

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

**LAW ENFORCEMENT-RELATED INJURY – 046-08**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
Hollenbeck	05/18/08		

<b>Involved Officer(s)</b>	<b>Length of Service</b>
Officer B	11 years
Officer C	13 years, 10 months
Officer D	13 years, 1 month
Officer E	6 years, 2 months
Officer F	1 year

**Reason for Police Contact**

Officers A and D heard a broadcast of a robbery that had just occurred and responded to the area. They observed a subject, who matched the description of the robbery suspect, and also saw that the subject was armed with a pistol. The subject ignored commands to stop and entered a residence. The subject was later apprehended when he fled from the residence. The subject resisted when the officers attempted to handcuff him, and a use of force occurred.

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
Subject 1: Male, 25 years old.			

**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.

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 April 21, 2009.

## **Incident Summary**

Officers A and D heard a broadcast from Communications Division (CD) which indicated a robbery had just occurred and that the subject was armed with a gun. Officers A and D responded to the area of the incident and observed a male, subsequently identified as Subject 1, who matched the suspect description. The officers exited their vehicle and ran toward Subject 1, who ignored commands to stop.

Subject 1 ran to the opened front door of a residence and prior to entering, Officers A and D observed Subject 1 remove a pistol from his front waistband area. Officers A and D drew their pistols and activated their flashlights, ran through the driveway, and positioned themselves at the rear of the house. Officer D stopped at the northwest corner of the residence while Officer A covered the northeast corner. Officer A requested an Air Ship, and Sergeant A, who was monitoring the radio broadcast, advised CD to send them a back-up.

As Officer D looked down the west side of the residence from his position, he observed Subject 1 start to climb out of a window with the pistol still in his right hand. Officer D moved closer to the window and used his flashlight to illuminate Subject 1. Officer D told Subject 1 to drop the gun and give himself up. Subject 1 looked at Officer D and went back inside the residence. Officer D then returned to his original position on the northwest corner to the residence.

Officer D then advised CD that an armed robbery subject had attempted to flee out a window, ran back in, and he was contained. Officer A advised CD of the location of the residence. Sergeant A advised CD that if the subject was armed to make it a help call. Officer A then observed Subject 1 exit the rear door of the residence. Officer A advised Officer D that Subject 1 was exiting the rear door and used his flashlight to illuminate Subject 1, who went back in the residence and closed the door.

Several additional units arrived at the scene, along with the air unit. Officer A left his position, ran toward them, and advised Officers C and F that Officer D was at the rear of the residence and directed them to join Officer D. Officers C and F drew their pistols as they moved through the driveway toward the rear of the residence.

Officer A was then joined by Officers B, E, G, and H as Witnesses A, B, and C, one of whom was carrying an infant, asked if it was safe to exit the residence. As the witnesses came out, Officer A informed them that a male had run inside the residence with a firearm and asked if they knew who he was. The witnesses stated they did not know Subject 1 and did not know if anyone else was in the residence. Officers A, B, E, G, and H formulated a plan to enter the open front door of the residence and call out any possible victims.

**Note:** One of the females subsequently stated that Subject 1 was her boyfriend after he was taken into custody.

The officers drew their pistols as they approached the front door. Officer A verbally identified himself as a police officer and directed the occupants of the house to come out. Officer A heard faint talking coming from one of the bedrooms. Officers A, B, and E then entered the threshold of the front door; and once again, Officer A identified himself as a police officer. Officer A then observed Subject 1 run from the kitchen area of the house toward the rear door of the residence.

Officer A advised CD that Subject 1 was exiting the rear door. Officers A, B, and E exited the residence through the front door and moved toward the driveway leading to the rear of the residence.

Officers C and F heard Officer A's broadcast and moved to the northeast corner of the residence, followed by Officer D. To avoid a crossfire, Officer D holstered his pistol. Officer C then observed Subject 1 walking in their direction. Officer C raised his pistol toward Subject 1, illuminated him with his flashlight, and ordered him to put his hands up and get on the ground. Subject 1 looked at Officer C and began walking backward toward the rear door of the residence, turned around, placed his hands on the back of his head, and stood with his legs apart. Officers C and F ordered Subject 1 to get on the ground several times; however, Subject 1 did not comply and remained standing facing south by the concrete stairs that led to the rear door.

Officer D advised Officers C and F that he would approach and handcuff Subject 1. As Officer D approached Subject 1, Officer C holstered his pistol while Officer F kept his pistol at a low-ready position. As soon as Officer D made contact with Subject 1's arm, he immediately dropped his arm toward the front of his body and bent his upper torso forward. Officer D believed that Subject 1 was reaching for a weapon in his waistband area. In response, Officer D used his left hand to grab the back of Subject 1's neck as he continued to hold on to his right arm. Officer D then pushed Subject 1 forward causing both of them to fall forward to the ground with Subject 1 landing on the concrete stairs.

After falling to the ground, Subject 1 immediately attempted to push himself up using his arms. Officer D applied his bodyweight by placing his knees on Subject 1's back and used his left hand to push Subject 1's head down to the ground to prevent him from getting up. Subject 1's right arm was underneath his torso. Subject 1 continued to struggle and would not comply with the officers' commands.

Officers B and E ran from the front of the residence to assist the officers with Subject 1. Officer B grabbed Subject 1's leg and, in response, he began kicking. Officer B was able to grab and secure one of Subject 1's legs. Believing that Subject 1 was attempting to arm himself, Officer E raised his foot and stomped Subject 1's left shoulder area one time. Shortly thereafter, Officer C was able to pull Subject 1's right arm out. Officer E assisted Officer B with controlling Subject 1's legs by applying his bodyweight on Subject 1's legs. Officers C and F brought Subject 1's arms behind his back. Officer D handcuffed Subject 1, and he was placed in a seated position. Officer D then searched Subject 1 for weapons with negative results.

Sergeant A arrived at the scene and observed an abrasion to one of Subject 1's cheeks that was bleeding. Sergeant A told Officer D to request a Rescue Ambulance (RA).

A search of the residence with the assistance of a K-9 Unit was conducted and Subject 1's pistol was located in the residence. Subject 1 was also positively identified as being involved in the robbery.

Sergeant A proceeded to conduct a Non-Categorical Use of Force investigation. After completing the on-scene investigation, officers cleared from the residence. Sergeant A later was notified that Subject 1 was going to be admitted to the hospital for his injuries, and therefore he advised the Watch Commander that the incident was going to be a Categorical Use of Force.

### **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, B, C, D, E, and F's tactics to warrant a Tactical Debrief.

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

The BOPC found Officers A, B, C, D, E, and F's drawing to be in policy.

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

The BOPC found Officers B, C, D, E, and F's use of force to be in policy.

### **Basis for Findings**

#### **A. Tactics**

In adjudicating this incident, the BOPC considered that:

1. In this instance, Officers A and D arrived at the location of a robbery radio call and began searching the area without notifying CD of their status and location. A short time later, the officers observed the subject and made the decision to detain him. When the subject ran from the officers, he was observed to have a handgun in his possession. The subject ran into a house and the officers established partial containment of the location. It was not until after Officers A and D took up their containment positions that they made radio contact with CD and requested an air unit for a robbery suspect. Although there may be circumstances that prevent officers from advising CD of their status and location, in this situation, the officers should have notified CD when they first arrived at the call location and prior to attempting to detain the subject.
2. The officers were confronted with an armed robbery suspect who was attempting to escape and eventually barricaded himself inside of a residence. The officers' first radio broadcast was a request for an air unit. Given the dangers associated with confronting suspects who are armed with a firearm and the necessity for the immediate response of additional officers, Officers A and D should have immediately requested either assistance or help.
3. In this situation, Officers A and D had established a partial perimeter around the house. Officer D had obtained cover behind the corner of the structure. When Subject 1 began to climb out of the window while armed with a handgun, Officer D left his position of cover and exposed himself to greater danger by approaching Subject 1 in the narrow walkway.
4. When Officer A observed Officers C and F at the mouth of the driveway of the residence, he left his position and ran toward them. Officer A met Officers C and F part way down the driveway and directed them toward Officer D's location. With Subject 1 attempting to breach the perimeter on two separate occasions, it would have been tactically prudent for Officer A to maintain his position to the rear of the location and utilize his ASTRO radio to coordinate the deployment of responding officers. By leaving his perimeter post and by doing so without notifying his partner, Officer A separated from his partner and jeopardized not only his own safety but also that of Officer D.
5. Subject 1, a robbery suspect who was observed by Officers A and D to be armed with a handgun, ran into the open door of the residence. Subject 1's position inside the structure afforded him cover and concealment. On two occasions, Subject 1 attempted to flee from the location but refused to comply with commands when he was confronted by Officers A and D. The actions of Subject 1 were consistent with that of a barricaded suspect. Rather than continuing to contain the location and notify Metropolitan Division of the barricaded suspect, Officers A, B, and E elected to make entry into the location.

It is apparent that the officers believed an exigency existed to ensure that there were no additional residents inside the location. It would have been preferred

that they had notified their watch commander to contact Metropolitan Division, Special Weapons and Tactics Platoon for additional advice.

6. When Subject 1 was located outside the rear of the residence, Officer D ordered him to put his hands up. Simultaneously, Officer F ordered Subject 1 to get on the ground. Officers are trained to utilize the concept of contact and cover in which one officer gives the verbal commands while the other provides cover.
7. While it would have been preferable for the subject to be handcuffed while in a high-risk prone or kneeling position, this requires the willingness of the subject to comply with the officer's commands. In this situation, the subject refused to comply with the officer's commands and that was not possible.

Although there may have been other options available to the officers, the decision to approach the suspect in a standing position was objectively reasonable under these circumstances. Officer D will be reminded to coordinate his actions with other officers in the future.

8. In this incident, Subject 1's face struck the concrete steps or pavement causing visible injury. Whenever force is used, officers are obligated to evaluate the suspect for injuries and request appropriate care as needed. There was a 12-minute delay before officers made a request for an RA to evaluate the severity of Subject 1's injuries, prompted by the first supervisor at scene.

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

The BOPC noted that, in this incident, Officers A and D observed a possible robbery suspect armed with a pistol enter the open front door of the residence. When confronted with a suspect armed with a firearm, a reasonable officer would believe that they may have to use lethal force in order to defend themselves from the potential actions of the suspect.

Officers B, C, E, and F responded to the location and were advised that a possible robbery suspect, armed with a handgun, ran inside the residence and there was no information indicating the suspect lived at that location. As the officers prepared to deploy around the residence and enter the location, they drew their service pistols. A reasonable officer, when confronted with similar circumstances, would believe that they may confront an armed suspect and that deadly force may become necessary.

Therefore, due to the officers reasonable belief that the situation had escalated to a level where deadly force may become necessary, the BOPC found Officers B, C, E, and F's Drawing/Exhibiting to be in policy.

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

The BOPC noted that when Officer D attempted to handcuff Subject 1, he immediately attempted to pull away from Officer D and engaged officers in a physical confrontation. Officers B, C, D, E, and F were forced to utilize a combination of force types in order to overcome Subject 1's ongoing resistance. During the physical altercation, Subject 1 struck his face against the ground or a concrete step, causing an injury to his face.

Officers B, C, D, E, and F's non-lethal applications of force were objectively reasonable to overcome the suspect's resistance and effect his arrest. Therefore, the BOPC found the officers Non-Lethal Use of Force to be in policy.