

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

**CAROTID RESTRAINT CONTROL HOLD – 106-06**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off()</b>	<b>Uniform-Yes(X) No()</b>
Harbor	11/21/2006		

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

**Reason for Police Contact**

While investigating a radio call of a prowler, Sergeant A and Officers A and B received a tip that Subject 1 was attempting to burglarize cars. Subject 1 refused to comply with the officers' orders, attempted to flee, and resisted arrest. Officer B used a Carotid Restraint Control Hold while attempting to apprehend Subject 1.

<b>Subject</b>	<b>Deceased ()</b>	<b>Wounded ()</b>	<b>Non-Hit ()</b>
Subject 1: Male, 24 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 10/23/07.

**Incident Summary**

Sergeant A and Officers A and B responded to a radio call involving a prowler suspect. Sergeant A arrived to the location first, spoke with the person who had reported the incident, obtained a description of the suspect, and advised Communications Division (CD).

Unable to locate the suspect, Sergeant A and Officers A and B cited a vehicle for blocking an alleyway and then left the broadcast location. When Sergeant A exited the alleyway, Witness 1 flagged him down and advised him of an individual attempting to break into vehicles. Sergeant A observed Subject 1 walking along the side of the street.

Sergeant A illuminated Subject 1 with the spotlight of his police car while Subject 1 walked up a stairwell. Sergeant A observed a shiny object in Subject 1's hand. Sergeant A then advised CD of the subject and requested that Officers A and B return to his location.

While seated in his patrol car, Sergeant A asked Subject 1 if he lived at the residence. Subject 1 did not immediately answer and walked up the stairway to the residence. When Sergeant A again asked Subject 1 if he lived there, Subject 1 turned away from Sergeant A, read the numbers on the walls of the residence, and replied that he lived there with his mother.

Once Subject 1 reached the top of the stairway, Sergeant A exited his police car and spoke with Subject 1. As he did so, Officers A and B arrived at scene, advised CD of their status and location, and illuminated Subject 1 with the spotlight of their police car. Realizing that Officers A and B were at scene, Sergeant A drew his service weapon and walked up the stairway while Officer A ordered Subject 1 to show his hands.

Having observed Subject 1 reach into his pockets several times and having lost sight of Subject 1's hands, Officer A drew her service weapon while Officer B ordered Subject 1 to come down from the stairway. Officer B drew his service weapon and walked up the stairway.

Once Sergeant A and Officer B reached the top of the stairway, Officer A re-holstered and walked up the stairway while advising CD that an additional unit was required. Subject 1 attempted to open the gate of a chain-link fence leading to the rear of the residence, but was unable to do so.

Subject 1 turned and faced Sergeant A and Officer B. Sergeant A and Officer B noted that Subject 1 was unarmed and holstered their service weapons while ordering that Subject 1 place his hands on top of his head. Subject 1 did not comply with their commands and took off his jacket, as if preparing to fight with the officers.

Sergeant A and Officer B grabbed Subject 1's arms. Officer A reached the top of the stairs and assisted Sergeant A and Officer B. Subject 1 appeared to the officers to be under the influence of a stimulant. Sergeant A placed one handcuff on Subject 1's wrist, but Subject 1 resisted the officers' attempt to place him into custody, lunging toward a chain-link fence.

Sergeant A pushed Subject 1 once on his torso to gain space, causing Subject 1 and the officers to fall to the ground. Officer A placed bodyweight onto Subject 1's back, punched him once in the mid-torso area, and broadcast that an officer needed help.

As the struggle continued, Subject 1 grabbed Officer B's holstered service pistol. Officer B placed his hands on top of Subject 1's hand to prevent him from removing his service pistol from his holster and informed Officer B and Sergeant A that Subject 1 had his gun. Officer A grabbed Subject 1's hand and removed it from Officer B's service

pistol, enabling Officer B to free his hand and apply a Carotid Restraint Control Hold (CRCH) to Subject 1's neck.

Officer B applied the CRCH for approximately two seconds and noted that Subject 1 stopped resisting. However, once Officer B released the hold, Subject 1 continued to resist, prompting Sergeant A to direct Officer B to use his Oleoresin Capsicum (OC) spray.

Officer A, who was positioned behind Subject 1, shielded her head behind Subject 1's back in an attempt to protect herself from the OC spray. Officer B, who was on his back, utilized a front kick to push Subject 1 away, retrieved his OC spray from his utility belt, and sprayed two bursts of OC at Subject 1's eyes. Officer A's vision was blurred due to exposure to the OC spray.

When Subject 1 stood up and continued to resist, Officer B grabbed Subject 1 around the knees in a bear hug, pulled him to the ground, straddled Subject 1's back, and unsuccessfully attempted to apply a control technique.

As this was occurring, several Los Angeles Port Police officers arrived at scene in response to the help call that had been broadcast by Officer A. When Port Police Sergeant A arrived at scene and observed the officers struggling with Subject 1, he assisted the officers by placing his knees onto Subject 1's back and thigh, and used his bodyweight to hold him down.

Sergeant B arrived at scene and observed Subject 1 resisting the officers' attempt to place him into custody. Sergeants A and B placed Subject 1's hand behind his back and handcuffed him while Sergeant A requested a Hobble Restraint Device (HRD).

Officer A and Sergeant B secured two HRDs around Subject 1's ankles and directed the officers to place Subject 1 in a seated position. Subject 1 was then escorted to the stairway where Officers A and C removed the HRDs to enable Subject 1 to safely walk down the stairs. Officers B and C then escorted Subject 1 down the stairway to an awaiting police car while Subject 1 yelled profanities at them. When the officers attempted to place Subject 1 inside of the police car, Subject 1 resisted.

Sergeant C directed Officers B and C to take Subject 1 to the ground to apply a HRD. Officers B and C used a "team takedown" technique to force Subject 1 to the ground, enabling Officer D to apply a HRD. Subject 1 was then placed in a seated position in the back seat of the police car without further incident.

Due to Officer A's exposure to OC, a Rescue Ambulance (RA) was requested. Upon arrival, paramedics treated Officer A for eye irritation due to OC spray to the face, high blood pressure, and an elevated heart rate. Officer A was transported by RA to a hospital for further medical treatment. A RA also transported Subject 1 to the hospital for treatment of injuries he might have sustained in the course of the altercation. Upon examination at the hospital, Subject 1 was found not to have sustained any significant injury.

## **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 and Officers A and B's tactics to warrant divisional training.

The BOPC found Sergeants B and C and Officer C's tactics to be appropriate.

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

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

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

The BOPC found Sergeants A, B and C and Officers A, B, and C's use of non-lethal force to be in policy.

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

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

## **Basis for Findings**

### **A. Tactics**

The BOPC noted that Sergeant A obtained a description of a suspect from the person reporting but may not have immediately communicated this information to Officers A and B. Sergeant A continued to look in the area for the suspect and then located Subject 1. Sergeant A requested that Officers A and B return to his location to assist with detaining Subject 1.

Sergeant A confronted Subject 1 prior to the arrival of the officers. The BOPC noted that it would have been tactically safer for Sergeant A to wait for the officers to arrive before confronting Subject 1, especially given that he had observed a shiny object in

one of Subject 1's hands. It may have also been tactically safer for Sergeant A to have requested backup at this time.

Upon observing Subject 1's uncooperative demeanor and response to his orders, the BOPC noted that it would have been tactically safer for Sergeant A to request less-lethal force options, including the Beanbag Projectile Shotgun and TASER. Sergeant A would have benefited by requesting a backup at this time as well.

Subject 1 did not comply with repeated orders to place his hands up and submit to detention. At one point, Sergeant A and Officers A and B had their service pistols drawn due to Subject 1's actions and the possible threat posed. The establishment of contact and cover responsibilities was not communicated nor adhered to at this time. The BOPC determined it would have been tactically safer had these roles been communicated and assumed to prevent confusion and allow effective handling of the incident at this stage of development.

Subject 1 removed his jacket, dropped it to the ground and raised his arms in a fighting stance. The deployment of OC should have been considered at this time, prior to the officers grabbing Subject 1.

The BOPC noted that Officer B's decision to utilize the CRCH was appropriate; however, it should have been applied for a longer length of time to ensure that Subject 1 was no longer a physical threat.

The BOPC noted that OC was deployed in a manner that is inconsistent with Department training. Officer B sprayed two bursts of OC at Subject 1's eyes from a distance of approximately one foot. Department training provides that the "effective range of [OC] canisters is 3-12 feet. At less than three feet, the OC may not become fully activated, decreasing its effectiveness. Also, at close range, there may be a chance of eye injury." Moreover, using OC spray from a distance could possibly have avoided or lessened the physical altercation that ultimately occurred.

Finally, the BOPC noted that Subject 1 may not have been properly searched prior to him being placed inside of the police vehicle. Officers should conduct at least a cursory search for weapons and contraband in such circumstances.

The BOPC determined that Sergeant A and Officers A and B would benefit from further tactical training.

The BOPC found Sergeant A and Officers A and B's tactics to warrant divisional training.

The BOPC found Sergeants B and C and Officer C's tactics to be appropriate.

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

Sergeant A observed Subject 1's non-compliant demeanor and observed that he was wearing a bulky jacket that could effectively conceal a weapon. Subject 1 was also holding a shiny object in his hand and repeatedly failed to comply with orders to place his hands up. Sergeant A believed the situation might escalate to the point where deadly force may become necessary and drew his service pistol.

Officer B followed Sergeant A up the stairway, believing Subject 1 may be an armed felony suspect. Officer A believed Subject 1 was armed because he continued to place his hands into the pockets of his jacket after repeated unsuccessful orders for him to place them in the air. Officers A and B believed the situation might escalate to the point where deadly force may become necessary and drew their service pistols.

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

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

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

The BOPC noted that Subject 1 climbed the stairs and attempted to open a locked chain-link gate. Subject 1 was unable to open the gate. He turned, removed his jacket, and assumed a fighting stance. Repeated orders by Sergeant A and Officer B to gain Subject 1's compliance were unsuccessful.

Sergeant A and Officer B grabbed Subject 1's arms. Sergeant A was able to place one handcuff on Subject 1's wrist. Subject 1 began to violently resist and pushed Sergeant A. Sergeant A pushed Subject 1 one time on his torso to gain space.

Officer A joined and assisted with detaining Subject 1 by placing her bodyweight upon his back while on the ground. When Subject 1 attempted to break free and stand, Officer A punched him one time in the mid-torso area.

Subject 1 grabbed Officer B's holstered service pistol. Officer B placed his hand on top of Subject 1's hand to prevent him from removing his service pistol. Officer A grabbed Subject 1's hand and removed it from Officer B's service pistol. Officers A and B and Sergeant A continued to struggle with Subject 1 as he resisted their efforts to detain him.

Sergeant A directed Officer B to deploy OC. Officer B deployed two separate bursts at Subject 1's face, having little effect on him.

Subject 1 was able to stand. Officer B grabbed him around both legs, pulled him to the ground and unsuccessfully attempted a control technique.

Los Angeles Port Police officers arrived, along with Sergeant B, and joined in the effort to detain Subject 1. Sergeant B grabbed Subject 1's arm and placed it behind his back. Sergeant A directed that a HRD be applied to Subject 1's legs. After the HRD application, Sergeant B directed that Subject 1 be immediately placed in an upright seated position.

Subject 1 agreed to walk down the stairs with Officers B and C to an awaiting police vehicle and both HRDs were removed to facilitate the safe navigation of the stairway. Subject 1 continued to be verbally and physically abusive toward the officers, swinging his head at and attempting to spit on Officer C.

Once they approached the police vehicle, Subject again began to physically resist. Sergeant C directed Officers B and C to conduct a team takedown on Subject 1 and to re-apply the HRD to his legs. Once the officers accomplished this, Subject 1 was seated in the police vehicle without further incident.

The BOPC determined that Sergeants A, B and C, and Officers A, B, and C reasonably believed that Subject 1 presented an immediate threat of bodily harm as he struggled with the officers.

The BOPC found Sergeants A, B and C and Officers A, B, and C's use of non-lethal force to be in policy.

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

The BOPC noted that Subject 1 grabbed Officer B's service pistol during the struggle to detain him. Fearing that Subject 1 was about to remove the service pistol from its holster and fire it at the officers, Officer B utilized a CRCH upon Subject 1 for approximately two seconds to stop his actions. Once Officer B determined that Subject 1 was no longer resisting, he released the CRCH. Subject 1 was not rendered unconscious from the application of the CRCH.

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.