baton at Subject 1. Subject 1 grabbed onto the baton. Officer A used both of his hands in an

attempt to maintain control of the baton. As Officer A and Subject 1 were struggling, Officer A let go of the baton with his left hand and punched Subject 1 in the face a second time. Officer A then regained his grasp on the baton, and he and Subject 1 each continued to pull on the baton.

Officer A lost his grip on the baton, fell down and struck his head on the ground. Still holding the baton, Subject 1 approached Officer A and stood over him. Officer A lay on his back, with his knees bent and his feet flat on the ground. Subject 1 then leaned over toward Officer A, who drew his pistol and aimed it at Subject 1's midsection.

Note: Witness G, who resided and worked at the church, stated that after Subject 1 took the baton, he swung it at Officer A approximately three to five times, striking him once or twice. Officer A then began to back away from Subject 1, and he fell to the ground on his back. Subject 1 struck Officer A with the baton between six and nine times around the left side of his head and his shoulder. Witness G stated that Subject 1 was striking Officer A as he lay on the ground.

Afraid that Subject 1 would either beat him to death or strike him with the baton, take his pistol and fire it at him, Officer A fired six rounds upward at Subject 1. After the sixth round was fired, Subject 1 stepped back and staggered toward Officer A's right side.

Officer A then stood up and began to move around Subject 1, who fell to his knees and threw the baton at Officer A, missing him. Subject 1 then fell down to the ground. Officer A broadcast a help call and requested a rescue ambulance (RA) for a male with gunshot wounds.

A number of Department officers responded to the scene. After they had arrived, Officer A holstered his weapon. Los Angeles Fire Department (LAFD) personnel responded to the scene to treat Subject 1, who was determined to have died.

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's tactics to warrant formal training.

B. Drawing/Exhibiting/Holstering

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

C. Non-lethal Use of Force

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

D. Lethal Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that, upon entering the church grounds, Officer A intended to investigate a misdemeanor traffic collision. It was apparent that Officer A did not have a tactical plan when he confronted the uncooperative subject with his pistol drawn. A kicking technique or the use of oleoresin capsicum (OC) may have deterred the subject from physically engaging Officer A and would have allowed Officer A time to regain and maintain control of the situation. It would have been prudent for Officer A to have had the TASER with him. The TASER would have given Officer A an additional force option to resolve the incident.

Officer A re-holstered his pistol and broadcast a request for a back-up, but incorrectly placed his location one block from the incident. A unit's exact location is vital should the incident deteriorate and additional assistance is required. Additionally, Officer A's back-up request should have been a request for assistance or help as Officer A was confronted by a subject who attempted to disarm him of his pistol.

The BOPC found Officer A's tactics to warrant formal training.

B. Drawing/Exhibiting/Holstering

The BOPC noted that, from behind the driver's door of the police vehicle, Officer A observed Subject 1 walk toward him with his right hand in his pocket. Officer A repeatedly ordered Subject 1 to remove his hand as he approached. Subject 1 did not comply and continued his approach. Believing Subject 1 was concealing a weapon, Officer A reasonably believed that there was a substantial risk that the situation may escalate to the point where deadly force may be justified, and drew his pistol.

During Officer A's second encounter with Subject 1, a struggle ensued over his baton. During the struggle, Officer A was disarmed, and fell. Subject 1 approached Officer A with the baton raised in his right hand. Believing the situation had escalated to the point where deadly force was necessary, Officer A drew his pistol. The BOPC determined that Officer A had sufficient information to believe that the situation may escalate to the point where deadly force may become necessary.

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

C. Non-Lethal Use of Force

The BOPC noted that Officer A was confronted by Subject 1 and a violent struggle ensued. During the struggle, Officer A used punches and a baton strike. The BOPC determined Officer A's non-lethal uses of force were reasonable in an attempt to control Subject 1's aggressive and combative actions.

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

D. Lethal Use of Force

The BOPC noted that in immediate defense of his life, Officer A fired six consecutive rounds at Subject 1's torso. Witness G stated when Officer A was on his back, Subject 1 struck the left side of Officer A's head and shoulder six to nine times with the baton.

The BOPC determined that Officer A reasonably believed that Subject 1 presented an immediate threat of serious bodily injury or death.

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