

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

LAW ENFORCEMENT RELATED INJURY – 073-07

| <u>Division</u> | <u>Date</u> | <u>Duty-On (X) Off()</u> | <u>Uniform-Yes(X) No(X)</u> |
|------------------------|--------------------|---------------------------------|------------------------------------|
| Van Nuys | 07/13/2007 | | |

| <u>Officer(s) Involved in Use of Force</u> | <u>Length of Service</u> |
|---|---------------------------------|
| Officer A | 12 years, 2 months |
| Officer B | 3 years, 11 months |
| Officer G | 6 years, 5 months |
| Officer H | 7 years, 3 months |

Reason for Police Contact

Subject 1 ran as officers prepared to arrest him. Subject 1 attempted to scale a fence but was caught by officers and pulled down. In Subject 1's fall to the ground, he was injured and subsequently admitted to the hospital.

| <u>Subject</u> | <u>Deceased ()</u> | <u>Wounded (X)</u> | <u>Non-Hit ()</u> |
|----------------------------|---------------------------|---------------------------|--------------------------|
| Subject 1: Male, 30 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.

The following incident was adjudicated by the BOPC on 06/24/08.

Incident Summary

An outside agency Task Force met with Detective A and requested assistance with an operation. The Task Force was to provide surveillance on a vehicle while the Los Angeles Police Department (LAPD) provided officers for arrest teams. Six uniformed officers were assigned to the operation. The officer teams were Officers A and B, Officers C and D and Officers E and F. Additionally, Detective A assigned two plainclothes officers, Officers G and H, to assist the arrest teams.

An operational briefing took place that was attended by the Task Force members and the LAPD officers. During the briefing, Subject 1's name, physical description, background and vehicle description were disclosed. The Task Force was provided LAPD radios for communication purposes.

Later, a second on scene briefing took place that included review of the operational plan, viewing photographs, assignment of duties and the responsibilities of the arrest teams. The officers familiarized themselves with the driveways, exits, escape routes and how to cover Subject 1 if he ran. At the conclusion of the briefing, the six uniformed officers moved to a parking lot approximately one-quarter mile from the vehicle and remained out of sight. Officers H and G had the responsibility of watching for Subject 1's vehicle and notifying the Task Force of its arrival. Once notified, the Task Force would take over broadcasting Subject 1's actions.

Subject 1's vehicle arrived at the location of the vehicle occupied by a driver and Subjects 1, 2 and 3. The Task Force watched as the three subjects broke into the vehicle and removed property. The Task Force then made a request for the LAPD officers to move into the area and take the subjects into custody.

All three marked police vehicles approached from the same direction, following one another with their headlights on but no overhead lights or sirens. The Task Force broadcast that Subjects 2 and 3 were running one direction while Subject 1 had run the opposite direction. Subjects 2 and 3 were taken into custody without incident by the first two responding units.

Meanwhile, Officers A and B were in the trailing marked police vehicle. They heard the broadcast of Subject 1 running and then saw Subject 1 run past their vehicle. The officers made a U-turn and gave chase. The officers yelled at Subject 1 to stop, but he failed to comply. Meanwhile, Officers G and H had trailed the Officers A and B into the area. Upon hearing that one subject was running, Officer G, the driver, made a U-turn and could see Subject 1. Meanwhile, Detective A moved in that direction to assist the other units.

Subject 1 ran between buildings and out of sight. Officers A and B drove their vehicle to an area they believed to be Subject 1's only avenue of escape, but Subject 1 was not in view. Using vehicle spotlights, the officers then located Subject 1 hiding under a trailer. Upon seeing the spotlights, Subject 1 climbed out from beneath the trailer and started running again. Meanwhile, after looking for Subject 1 for a few moments to no avail, Officers G and H returned to the location where they had last seen him. They both exited their vehicle and started to search on foot. Officer G drew his service pistol.

Officers A and B broadcast that the suspect was hiding under a trailer. Officers G and H moved around the corner of a building and could see Officers A and B's vehicle with its spotlights on a trailer. Subject 1 was running away from the officers. When Officer G saw Subject 1 running, he holstered his weapon. Officers G and H began chasing

Subject 1 and gave verbal commands for him to stop. Meanwhile, Officers A and B observed Officers G and H chasing Subject 1 on foot and gave chase in their vehicle, trailing behind the foot pursuit.

Subject 1 ran across a street, into a driveway and climbed onto a chain link fence. As the officers approached, Subject 1 had both hands on the top of the fence. Officer H gave verbal commands for Subject 1 to get off the fence. Officers G and H both observed Subject 1 take his right hand off the fence and reach for his waistband.

Officer H reached the right side of Subject 1 and grabbed his clothing as Officer G grabbed Subject 1's left side. Meanwhile, Officers A and B arrived and stopped their vehicle a few feet from Subject 1's location.

Officer B was able to exit his vehicle and reach Subject 1 while he was still on the fence. Officer B grabbed one of Subject 1's legs. Together, the three officers pulled Subject 1 off the fence. Subject 1 came off the fence, falling face first onto the pavement. Officer A observed the right side of Subject 1's face hit the pavement.

After the fall, Subject 1 tried to get to his feet. Officer A gave him commands to stay down. Subject 1 was rising up, throwing his elbows backwards, and violently trying to hit the officers. The officers used body weight, hand strikes and knee strikes to attempt to gain control of Subject 1 and to handcuff him. Officer G delivered four or five punches with a closed fist to Subject 1's ribcage. Officer H delivered one punch with a closed fist to Subject 1's upper left shoulder blade. Officer A delivered one palm strike to Subject 1's shoulder and one or two palm strikes to his ribcage. Officer B delivered at least two palm strikes to Subject 1's neck and at least two knee strikes to his shoulder and top of his arm.

Note: Officer B's palm strikes were all aimed at Subject 1's shoulder, and the strikes to the neck were inadvertent.

Officer B handcuffed Subject 1 with the help of the other officers. He then searched Subject 1 and removed a folding knife from his front left cargo pocket.

Meanwhile, Detective A observed Officers G and H in foot pursuit and drove to their location. At the time he arrived, Subject 1 was being handcuffed. Detective A did not get out of his vehicle. He continued past the officers to see if other suspects were running. When he returned, Subject 1 was handcuffed and in an upright seated position. Detective A did not get out of his vehicle. He drove on to the location of the vehicle to check on the other officers.

Detective A then returned to Subject 1's location and observed that Subject 1 was bleeding from his mouth. Detective A inquired if Subject 1 would require a rescue ambulance (RA), but was told by Officer B that it would not be necessary. Detective A then left to check on the other subjects. In the meantime, Subject 1 complained of pain

to his face, shoulder and one of his legs. In response to Subject 1's complaints, Officer B requested an RA.

Subject 1 was transported to a hospital. Detective A responded to the hospital to conduct a follow-up investigation and was informed by a doctor that Subject 1 could have a fracture below his eye on his cheekbone. Subject 1 was subsequently admitted to the hospital for treatment of the injuries he sustained during this incident.

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 Officers A, B, G and H's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

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

C. Non-lethal Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that upon receiving the request for assistance, Detective A made the appropriate notifications to the Commanding Officer.

A tactical plan was developed that included a briefing where uniformed and plainclothes personnel were introduced, possible subjects were identified and assigned duties were specified to ensure that various agencies did not intermingle in the tactical portion of this operation. The officers also practiced scenarios of the take down and familiarized themselves with the exits and entrances to the location. In addition, Task Force

personnel were given an LAPD radio to facilitate communication from their observation post. Although Detective A had attempted to obtain a tactical frequency for the operation, none were available. A simplex channel was used as the communications frequency during this operation. In the future, the BOPC recommended that the Incident Commander contact the Commanding Officer, Communications Division, to ensure a tactical frequency is available for any multi-agency operation.

As the incident unfolded, the three subjects were observed forcing entry into the vehicle. Task Force personnel broadcast the subjects' activities and their descriptions on the LAPD radio. As the subjects began to remove property from the bait vehicle, the direction was given for the LAPD units to take the subjects into custody. The LAPD units moved in and took two of the subjects into custody without incident. Subject 1 did not comply with the officers' commands and ran from the location of the vehicle. The personnel at the observation post broadcast Subject 1's direction of travel.

Officers A and B observed Subject 1 run past the driver's side of their police vehicle. Officer A conducted a U-turn and pursued Subject 1. Officer B yelled commands from the police vehicle for him to stop. Officer B broadcast Subject 1's direction of travel, but did not attempt to set up a perimeter or broadcast on base frequency because he believed there were sufficient officers throughout the area. It would have been tactically prudent for the officers to broadcast on base frequency that they were in pursuit and had requested the response of additional resources including an Air Unit. These additional resources would have helped facilitate a safe and successful apprehension. The BOPC also noted that the operation plan should have included notification to Air Support Division.

Meanwhile, plainclothes Officers G and H heard the broadcast and drove their vehicle to the area of the foot pursuit. Officers G and H parked and exited their vehicle and began walking to search for the outstanding subject. As Officers G and H searched for the subject, Detective A tactically broadcast to Officers A and B that there were two plainclothes officers coming toward them. The investigation revealed that Officers G and H were not wearing their Department raid jackets during this pre-planned incident. This would have readily identified the plainclothes officers to both the subjects and officers during this operation.

The BOPC determined that Detective A along with Officers A, B, G and H would benefit from additional training regarding tactics.

The BOPC found Detective A and Officers A, B, G and H's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officer G drew his service pistol while searching for a felony subject who was attempting to evade the police. Once Officer G observed Subject 1 running away, the threat of an attack diminished and Officer G

holstered his service pistol. The BOPC determined that Officer G had sufficient information to reasonably believe that the incident may escalate to the point where deadly force may become necessary.

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

C. Non-lethal Use of Force

The BOPC noted that, as Officers G and H pursued Subject 1 on foot, Offices A and B followed in their police vehicle. Subject 1 jumped onto a fence. Subject 1 grabbed hold of the top portion of the fence with his hands and planted his foot in the middle of the fence and attempted to climb over the fence. Officer H repeatedly directed Subject 1 to stop and get off the fence. Officers G and H observed Subject 1 let go of the top of the fence with his right hand and reach for his waistband area. Fearing that Subject 1 was attempting to arm himself, and lacking any available cover as there was no place to tactically redeploy in the open parking lot area and no time to draw their weapons, Officers G and H grabbed onto Subject 1's lower body.

Simultaneously, Officer A parked the police vehicle as Officer B exited and grabbed Subject 1's legs. Officers B, G and H pulled Subject 1 down from the fence. Subject 1 landed face first on the pavement. Officers B, G and H immediately used their bodyweight in an attempt to restrict Subject 1's movements so they could take him into custody. However, their bodyweight was ineffective as Subject 1 began rising up on his hands and knees, attempting to get back onto his feet. Subject 1 continued his aggressive actions by attempting to strike Officer H with his elbows. Officer H punched Subject 1 one time with his right hand on Subject 1's upper left shoulder blade area in an attempt to take control of Subject 1's left arm that was underneath his chest.

Officer G delivered punches with his right hand to Subject 1's right ribcage area that appeared to have little effect. Officer G attempted to maintain control of Subject 1's feet so that Subject 1 would not be able to stand up again. Officer B utilized two palm strikes with his right hand targeting the top of Subject 1's shoulder area in an attempt to get Subject 1's right arm behind his back and away from his waistband. The palm strikes had only a momentary effect. Officer B utilized his right knee to strike Subject 1's right shoulder twice in a continued attempt to control Subject 1's right arm. As Subject 1 continued to violently throw elbows and punches at the officers, Officer A utilized a palm strike to Subject 1's right shoulder area to prevent Subject 1 from striking him. Officer A attempted to grab Subject 1's right arm, but was unsuccessful. Officer A delivered two punches to the right side of Subject 1's rib cage area allowing Officer B to grab Subject 1's right forearm and wrist area and bring it behind his back. Once the right arm was controlled, Officer H was able to move Subject 1's left hand behind his back enabling Officer B to handcuff Subject 1. The BOPC determined that the officers' non-lethal use of force was reasonable to overcome the subject's combative actions and arrest him.

The BOPC found Officers A, B, G and H's non-lethal use of force in policy.