

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

**LAW ENFORCEMENT RELATED INJURY – 039-08**

| <b>Division</b> | <b>Date</b> | <b>Time</b> | <b>Duty-On (X) Off()</b> | <b>Uniform- Yes(X) No()</b> |
|-----------------|-------------|-------------|--------------------------|-----------------------------|
| Northeast       | 04/19/2008  |             |                          |                             |

| <b>Officer(s) Involved in Use of Force</b> | <b>Length of Service</b> |
|--|--------------------------|
| Sergeant A                                 | 28 years, 1 month        |

**Reason for Police Contact**

Communication Division (CD) broadcast a call for service regarding four subjects on the roof of a local market. Officers responded to the call accordingly.

| <b>Subject</b>            | <b>Deceased ()</b> | <b>Wounded (X)</b> | <b>Non-Hit ()</b> |
|---------------------------|--------------------|--------------------|-------------------|
| Subject 1, Male, 14 years |                    |                    |                   |

**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 BOPC 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. Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on 03/10/09.

**Incident Summary**

Communications Division (CD) broadcast a call of four burglary subjects on the roof of a market. Sergeant A and Officers A, B, C and D acknowledged the call and responded.

Sergeant A was the first unit to arrive on scene and broadcast his arrival. Sergeant A deployed to the rear parking lot of the market and parked on the driveway. Sergeant A exited his vehicle and began a perimeter foot search of the building. He did not find evidence of a burglary.

Officers C and D arrived on scene and broadcast their location. Officer C then broadcast a request for an air unit and both officers exited their vehicle to check the market for evidence of burglary.

At the same time, Officers A and B arrived on scene, deployed to the opposite end of the market and broadcast their location. Officers A and B maintained a perimeter on the market from their position.

While waiting for the arrival of the air unit, Officers C and D heard CD broadcast a priority call. The officers requested permission from Sergeant A to respond to the call, which he granted. Officers C and D left the scene.

Once the air unit arrived and illuminated the market's rooftop, Officer E observed four subjects crouched and hiding on the roof of the market. Following the air unit broadcasting its observation, Sergeant A broadcast a request for two additional units.

Officers F, G, H and I responded to the market. The air unit directed the four arriving officers to Sergeant A's location.

Officer E used the air unit's public address (PA) system to direct the subjects to the edge of the roof where the responding officers could monitor their descent to the ground. Initially, all four subjects complied. As the subjects started to climb down from the roof, one of them, later identified as Subject 1, left the group and walked toward the center of the roof and out of the officers' view.

Sergeant A deployed from his police vehicle into the parking lot where he directed the first three subjects to a steel pipe that they used to descend to a garage rooftop. They climbed down from the garage roof onto a trash bin, then onto a tabletop and then to the ground.

The subjects, one at a time, made their way from the roof to the parking lot where arrest teams stood by. Each of the three subjects were taken into custody and handcuffed without incident. Officers F, H and I each took custody of one subject and walked them out of the parking lot.

Sergeant A and Officer G, the only officers left in the parking lot, comprised the final arrest team and prepared to take Subject 1 into custody. Subject 1, instead of promptly complying with orders to climb down, returned to the edge of the roof where he sat, looked down at the officers and laughed. Subject 1 eventually made his way to the steel pipe and followed the same path down as the other subjects.

Sergeant A, while holding his Department-issued flashlight in his left hand, illuminated the path of Subject 1's descent. Once Subject 1 had descended to the table, he turned and faced the officers before jumping to the ground. As Subject 1 landed on the ground, Sergeant A used his right hand to apply a firm grip to Subject 1's left arm above the elbow. Subject 1 responded by quickly turning, pulling his elbow away from

Sergeant A and stating, "Don't touch me." Subject 1 spun in a counterclockwise direction and ducked his head as Sergeant A grabbed for Subject 1's right shoulder. Sergeant A was able to regain control of Subject 1 and turned him so that he was facing a wall. Officer G then handcuffed Subject 1 without further incident.

After Subject 1 was handcuffed, Sergeant A observed a small abrasion/laceration over Subject 1's right eyebrow.

**Note:** As recalled by Sergeant A, he had his flashlight in his left hand as he grabbed for Subject 1's right shoulder. Sergeant A did not feel his flashlight contact Subject 1 and did not intend to strike Subject 1 with his flashlight. Sergeant A reported in his Public Safety Statement, "I really don't know how this happened, but obviously I think I -- I accidentally hit him, you know, when I went to grab him..."

Officer G said that as Subject 1 prepared to jump off of the table to the ground, Subject 1 did not have visible injuries on his face. Once on the ground, Sergeant A took hold of one of Subject 1's arms. Subject 1 responded with an aggressive turn toward Sergeant A. Officer G then observed Sergeant A raise his left arm.

Officer G first observed an injury to Subject 1 after he was handcuffed but did not observe what had caused Subject 1's injury. At the time Subject 1 descended from the roof, Officer G did not notice anything in Sergeant A's hands, nor does he recall if Sergeant A had his flashlight in his hand at the time he grabbed for Subject 1.

Sergeant A broadcast a request for an additional sergeant, Sergeant B, to respond to his location. Sergeant B arrived on scene and initiated a Categorical Use of Force Investigation. In an effort to search for evidence, Sergeant B requested that the Los Angeles Fire Department (LAFD) respond and provide ladders to access the roof of the market.

Shortly thereafter, Sergeant B requested that a rescue ambulance (RA) respond to the scene to provide medical treatment for Subject 1. Subject 1 was subsequently transported to a local hospital, where he was treated and released.

### **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 made the following findings, by a vote of 4 to 1.

#### **A. Tactics**

The BOPC found Sergeant A's and Officer G's tactics to warrant a tactical debrief.

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

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

#### **C. Lethal Use of force**

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

### **Basis for Findings**

#### **A. Tactics**

In adjudicating this incident, the BOPC considered that:

1. Sergeant A, working independently in his own vehicle, conducted a perimeter search of the location by himself.

Rather than searching the location for the suspects upon arrival, it would have been prudent for Sergeant A to await the arrival of additional units and then coordinate the search of the location.

2. Sergeant A redeployed to the middle of the parking lot to communicate with the subjects who were on the roof. Sergeant A noted that there was not any cover or concealment within the parking lot when he left his position.

The presence of a helicopter over any incident can create a considerable amount of noise. It would have been prudent for Sergeant A to maintain his position behind cover and have Officer E issue commands to the subjects over the air unit's PA system or requested that the air unit move to a higher altitude so that the subjects could hear Sergeant A more effectively.

3. Officers should have asked the LAFD for a ladder, prior to ordering the subjects down from the roof to ensure the safety of the subjects.

Although there may be circumstances in which it is permissible to have subjects climb down from the roofs of small structures, in this case it may not have been preferable for Sergeant A to have directed the subjects to climb down from the roof of a commercial structure utilizing pipes attached to the side of the building.

4. Sergeant A should have requested additional personnel prior to taking the subject 1 into custody.

It would have been prudent for Sergeant A to wait for additional units to arrive and supervised the detention rather than becoming physically involved in taking subject 1 into custody.

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

The BOPC evaluated the circumstances relevant to Sergeant A's non-lethal use of force and determined that the force was reasonable to overcome subject 1's actions.

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

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

The BOPC determined that the evidence in this case indicates that any head strike that occurred was inadvertent, and that Sergeant A did not intend to administer a strike to any area of the subject's body.

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