

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

**OFFICER-INVOLVED SHOOTING – 041-07**

<b>Division</b>	<b>Date</b>	<b>Time</b>	<b>Duty-On (X) Off()</b>	<b>Uniform-Yes(X) No()</b>
77 <sup>th</sup> Street	04/22/2007			

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	11 years, 3 months

**Reason for Police Contact**

Officers responded to a call indicating that Victim A had been kidnapped by Subjects 1, 2, 3, and 4.

<b>Subject</b>	<b>Deceased ()</b>	<b>Wounded ()</b>	<b>Non-Hit (X)</b>
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.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on 3/11/08.

**Incident Summary**

Witness A, his sister, Victim A, and their cousin, Witness B, were at a party at a bar. Where they met a group of four males: Subject 1, 23 years of age; Subject 2, 32 years of age; Subject 3, 32 years of age; and Subject 4, 31 years of age.

Inside the bar, Subject 2 told Witness A that he worked at the auto center and that they could go to the auto center and continue drinking. Witnesses A and B and Victim A agreed to accompany Subject 2 and his companions to the auto center and left the bar.

While in front of the bar, Witness A and his group decided against accompanying Subject 2 and his group and advised Subject 2 of their decision. At that point, Subject 4 hit Witness B in the face with a beer bottle and kicked Witness B in the head as Witness B lay on the ground.

One or more of the remaining subjects then grabbed Victim A and forced her into a van. Subject 4 joined the other subjects in the van and all four subjects fled with Victim A. Witness A dialed 911 and provided Communications Division (CD) an account of what had transpired along with a description of the subjects' vehicle. CD broadcast the information obtained from Witness A to local units.

Sergeant B, accompanied by civilian ride-along Witness D, responded to the bar. While Sergeant B obtained information from Witnesses A and B, Subject 4 returned to the bar on foot.

Sergeant B said, "As he got closer to the vehicle, I drew my handgun. Took a position of cover. As he came out, I proned him on the ground. . . . I walked up to him, placed my knee in the middle of his back. Holstered my weapon, picked up his left [hand], handcuffed it. Picked up his right hand, handcuffed it." Sergeant B then informed CD that he had a subject in custody.

Shortly after Subject 4's arrest, Officer A and Officer B arrived at the bar. Sergeant B requested additional units and CD dispatched Officers C, D, E, and F. Sergeant A arrived at Sergeant B's location as well and advised CD of his location and status. Sergeant B informed Sergeant A that Subject 4 was willing to direct them to an apartment building where the subjects might have taken the victim. Sergeant B, with Witnesses A, B, and D in his vehicle; Officers A and B, with Subject 4 in their vehicle; and Sergeant A left the scene and drove towards the apartment building.

As Sergeant A drove, he saw a vehicle matching the subjects' vehicle's description. As Sergeant A continued, he decided his best course of action was to provide himself with an opportunity to better observe the front license plate on the vehicle by turning. As Sergeant A made his turn, he was able to confirm it was in fact the subjects' vehicle.

Sergeant A decided to stop directly abreast of the subjects' vehicle. Prior to coming to a stop, Sergeant A drew his pistol with his right hand, reached across his chest, and pointed his pistol at the driver, Subject 1, the only person Sergeant A could actually see inside the subjects' vehicle.

Based on Subject 1's objective symptoms, Sergeant A believed that Subject 1 was intoxicated. Sergeant A said, "I felt he was extremely inebriated, again, from his, the motion of, of his head on his neck, his eyes, the blush to his face. Again, the greasy or oily face; that it was kind of cold, but it looked like he was kind of warm." Keeping his foot on the brake pedal, and his pistol pointed at Subject 1, Sergeant A shouted at

Subject 1 to stop his vehicle and exit. Simultaneously, Sergeant A used his left hand to activate his radio, indicating that he needed assistance.

Seeing that Subject 1 was not complying with his commands, Sergeant A put his vehicle in park and stepped out of the vehicle. Using both hands, Sergeant A pointed his pistol at Subject 1 and continued to order him to stop his vehicle and exit. Sergeant A saw into the interior and observed an unconscious, nude female, sitting in the reclined right front passenger seat. Sergeant A assumed that this was the kidnap victim.

Subject 1 started to move his vehicle forward slowly. Sergeant A fired two rounds from his pistol at the left rear tire on the subjects' vehicle as it began to slowly move. After firing the first two rounds, Sergeant A saw that the subjects' vehicle was not disabled. Sergeant A again fired two additional rounds at the left rear tire of the subjects' vehicle. The subjects' vehicle then picked up speed and turned.

Sergeant A continued to walk quickly after the subjects' vehicle. Sergeant A again fired two rounds at the left rear tire of the subject vehicle. The subjects' vehicle continued down the street. Sergeant A advised over Simplex as to the subjects' vehicle's location. Area Units monitored Sergeant A's broadcast on Simplex and began searching for the subjects' vehicle. Sergeant A holstered his pistol, and remained at the scene.

Sergeant A saw a police vehicle approaching his location, activated the emergency button on his radio, and made the following broadcast over the emergency frequency: "Shots fired, officer needs help...."

Responding units located Victim A on the street, one half mile from the scene of the OIS. Victim A was partially clothed and hiding behind an unoccupied-parked vehicle. Later that morning, Subjects 1 and 3 were detained. Subject 2 was not located.

### **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 Sergeant A's tactics to warrant administrative disapproval. The BOPC found Sergeant B's tactics to warrant divisional training.

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

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

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

The BOPC found Sergeant A's lethal use of force to warrant administrative disapproval.

## **Basis for Findings**

### **A. Tactics**

The BOPC noted that, although Sergeant A was actively searching for Victim A, a thorough review of this incident indicates several tactical areas of concern. Sergeant A observed a vehicle matching the description of the subjects' vehicle but could not confirm the vehicle license plate. Sergeant A turned to confirm the license plate number. It would have been prudent for Sergeant A to have notified CD of his observations and requested assistance. Additionally, the investigation revealed that Sergeant A improperly broadcast on the Simplex frequency, limiting the personnel capable of receiving the transmission.

After the vehicle was determined to be that of the kidnap suspect, Sergeant A stopped his patrol vehicle parallel to the subjects' vehicle. This action placed Sergeant A at a tactical disadvantage with little to no cover. Sergeant A further exacerbated the situation by stepping out of the police vehicle to confront Subject 1. This placed Sergeant A in a vulnerable position, between both vehicles, with neither cover nor an avenue to escape had Subject 1 accelerated toward him. It would have been prudent for Sergeant A to request assistance and follow the subject's vehicle. Furthermore, Sergeant A decided to protect the OIS scene rather than enter his police vehicle and follow the subjects, who fled the location to evade arrest.

The investigation revealed that prior to the OIS, Sergeant B responded to the location and began to conduct an investigation. As he did so, one of the subjects started walking toward the group. Sergeant B took a position of cover behind his vehicle, drew his pistol, and ordered the subject to lie on the ground. When the subject complied, Sergeant B approached the subject with his pistol drawn and handcuffed him without incident. Sergeant B should have requested the necessary resources to handcuff the subject. Additionally, the practice of approaching the subject with a pistol drawn increases the potential for a negligent discharge.

The BOPC found Sergeant A's tactics to warrant administrative disapproval. The BOPC found Sergeant B's tactics to warrant divisional training.

## **B. Drawing and Exhibiting**

The BOPC noted that, prior to the OIS, Sergeant B was conducting the investigation when one of the subjects was walking toward them. Fearing an armed confrontation, Sergeant B sought cover behind his patrol vehicle and drew his pistol.

As Sergeant A was driving, he observed a vehicle matching the subjects' vehicle description. Sergeant A turned and confirmed the vehicle's license plate number. Fearing an armed confrontation with the occupants of the vehicle, Sergeant A drew his pistol and aimed at the subject.

The BOPC determined that Sergeants A and B had sufficient information to believe that the situation may escalate to the point where deadly force may become necessary.

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

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

The BOPC noted that Sergeant A continued to provide verbal commands to Subject 1 who refused to comply. When Subject 1 began to move the vehicle forward, Sergeant A feared Victim A, who was seated in the front passenger seat and appeared unconscious, would be in peril if the subjects were allowed to flee. Sergeant A fired two rounds, assessed and then fired an additional one or two rounds. When the vehicle continued to move, Sergeant A fired the final two or three rounds. All of the rounds were fired at the vehicle's left rear tire.

Sergeant A stated that he received training that officers should "never let a kidnap subject leave with a hostage; to take whatever, I think even head shots...because the chance of them (hostages) being killed are very likely." Sergeant A believed if the subject escaped there was a strong likelihood that Victim A would be killed, and not wanting any additional harm to be done to Victim A, he felt he could not allow the subject to leave.

The BOPC noted that contrary to his stated concern for Victim A's welfare, Sergeant A opted to remain at the OIS scene while Subject 1 fled. In assessing his stated concerns, it would have been more prudent for Sergeant A to enter his police vehicle, follow the subject and maintain visual contact to reduce the likelihood of further harm to the victim.

Furthermore, Sergeant A failed to consider other less threatening means to limit the subject's ability to flee (Tire Deflation Device or Pursuit Intervention Technique). Sergeant A should have had the foresight to anticipate that his decision to fire his pistol heightened the risk of potential harm to Victim A and other citizens. The BOPC would have preferred Sergeant A had followed the vehicle and requested the necessary resources prior to making contact with Subject 1.

The BOPC found Sergeant A's lethal use of force to warrant administrative disapproval.