

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

**OFFICER-INVOLVED SHOOTING – 029-09**

**Division     Date     Duty-On (X) Off()     Uniform-Yes() No(X)**

Outside City    04/27/09

**Involved Officer(s)     Length of Service**

Officer A    3 years, 4 months  
Officer B    9 years, 11 months

**Reason for Police Contact**

Officers A and B were on their way to a surveillance location in a city outside Los Angeles. They pulled off the freeway to get directions to the location because they were having trouble finding their way there. While in a shopping center parking lot, they observed Subject 1 shooting at a pick-up truck. The Officers engaged Subject 1 when he pointed his gun at the officers.

**Subject(s)     Deceased (X)     Wounded ( )     Non-Hit ( )**

Subject 1: Male, 15 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, 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.

The following incident was adjudicated by the BOPC on March 30, 2010.

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.

## **Incident Summary**

On April 27, 2009, a briefing took place regarding a surveillance operation that was going to be conducted in a city outside of the City of Los Angeles. After the briefing, plainclothes Officers A (driver) and B (passenger) left the station in an unmarked vehicle intending to drive to the target location.

**Note:** Officers A and B were both wearing black tactical vests with "Los Angeles Police" in white lettering on the front side and "POLICE" on the back. Officer A was equipped with a .40 caliber pistol, two pairs of handcuffs, and his Department-issued flashlight. A hobble restraint device and a side handle baton were inside his duty bag, which was placed behind the driver's seat of their vehicle. Officer B was equipped with a .40 caliber pistol and three pairs of handcuffs. His Department-issued flashlight, hobble restraint device, and side handle baton were inside his duty bag, which was placed behind the front passenger seat of their vehicle.

Officer A exited the freeway because the officers were having difficulty locating the target location. Officer A pulled into the parking lot of a shopping center, parked his vehicle facing south, and accessed MapQuest on his cellular phone to determine their location. Officer A left his vehicle running while he used his phone.

Officers A and B heard the sound of screeching tires west of their location and observed a pick-up truck with two male occupants traveling eastbound in the parking lot. The passenger of the pick-up truck yelled and made what appeared to be gang signs with his hands toward a group of approximately six to eight males who were standing outside the market located on the west side of the shopping center.

**Note:** According to Officer B, he observed the pick-up truck pass by the front of their vehicle. According to Officer A, he observed the vehicle through his rear view mirror.

The group of males proceeded to run after the pick-up truck. As the group ran past the front of the officers' vehicle, one of the males, subsequently identified as Subject 1, drew a pistol from his waistband area. Officer B stated, "Partner, he's got a gun. He's got a gun. I'm going to start broadcasting."

**Note:** According to Officer A, Officer B stated, "Hey. One of them has a gun." Officer A observed Subject 1 holding a gray semi-automatic pistol.

Officer A realized their vehicle was out in the open and stated, "I'm going to move the van." Officer A drove further south and stopped the vehicle between a parked truck to their west and trees to the east.

When Subject 1 reached the east side of the parking lot, approximately 140 feet east of the officers' position, he fired his pistol at the pick-up truck, which had exited the parking lot and was traveling southbound. According to Officer A, for tactical reasons, he drove his vehicle forward and then turned east so Officer B could have a clear view of the unfolding incident.

**Note:** Officer A observed Subject 1 fire three to four rounds. Officer B was retrieving his radio that was secured on his vest when he heard one gunshot.

Witness A observed Subject 1 fire approximately five rounds at the pick-up truck. Witness B observed Subject 1 fire two rounds at a black vehicle with tinted windows. Witness C observed Subject 1 fire two rounds at a male wearing all black. Witness D observed Subject 1 fire two rounds from his pistol. Witness E observed the group of males run after the pick-up truck and then heard one gunshot after the group reached the east end of the parking lot. Witness F observed a male from the pick-up truck yelling at "gang members" who were playing by the market. The "gang members" chased the truck and then gunfire erupted. Witness G observed the group of males outside the market and indicated one of the males suddenly took off running while stating, "Come back here motherf[. . .]." Shortly thereafter, Witness G heard four gunshots.

One expended .45 caliber cartridge casing was subsequently recovered in the grass area at the east end of the parking lot. Additionally, an expended .45 caliber cartridge casing was recovered from the chamber of the pistol in Subject 1's possession.

After Subject 1 fired his pistol, the group of males, including Subject 1, turned around and began to run back in a westerly direction. Officers A and B observed Subject 1 running directly toward them with his pistol still in his right hand. According to Officer A, he and Subject 1 made eye contact and he (Officer A) observed "anger" in Subject 1's face, which led him to believe that Subject 1 intended to shoot them. Officer A heard Officer B state, "We need to get out of the van." Officer A drew his .40 caliber pistol as he exited the driver side door of their vehicle.

Subject 1 changed direction and ran in a northwesterly direction, passing by the driver's side of the officers' vehicle. Officer A yelled, "Hey, LAPD, stop," and observed Subject 1 blade his body toward Officer A and point his pistol at Officer A as he continued running. In response, Officer A raised his pistol and fired eight rounds from an increasing distance of 20 to 40 feet at Subject 1 as Subject 1 continued to run with his pistol pointed at Officer A.

Meanwhile, Officer B exited the passenger side door and drew his .40 caliber pistol as he moved toward the rear of their vehicle. Officer B heard two gunshots and believed Subject 1 had shot Officer A because he had no cover when he had exited the driver

side door. As Officer B rounded the rear of the van, he observed Officer A to his right but was unaware of his condition. He also observed Subject 1 approximately 10 yards in front of him, running in a northwesterly direction with his body turned toward the officers and his gun pointed at them. Officer B yelled, "LAPD, drop the gun, get on the ground," as he fired one round. Officer B fired another round as he moved to a position of cover behind a parked truck. Subject 1 continued running with his pistol pointed toward the officers. Officer B fired a third round and then observed Subject 1 begin to fall to the ground. Officer B fired his rounds from a decreasing distance of approximately 45 to 35 feet.

**Note:** According to Officer B, he believed Subject 1 had either been struck by their gunfire or was starting to comply with their commands.

**Note:** The investigation determined Officer B fired a total of four rounds.

**Note:** When Officers A and B exited their vehicle, its transmission was not in park, and it continued to move forward, eventually coming to a stop after crossing over a raised median.

Officer B ordered Subject 1 to "throw the gun down." Subject 1 complied; however, his pistol was connected to his waistband by a wire, and it landed on the ground still within arm's reach. Officers A and B approached Subject 1 and observed wired earphones that extended from Subject 1's waistband to the pistol. Officer B moved Subject 1's pistol further away from him with his left foot and then handcuffed him.

**Note:** Two off-duty LAPD police officers were inside a store, located on the east side of the shopping center, when a store clerk advised them of gunshots. One officer heard two to three gunshots, looked out the store window, and observed Subject 1 running with his body turned to his left while pointing a pistol that he held in his right hand toward a van. The other officer heard one to three gunshots and then observed Officers A and B approaching Subject 1, who was by then on the ground. The first officer exited the store, approached Officers A and B, and identified himself as an off-duty LAPD officer. He observed a pistol on the ground approximately two to three feet away from Subject 1's feet. He called 911 after being requested to do so by Officer B.

The off-duty officer who remained in the store heard approximately six gunshots and took cover behind an aisle in the store. He observed the other off-duty officer exit the store to approach Officers A and B and then observed Officer B handcuff the subject on the ground.

Witness B observed Officers A and B exit their vehicle and Subject 1 point his pistol at the officers. Witness B believed that Subject 1 fired "at least two rounds" at the officers and that the officers fired five rounds each.

According to Witness F, after hearing gunshots, there was a pause of three to four seconds followed by 20 gunshots. Witness F observed Subject 1 fall to the ground with his gun landing approximately five feet away.

Witness A observed Subject 1 running while looking over his right shoulder. Witness A heard two to three gunshots and observed Subject 1 fall to the ground. Witness A observed the officers approach Subject 1 and order him not to move.

Witness G ran into the market and heard two to three gunshots. Witness G observed some of the males who were with Subject 1 run into the store crying and stating that “their homie got shot.”

Officer B broadcast, “We’re in the City of [. . .], we got shots fired, we’re in the City of [. . .]. We’re going to be at the intersection of [. . .]. We got shots fired, we got a man down, all officers have a [no further assistance necessary]. We have a man down, 415 man with a gun.” Officer B broadcast that they were plainclothes officers in a plain vehicle.

**Note:** Officers A and B were in a different city than the one broadcast.

A Captain broadcast a request for a rescue ambulance (RA) and advised he would be responding to the scene with another supervisor.

Los Angeles County Sheriff's Department units arrived at the location and began to secure the perimeter of the crime scene.

**Note:** The off-duty officer who remained in the store said he did so because Los Angeles County Sheriff's Department units had arrived and created a perimeter around the area.

Officer A called his Sergeant on his cellular phone to advise him of the incident.

Fire Department personnel and Emergency Medical Technicians (EMT) assessed Subject 1's injuries, which included a gunshot wound to the back of his head and a gunshot wound to the left side of his back, and noted no signs of life. The EMT declared Subject 1 dead.

The Sergeant arrived at the scene, separated Officers A and B, then obtained a public safety statement from each officer.

### **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.

### **Positive Aspects**

- The officers communicated well with each other and discussed tactics at the start of watch.
- Both officers were carrying their required equipment along with back-up handguns.
- The officers worked together as they approached the subject to apply the handcuffs and remained cognizant of their surroundings.
- The officers properly notified local law enforcement and their immediate supervisor following the OIS.

### **A. Tactics**

The BOPC found the actions of Officers A and B warranted a Tactical Debrief.

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific. Each tactical incident inherently results in considerations for improvement. In this instance, although there were identified areas for improvement, the tactical considerations neither individually nor collectively *“unjustifiably or substantially deviated from approved Department tactical training.”*

In conclusion, a Tactical Debrief is the appropriate mechanism for the significantly involved personnel to evaluate the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future. The BOPC will direct that Officers A and B attend a Tactical Debrief.

**Note:** Due to the dynamics of this incident, other members of the unit would benefit from attending the Tactical Debrief. Although they will not be required to attend, they will be invited.

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

The BOPC found the Drawing/Exhibiting of Officers A and B to be In Policy.

In this situation, Officers A and B were lost and were attempting to obtain directions to their surveillance location when they observed a shooting in progress.

Officer A stated, *“He [Subject 1] is looking at me. I could tell that there’s anger in his face. But his - - his body motion was exactly the same as that he had as far as when he was running after this truck that I - - that I just saw him run after this truck and just engage and like started shooting at it.”*

Officer B, believing that his partner had been shot stated, *“At that point, in my head, I thought my partner had got hit because we were at a disadvantage sitting in the - - in the van. I came around. I unholstered my weapon. As I came around the van, I saw him still armed with a gun running north of me...”*

In this instance, based on their observations and Subject 1’s actions, it was reasonable for Officers A and B to believe that the tactical situation had escalated to the point where lethal force may become necessary.

In conclusion, the BOPC found Officers A and B’s Drawing/Exhibiting to be In Policy.

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

**Officer A** – .40 caliber, 8 rounds, from an increasing distance of 40-70 feet in a northwest direction.

In this instance, the subject was running toward the officers while armed with a handgun. Officer A exited the van through the driver side door and ordered Subject 1 to stop. Officer A stated, *“I see the barrel of his gun. And it’s just one of those things where it just kind of like - - I mean, something so small just gets so big, and I was - - I mean, and that moment on is just, sh[. . .]. He’s going to kill me.”*

**Officer B** – .40 caliber, 4 rounds, from a decreasing distance of 45-35 feet in a northwest direction.

In this instance, Officer B observed Subject 1 armed with a gun and alerted his partner. As Subject 1 began running in their direction, Officer B exited the van through the passenger side door and made his way to the rear of the van. After hearing gunshots being fired, Officer B believed his partner was being attacked and sought a position of advantage to engage the subject. Officer B indicated, *“And as soon as I turned the corner, I saw he was still armed. And then I immediately started identifying myself, “LAPD, LAPD, drop the gun, get on the ground.”* Officer B added, *“He would be facing - - he was traveling in a northwest direction still facing our direction still armed with a gun pointing it our way.”*

The BOPC determined that Officers A and B’s use of Lethal Force was objectively reasonable to protect themselves from what they perceived to be the immediate threat of serious bodily injury or death.

In conclusion, the BOPC found Officers A and B’s use of Lethal Force to be In Policy.

## **Basis for Findings**

### **Tactics**

- In their analysis of this incident, the BOPC identified the following tactical considerations:

#### 1. Debriefing Point No. 1 - Position of Advantage

In this instance, Officer A believed he was at a tactical disadvantage as Subject 1 and the group of juveniles crossed in front of their van. Officer A stated, *“Because from where we were parked, we were pretty exposed. [. . .] I don’t recall there being any vehicles to my left or to my right or anything that would be sufficient of concealment of cover.”*

In conclusion, it was reasonable for Officer A to seek a better location where both officers had additional cover and the ability to maintain a clear view of Subject 1; however, he should be reminded that *“Distance + Cover = Time”* and take it into consideration when redeploying to a new tactical position.

#### 2. Debriefing Point No. 2 - Plainclothes Tactics

In this instance, Officers A and B observed Subject 1 chase a vehicle on foot, remove a handgun from his waistband, and begin to fire rounds toward the vehicle. Subject 1 then continued toward the officers who were seated inside a van. Based on Subject 1’s actions, the officers were forced to deviate from their role of surveillance and had to take immediate enforcement action.

In conclusion, although officers assigned to conduct surveillance should generally avoid becoming involved in tactical situations, in this case Officers A and B did not have the luxury of time or the availability of uniformed chase units to confront Subject 1. Therefore, the officers’ decision to take action to protect themselves and the community from a violent subject who posed a deadly threat was reasonable.

#### 3. Debriefing Point No. 3 - Vehicle operation

As Officers A and B observed the subject running in their direction armed with a handgun, they exited the vehicle to seek a position of cover. Officer A exited but did not place the vehicle’s transmission in park. Although it did not affect the outcome of the incident, Officer B momentarily attempted to use the van for cover. First and foremost, if officers are deploying on subject(s) from a vehicle, it is the driver’s responsibility to ensure that the vehicle is placed in a tactically advantageous position and that the vehicle is placed in park. By doing so, the driver makes it safe to exit and allows the officers to tactically deploy on the subject(s).



In conclusion, Officer A is reminded of the additional responsibilities placed upon the driver of vehicles while engaging subject(s) and the potential negative ramifications that may present themselves if these responsibilities are not adhered to.

#### 4. Debriefing Point No. 4 - Radio Broadcast

In this instance, Officers A and B observed a shooting in progress as they attempted to ascertain their location. Officer B stated, *"I called out "Gun, gun, gun," and I remember I cleared my radio, I have a pocket for it on my tactical vest. And I started reaching for the radio, keeping my eye on the gun, and it was simultaneously I hear the shots fired. I go, 'We got shots fired, partner. I'm putting it out'."*

Although it is imperative to broadcast their location and status, it appears the incident unfolded rapidly preventing the officers from doing so. Additionally, the officers were unsure of their location and were disoriented when the incident occurred as evident in their initial broadcast indicating the OIS had occurred in a city other than the one in which they were located.

In conclusion, the circumstances related to this incident did not provide the officers adequate time to notify Communications Division prior to taking action.