

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

**HEAD STRIKE WITH AN IMPACT WEAPON – 104-06**

<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>
Hollenbeck	11/16/2006		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer B	10 years, 11 months

**Reason for Police Contact**

Officers A and B observed Subject 1 standing on a street corner. When they attempted to initiate a consensual encounter, Subject 1 fled and Officer B engaged in a foot pursuit. During a close-quarter struggle, Subject 1 pointed a handgun at Officer B, who used his handgun to strike Subject 1.

<b><u>Subject</u></b>	<b><u>Deceased ()</u></b>	<b><u>Wounded (X)</u></b>	<b><u>Non-Hit ()</u></b>
Subject 1: Male, 18 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 09/11/07.

**Incident Summary**

Officers A and B were patrolling a location known to the officers for gang and narcotics-related activity. The officers were aware that a gang-related homicide involving a handgun had occurred at this location approximately two weeks earlier. The unknown perpetrator and the murder weapon were still outstanding. Officer B had discussed the case with area homicide detectives, who had told him they were interested in any gun-related arrests that might provide a link to the homicide or the homicide suspects.

As Officers A and B drove in their vehicle, they observed a male, Subject 1, standing on the sidewalk. The officers decided to stop and contact Subject 1, with the intention of obtaining any information from him that would assist the area homicide detectives with their investigation. As the officers approached Subject 1, he looked in their direction and began running.

As he ran, Subject 1 made movements toward his waistband that appeared to Officer B to be consistent with someone trying to conceal either a weapon or contraband. Based on the fact they were in the location where the homicide had occurred, Officer B focused on this hand movement.

Officer B exited the vehicle and pursued Subject 1 on foot while Officer A trailed the foot pursuit in the officers' vehicle. Subject 1 then turned into a breezeway located to the rear of a residential apartment building, followed closely by Officer B.

Once he cleared the end of the breezeway, Subject 1 turned left and continued to the corner of an open courtyard where a kayak had been propped up against a cinder block wall that enclosed the courtyard. Subject 1 then attempted to scale the wall by climbing up the kayak. Officer B caught up to Subject 1, jumped up, and, using both arms, grabbed Subject 1 around the waist. Officer B hoped to pin Subject 1's arms and use his body weight to pull Subject 1 off the kayak.

Officer B pulled Subject 1 down from the kayak. Officer B continued to reach around Subject 1 and attempted to secure both of Subject 1's arms/hands; however, Officer B was unable to secure one of Subject 1's arms. Subject 1 then began to turn toward Officer B, at which time Officer B saw a handgun in Subject 1's hand.

When Officer B saw the handgun, he pushed at Subject 1 and simultaneously reached down and drew his own holstered handgun. As Subject 1 continued to turn toward Officer B, Officer B used his unholstered handgun to deliver a downward strike at Subject 1. Officer B intended to incapacitate Subject 1 with this strike and cause him to drop the handgun. Officer B landed the strike with his handgun but was not sure whereabouts on Subject 1's body the strike landed.

The force of the strike, in conjunction with the push from Officer B, caused Subject 1 to stumble forward and fall, and caused Officer B to fall backward. Officer B reached for his radio as he lay on the ground in order to broadcast a "help" call; however, the radio fell from his hand and he was unable to complete this task. Officer B and Subject 1 both started to regain their footing as Officer B began to shout commands at Subject 1 to stop and put his hands up.

Subject 1 then began to crab crawl away from Officer B. As Subject 1 did this, Officer B heard a sound, looked in the direction of the sound and saw a handgun on the ground. Officer B assumed this was the handgun Subject 1 had been holding. Subject 1 then began to run for the breezeway and Officer B, with his unholstered handgun in his hand, followed.

Before reaching the breezeway opening, Subject 1 abruptly stopped. Officer B's momentum carried him into Subject 1 and the resulting collision knocked Officer B off of his feet. This fall caused Officer B's eyeglasses to fall off of his face and Officer B momentarily lost sight of Subject 1. Officer B immediately looked around and saw someone running toward the rear fence. He also heard what he thought were other people running. Officer B knew this to be a gang location and was aware that he had not taken the time to tactically clear the corners of the courtyard for other gang members.

Officer B picked up his glasses, put them back on, and saw a figure wearing a white shirt going over the rear fence. Officer B quickly cleared the courtyard and then ran back to see if he could find his radio. The radio was in the corner of the courtyard where the initial altercation had taken place. Officer B picked up his radio and observed a semiautomatic handgun lying on the ground. Officer B picked up the handgun.

Officer B was exiting the courtyard when he encountered his partner, Officer A, coming in through the breezeway. Officer B told Officer A that he had recovered a handgun and that the suspect had climbed out of the courtyard.

Officer A immediately returned to the police vehicle, which was parked adjacent to the breezeway opening. As Officer A was returning to the police vehicle, he saw Subject 1 running. Officer A entered the police vehicle and began to drive after Subject 1. Meanwhile, Officer B pursued on foot.

Officer B stopped at a street intersection, then broadcast his location and the fact that the officers were in pursuit of a male with a gun. Officer A then lost sight of Subject 1. Both officers then stopped pursuing Subject 1 and directed responding units to establish a perimeter.

Officer A noticed that Subject 1's pistol had the hammer in the "cocked" position. Officer A took the pistol from Officer B and emptied the ammunition from the weapon by chambering and ejecting the rounds it contained.

Sergeant A heard Officer B's radio broadcast and proceeded to the scene. In the sergeant's initial conversation with Officer B, Officer B indicated that he was uncertain as to where the strike with his handgun had landed on Subject 1's body.

A search of the area was initiated, and an individual suspected of being Subject 1 was detained. Sergeant A allowed Officers A and B to drive together to a nearby location in an attempt to identify whether the detained person was in fact Subject 1. The officers determined that the detained person was not Subject 1, and the search continued.

Sergeant A subsequently allowed Officer A to participate in the search for Subject 1 while it still remained unclear if the incident was to be handled as a categorical use of

force (CUOF) incident. Some time after it was determined that the incident was going to be investigated as a CUOF, Officer A was separated and monitored.

Subject 1 was not located during the search. However, he was taken into custody at a later date.

### **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 and B's tactics to warrant administrative disapproval.

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

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

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

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

#### **D. Lethal Use of Force**

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

#### **E. Additional**

The BOPC found Sergeant A's actions regarding management and supervision of the categorical use of force incident to warrant divisional training.

### **Basis for Findings**

#### **A. Tactics**

The BOPC noted that Officers A and B observed Subject 1 and intended to speak with him to gather information related to a prior homicide. As the officers approached, Subject 1 became aware of their presence and ran while holding his waistband, as if

supporting a weapon. At this point, Officers A and B believed Subject 1 was likely armed.

The BOPC noted that Officer B's decision to pursue Subject 1, whom he believed to be armed, without first advising CD of his location or broadcasting the foot pursuit, was inconsistent with the tactical standards established by Department training. There were no notifications made to CD until after the use of force incident had occurred and Subject 1 had escaped. It is vitally important for officers to advise CD of their location and activities to ensure timely response of additional resources. A more effective use of available resources could have proven beneficial in the apprehension of Subject 1. Additionally, it would have been safer and more effective for the officers to pursue Subject 1 for the purpose of monitoring his progress while requesting additional resources to establish a perimeter for containment.

The BOPC also noted that Officer A remained inside of the police vehicle and did not accompany Officer B in the foot pursuit. This course of action was inconsistent with the tactical standards established by Department training and resulted in Officer B becoming involved in a potentially deadly physical altercation without the assistance of his partner. The amount of time that elapsed while Officer B was engaged in the altercation was substantial and indicative of a significant separation between Officers A and B.

Officer B stated that he and Officer A previously discussed foot pursuit tactics. He reported that he and his partner had determined that in the event a foot pursuit, both officers would exit the vehicle and remain together. The BOPC noted that the officers did not adhere to their previously discussed tactical plans. Their actions were in direct conflict with their tactical discussion and compromised their safety.

Officer B broadcast that he was in foot pursuit of a man with a gun after Subject 1 had already fled from the officers. Due to the severity of the prior altercation, a request for help or assistance may have been more appropriate. This would have expedited the response of the necessary personnel to effectively establish containment and maximize the likelihood of apprehending Subject 1.

Using a firearm as an impact weapon may render the weapon inoperable or cause a negligent discharge. Using a firearm as an impact weapon to strike a person in the head is deadly force and should be the last resort. The BOPC noted that in this specific incident, Officer B's use of his firearm as an impact device was a last resort.

Officer A noticed that Subject 1's pistol had the hammer cocked as Officer B held it in his hand. Officer A assumed control of Subject 1's pistol and rendered it safe. The manner in which Officer A did this could have caused an accidental/negligent discharge. It would have been preferable for Officer A to have carefully secured the weapon in the trunk of the police vehicle without cycling rounds through it, then ensuring that the appropriate notifications were made to address the safe handling of the firearm. Additionally, the excessive handling of the firearm potentially removed or contaminated

physical evidence that could be have used in the identification and prosecution of Subject 1.

Finally, the BOPC noted that Officer B did not have a baton on his person when he exited the police vehicle.

The BOPC found Officers A and B's tactics to warrant administrative disapproval.

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

The BOPC noted that Subject 1 turned toward Officer B while holding a firearm. Officer B believed that the incident had escalated to the point where deadly force may become necessary and drew his service pistol.

The BOPC determined that Officer B had sufficient information to believe that the situation had escalated to the point where deadly force may become necessary.

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

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

The BOPC noted that Subject 1 attempted to escape by scaling the courtyard wall. Officer B grabbed Subject 1 with both hands and pulled him to the ground. Subject 1 then turned toward Officer B and produced a handgun, which subsequently resulted in lethal force being utilized.

Subject 1 broke free and ran back toward the entrance of the courtyard. Officer B again attempted to grab him, resulting in Officer B pushing Subject 1 on the middle of his back.

The BOPC determined that Officer B's non-lethal use of force was reasonable to overcome Subject 1's aggressive and combative conduct.

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

### **D. Lethal Use of Force**

The BOPC noted that Subject 1 turned toward Officer B while holding a handgun. Officer B feared he was about to be shot. Officer B believed that Subject 1 had to be stopped immediately and struck him one time on the head with his service pistol.

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

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

## **E. Additional**

The BOPC noted that Sergeant A responded in an appropriate and timely manner to this incident; however, it appeared that she did not initially recognize this incident as a CUOF incident. Officer B advised Sergeant A that he may have struck Subject 1 on his head with his service pistol, but he was unsure. Sergeant A observed blood on Officer B's service pistol and ordered him to not handle his weapon or attempt to wipe off the blood. Sergeant A should have ensured that the appropriate notifications were made with all available information provided to ensure a timely and thorough investigation.

Sergeant A allowed the involved officers to drive together to a nearby location in an attempt to identify whether a detained suspect was Subject 1. Sergeant A also allowed Officer A to participate as a K-9 search team member while it still remained unclear if the incident was to be handled as a CUOF incident. Some time after it was known that the incident was going to be investigated as a CUOF, Officer A was separated and properly monitored. Sergeant A did not replace Officer A as a member of the search team with an uninvolved officer upon discovering this fact. It would have been preferable to have replaced Officer A on the K-9 search team with an uninvolved officer to ensure the continuity of his separation and monitoring.

The BOPC found Sergeant A's actions regarding the management and supervision of a CUOF incident to warrant divisional training.