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

HEAD STRIKE WITH AN IMPACT WEAPON – 047-05

Division	Date	Duty-On (X) Off()	Uniform-Yes() No(X)
Van Nuys	06/22/2005		

Involved Officer(s)	Length of Service
Officer A	9 years, 1 month

Reason for Police Contact

Officers responded to reports of narcotics activity at a high school. There, they observed four subjects apparently engaged in narcotics activity. While apprehending the subjects, an officer struck one subject in the head, causing a laceration.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()

Subject 2: Male, 16 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 06/27/2006.

Incident Summary

Detectives A and B and Officers A, B, C, and D, all in plainclothes and using plain vehicles, responded to a high school to investigate reports that narcotics activity was occurring in the area.

Officer D and Detective B set up an observation post. Officer D, using binoculars, observed a vehicle parked on a street outside the high school. Subjects 1 and 2 were seated in the vehicle and Subjects 3 and 4 were standing just outside the passenger door.

Officer D and Detective B watched Subject 4 place an apple to his mouth and observed smoke coming out of the apple. Officer D recognized Subject 4's action to be consistent with a person smoking narcotics. Subject 4 then passed the apple to Subject 3, who attempted to smoke from the apple.

Subject 3 then had a discussion with the occupants of the vehicle through the open passenger window. Subject 1 handed a plastic baggy to Subject 2, who then passed the plastic baggy to Subjects 3 and 4. Subject 3 then reached into the baggie using a pinching motion and retrieved from the baggie what appeared to be plant material, then placed the plant material on top of the apple.

Officer D relayed this information to the other officers. Officer D determined that narcotics activity was occurring and decided to detain the four individuals.

Officers B and C drove past the parked vehicle twice and Officer B observed narcotics activity. Officer C, who had not observed narcotics activity, moved from the passenger seat of the vehicle to the rear of the vehicle to conceal Officer C from the individuals' view. Officer B then drove past the vehicle a third time and parked the vehicle.

Officer D's tactical plan called for two officers positioned behind the target vehicle (Detective A and Officer A) and two officers positioned in front of the vehicle (Officers B and C) to contain the individuals should they decide to run.

Officer A exited his vehicle and approached the parked vehicle as Detective A followed behind. Officer A used two female pedestrians, and later a tree, as concealment during this approach.

While Officer A was walking, Subject 3 looked at and appeared to recognize the officer. Subject 3 then alerted the other three individuals to the presence of the police. Subjects 3 and 4 began walking away and Subject 2 began climbing out of the passenger side window of the vehicle. Subject 2 had an apple in his right hand and, according to Officer A, a yellow screwdriver in his left hand.

Officer A drew Officer A's service pistol and pointed it at Subject 2. Officer A ordered Subject 2 to stop and put his hands up. Subject 2 did not comply with Officer A's commands. Officer A believed that Subject 2 was going to run, so Officer A moved forward towards Subject 2 and continued to give commands.

Subject 2 cocked his right hand back behind his shoulder and threw the apple. Officer A believed Subject 2 was going to commit an assault against Officer A. In response to Subject 2's actions, Officer A moved Officer A's pistol down towards the back of Officer A's right thigh while simultaneously raising Officer A's left hand to block what Officer A thought was an incoming punch from Subject 2. Officer A's outer forearm made contact with Subject 2's inner forearm. Officer A grabbed then Subject 2's right forearm, spun Subject 2 around, and pushed Subject 2 towards the parked vehicle. Officer A then observed that Subject 2 no longer had the screwdriver in his left hand.

Officer A then holstered Officer A's pistol and handcuffed Subject 2.

Meanwhile, Subject 1 exited the vehicle and ran in Officer B's direction. Officer B lifted Officer B's shirt to expose Officer B's badge and pistol, verbally identified Officer identified Officer B as a police officer and told Subject 1 to stop. Subject 1 put his hands in the air and laid himself on the ground. Officer B took Subject 1 into custody.

Officer C observed Subjects 3 and 4 walking quickly toward Officer C. In response, Officer C verbally identified Officer C as a police officer and exposed Officer C's badge and pistol while ordering the subjects to put their hands up and turn around. Subject 3 complied and put his hands in the air. Subject 4 put his hands in the air for a brief moment, but then placed his hands down towards his waist and turned away from Officer C.

Officer C again ordered Suspect 4 to put his hands up and drew Officer C's pistol. Officer C moved to face Subject 4. Subject 4 then dropped to the ground in a prone position. Officer C re-holstered and handcuffed Subjects 3 and 4.

All four individuals were re-located to a grassy area where they were placed laying on their stomachs. Officer B searched each of the individuals and located a baggie of what appeared to be marijuana from one of Subject 1's pockets.

Officer A moved Subject 2 from a face-down prone position into a sitting position. Officer A noticed that Subject 2 had blood on his forehead and an injury to the right eyebrow area. Officer A asked Subject 2 how he sustained the injury. Subject 2 replied, "You hit me with your gun."

> **Note:** Subject 2 later stated that he did not see Officer A's gun strike him, but believed the injury had occurred from a hard object, such as a gun.

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 Detective A and Officer A's tactics to warrant formal training.

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

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A and C'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 use of force to be in policy.

Basis for Findings

A. Tactics

The BOPC would have preferred that the detectives/officers had advised Communications Division (CD) of their status and location upon arriving to the high school.

The BOPC would have preferred that the detectives and officers had developed a plan that would have included a more coordinated deployment on the subjects. The BOPC noted that the tactical plan called for the most senior supervisor, Detective A, to be involved as one of the two contact officers. Given that there were six members of the team, the BOPC believed that Detective A should have maintained his role as a supervisor and not become involved in the approach and arrest of the four individuals.

The tactical plan did not call for the use of raid vests for easy identification of the involved officers. Nor did the plan call for some or all of the officers to deploy with other tools such as batons or pepper spray. As such, the officers were armed only with their handguns and none were identifiable other than by their badges. The BOPC would have preferred that the tactical plan implemented by the officers included an arrest team that was more readily identifiable as police officers and that possessed other tools besides firearms alone. In deploying officers equipped only with firearms, the officers severely limited their options should a use of force had become necessary.

Given that the officers observed the criminal activity from afar and there were no exigent circumstances apparent requiring an immediate arrest of the four individuals, the BOPC would have also preferred that the officers had contacted CD to determine if a marked black-and-white police car with uniformed officers was available to be present at the time of the arrest.

The BOPC noted that Detective A and Officer A were not aware of each other's position when they deployed from their vehicle, resulting in Officer A confronting the possibly-armed Subject 2 alone. The BOPC would have preferred that Detective A and Officer A had remained together. Further, the BOPC is concerned that Officers B and C split up when approaching the vehicle. Given that the officers knew that the four subjects were going to be detained and/or arrested, the BOPC would have preferred that Officers B and C had stayed together to confront the individuals.

Detective A and Officer A both noted that they used civilians for concealment as they approached the vehicle. Given that the officers knew they were about to confront suspects in a crime and knew of the possibility of being recognized as officers given their extensive narcotics work in the same area, the BOPC would have preferred that the officers did not use civilians to conceal themselves. In this case, Officer A was in fact recognized by Subject 3. Had Subject 3 been armed and wished to harm Officer A or Detective A, the civilian pedestrians would have been directly in harm's way.

The BOPC noted that Officer A drew his weapon upon seeing Subject 2 climb out of the vehicle with a screwdriver in his hand. Once Officer A determined that Subject 2 refused to comply with commands to stop and put his hands up, Officer A walked towards Subject 2, while continuing to hold Officer A's service pistol. The BOPC noted that this limited Officer A's tactical and use of force options. The BOPC would have preferred that Officer A had alerted the other officers that Subject 2 possessed a screwdriver. The BOPC would have also preferred that Officer A had maintained distance from Subject 2 while continuing to verbalize with Subject 2.

The BOPC further noted that when Subject 2 spun around and swung his right hand toward Officer A, Officer A positioned Officer A's service pistol to the back of Officer A's right thigh. In so doing, Officer A limited Officer A's tactical and use of force options. The BOPC further noted that Officer A's actions increased the likelihood of a negligent discharge and/or of Subject 2 obtaining Officer A's weapon.

The BOPC noted that Officer C encountered two subjects. While one of these individuals complied with Officer C's commands to stop and put his hands up, the other initially put his hands up but then lowered them towards his waistband area and turned away from Officer C. Officer C continued to give commands for this individual to put his hands up to no avail, causing Officer C to believe that he was arming himself. The BOPC would have preferred that Officer C had alerted the other officers regarding Officer C's observation of the individual possibly arming himself.

The BOPC noted that multiple officers simultaneously gave commands to the subjects, which risked causing confusion among the subjects.

Finally, the BOPC noted that the officers should have notified the Los Angeles Unified School District (LAUSD) Police about their planned operation so that the LAUSD Police would have been aware of their activities.

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

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

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officer A drew Officer A's gun believing that Subject 2 had armed himself with a screwdriver. Additionally, the BOPC noted that Officer C drew Officer C's gun when Subject 4 did not comply with commands to put his hands in the air and reached towards his waistband.

The BOPC found Officers A and C's drawing to be in policy.

C. Non-Lethal Use of Force

The BOPC noted that as Officer A approached Subject 2, Subject 2 swung his right hand toward Officer A. Officer A positioned Officer A's gun to the back of Officer A's right thigh, and simultaneously raised Officer A's left arm to block Subject 2's punch. Officer A then hooked Subject 2's right arm with Officer A's left hand and used Subject 2's momentum to spin Subject 2 away from Officer A.

As Subject 2 spun, Officer A grabbed Subject 2's left hand and pinned it behind Subject 2's back. Officer A then pushed Subject 2 forward, pinning Subject 2 against a vehicle. Officer A utilized bodyweight against Subject 2, re-holstered Officer A's gun, and handcuffed Subject 2.

The BOPC determined that Officer A's non-lethal use of force was reasonable to control the subject and effect his arrest.

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

D. Use of Force

The BOPC noted that, following the arrest of Subject 2 by Officer A, Officer A observed a laceration to Subject 2's right eyebrow. When Officer A asked Subject 2 how the injury occurred, Subject 2 advised that Officer A struck him with Officer A's gun. Officer A did not recall striking Subject 2, either intentionally or inadvertently, with his gun. However, Officer A did not rule out the possibility that this may have occurred.

The BOPC determined that, if in fact Officer A did strike Subject 2 in the head with Officer A's service pistol, it was inadvertent.

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