

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

HEAD STRIKE WITH AN IMPACT WEAPON - 077-05

<u>Division</u>	<u>Date</u>	<u>Duty-On(x) Off()</u>	<u>Uniform-Yes(x) No()</u>
77 th Street	08/29/2005		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Officer A	2 years, 3 months
Officer B	2 years, 5 months
Officer C	3 years, 1 month
Officer D	2 years, 8 months

Reason for Police Contact

Officers responded to a radio call of domestic violence and a suspect with a knife. When they arrived at the location, Subject 1 attacked Officer B, resulting in Officer A inadvertently striking Subject 1 in the head with his ASP baton.

<u>Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded (x)</u>	<u>Non-Hit ()</u>
Subject 1: Male, 39 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, 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 August 15, 2006.

Incident Summary

In the early morning hours of August 29, 2005, Subject 1 got up and began assaulting the residents of his own and a neighboring house. Subject 1 assaulted Witness 1 and the elderly gentleman whom Witness 1 cares for, and then ran into the front house and assaulted multiple children and Witness 1's dog. While these assaults were taking

place, Subject 1 was completely naked. In addition, when the residents locked Subject 1 out of the houses, Subject 1 began to break the windows of the houses.

Witness 1 called 911 to request the assistance of the police because her boyfriend (Subject 1) was "going crazy" and he "almost choked" her. A call for service was then broadcast shortly thereafter for any 77th Street Area unit to respond to a domestic violence incident at Witness 1's address. Approximately three minutes after the radio call went out, Witness 1 placed another 911 call to request the assistance of the police because her boyfriend was walking around naked "beating up everybody." Witness 1 indicated that she thought her boyfriend may be under the influence of phencyclidine ("PCP").

Another neighbor also called 911 and reported that someone was fighting and trying to break into the house next door to him. The operator subsequently called the neighbor back to verify that he was reporting the same incident being reported by Witness 1. During this call, it was verified that it was the same incident, and the neighbor indicated that the individual at the house next door had a knife in his hand. This information was subsequently broadcast over the 77th Street Area radio frequency.

Officers A and B responded to the call. The officers advised Communications Division that they were Code 6 at the call location and responded to the gate of the property. Initially, Witness 1 met the officers at the gate, held the gate closed and told the officers she was not going to let them in if they were going to hurt Subject 1. The officers noticed a pit bull dog running loose in the yard and requested that Witness 1 secure the dog. Witness 1 secured the dog behind the front house. In the interim, Witness 2 opened the gate for the officers.

Before entering the yard, Officer A broadcast a request for backup.

The officers entered the yard and began to attempt to locate Subject 1. They initially took cover behind a minivan that was parked in front of the front house. Officer A drew his service pistol. The residents then informed the officers that Subject 1 was going out the back of the house. In an attempt to contain Subject 1, the officers repositioned themselves to the side of the house. The officers observed Subject 1 exit the house and advance toward them. Subject 1 took a fighting stance and cursed as he advanced toward the officers. Subject 1 was clothed in only a pair of shorts and had nothing in his hands. Based on Officer A's observation that Subject 1 was not armed, Officer A holstered his service pistol. Officer B drew a TASER.

The officers ordered Subject 1 to stop and to put his hands up. Subject 1 failed to comply and continued to advance toward Officer B. Officer B advised Subject 1 that if he did not stop, a TASER would be used against him. The officers began to back up while they ordered Subject 1 to stop. Just as Officer B fired a TASER at Subject 1, Officer B tripped over part of a table that was abandoned in the yard. At the same time, Subject 1 approached Officer B, grabbed and "head-butted" Officer B just above the right eyebrow. As Subject 1 grabbed Officer B in a tackling motion, one of the TASER darts penetrated Officer B's left forearm, completing the circuit for the TASER and

resulting in Officer B being shocked by his own TASER. The TASER did not appear to affect Subject 1.

In the interim, Officer A had retrieved Officer A's baton with and extended it to its full length. Initially, Officer A believed a baton strike to the right could not be administered, in fear that it might strike Officer B, who was on Officer A's right side. However, as Subject 1 made contact with Officer B, Officer A delivered a single strike using an overhead striking motion aiming for Subject 1's extended elbow. Officer A struck Subject 1's head with his baton.

After Officer A struck Subject 1, Subject 1 released his grip on Officer B and fled back into the house, where he locked himself in a bedroom where Witness 3 was in bed.

The five-second discharge of the TASER continued after Subject 1 released Officer B, causing Officer B to fall to his knees. Officer A pursued Subject 1 into the house, took a position of cover behind the front door, drew his service pistol and began ordering Subject 1 out of the bedroom. Once the TASER discharge stopped, Officer B moved to the porch of the house. Officer B stayed out on the front porch. From his position on the front porch, Officer B could see Subject 1 through the bedroom window. At this point, Officer B was able to pull the TASER dart out of his arm and reload the TASER.

Officer A instructed the residents to go outside. All but Witnesses 2 and 3 went outside. In fear that Subject 1 might harm Witness 3, Witness 2 kicked the bedroom door, making a hole in it.

Note: Multiple witnesses stated that they observed officer(s) unsuccessfully kick the bedroom door prior to Witness 2 kicking the door.

Subject 1 then struck and shattered the large window in the bedroom. However, security bars prevented Subject 1 from exiting through the window.

Using a flashlight to illuminate the bedroom, Officer A looked through the hole in the bedroom door and could see Subject 1. Officer A continued to order Subject 1 out of the bedroom. Subject 1 then kicked the door from inside the bedroom, enlarging the hole that Witness 2 had created. Subject 1 then crawled out of the bedroom through the hole in the door.

As Officer A was ordering Subject 1 into a prone position, Officers C, D, E and F arrived on the scene. Subject 1 complied with Officer A's commands. Officer A holstered his service pistol, moved up and handcuffed Subject 1.

Due to the nature of the incident, Officer D had retrieved a Beanbag Projectile Shotgun prior to entering the house, and Officer E had retrieved a TASER. Once Subject 1 was in a prone position, Officer D handed his Beanbag Projectile Shotgun to another officer and assisted Officer A with handcuffing Subject 1 by grabbing onto Subject 1's feet to keep Subject 1 from moving around. Officer E provided Officer D with his Hobble Restraint Device (HRD), and Officer D applied the HRD around Subject 1's feet. Officer

C moved up and assisted Officer A by grabbing Subject 1's right arm and applying bodyweight to it to keep Subject 1 from resisting. Officer F moved up and assisted Officer A by applying his bodyweight to Subject 1's upper body.

Once Subject 1 was handcuffed and the HRD was applied, Subject 1 was sat upright on the floor and leaned up against a chair in the living room. Officer A then broadcast that Subject 1 was under control and requested a Rescue Ambulance (RA).

The RA responded and transported Subject 1 to the hospital, where he received treatment for a laceration to the top of his head.

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 A and B's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A's drawing and exhibition of a firearm to be in policy.

C. Non-Lethal Use of Force

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

D. Use of Force

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

Basis for Findings

A. Tactics

The BOPC is satisfied with the officers' initial tactics including deployment of the TASER, not rushing into the situation, requesting backup and waiting for backup to

arrive. However, the BOPC noted that both officers gave verbal commands to Subject 1 and, once Subject 1 attacked the officers, Officer B gave two warnings allowing Subject 1 to approach too close to the officers. This compromised the safety of the officers and hindered Officer B's ability to deploy the TASER. In addition, the BOPC would have preferred that Officer A had considered use of force options other than his baton (such as physical restraint) when Officer B was engaged with Subject 1, because utilization of the baton could have disabled Officer B. The BOPC found Officers A and B's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC determined that Officer A had sufficient information to believe the situation might escalate to the point where deadly force may become necessary on both occasions during the incident in which Officer A drew his service pistol. The BOPC found Officer A's drawing and exhibition of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC determined that Officer C's use of firm grips and bodyweight, and Officer D's use of firm grips and the HRD were reasonable to overcome Subject 1's resistance and effect the arrest of Subject 1. The BOPC found Officers C and D's non-lethal use of force to be in policy.

D. Use of Force

The BOPC determined that Officer A's use of the baton was reasonable to overcome Subject 1's aggressive/combatative resistance. The BOPC also determined that the baton strike to Subject 1's head was inadvertent. The BOPC found Officer A's use of force to be in policy.