

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

**OFFICER INVOLVED SHOOTING 056-09**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off()</b>	<b>Uniform-Yes(X) No()</b>
Southeast	08/15/09		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	4 years, 4 months

**Reason for Police Contact**

Officers were providing extra patrol to an area where several recent gang related shootings had occurred. As part of their extra patrol, the officers proceeded to an apartment complex that was known to be a gang hangout. Once at the location, the officers attempted to make contact with a Subject and a use of force incident occurred.

<b>Subject</b>	<b>Deceased ()</b>	<b>Wounded (X)</b>	<b>Non-Hit ()</b>
Male, 22 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 Subject 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 August 10, 2010.

## **Incident Summary**

Officers A (driver) and B (passenger) were in uniform and in a marked police vehicle. The officers were providing extra patrol to an area where several recent gang-related shootings had occurred. The officers proceeded to a known gang hangout location, which was a multi-unit apartment complex, consisting of two buildings. The two buildings had a courtyard, a rear yard, and a front entrance that was secured by a security gate. The officers knew that the apartment complex had been identified as part of the nuisance abatement program. The property had posted no trespassing signs and a Trespass Arrest Authorization form was on file at the police station.

Once Officer A and Officer B arrived at the apartment complex, they observed two males in the courtyard behind a security gate. Both officers exited their vehicle to contact the males and to determine if they were on the property legally. The officers did not advise Communications Division (CD) of their Code 6 status prior to initiating contact with the males in the courtyard. Officer B asked the Subject to open the locked gate, but the Subject refused. Upon hearing the Subject's refusal to open the gate, Officer A immediately went to the west walkway which leads to the rear yard of the apartment complex. Officer A jumped over a chain-link fence and entered the walkway entrance and stopped just over the fence. Officer A reported that he could see the rear yard from his position and that the walkway was about five feet wide.

Officer B observed the Subject begin to walk away as he clutched his waistband, which led Officer B to believe that the Subject was holding some type of narcotics or a firearm, and was doing so in order to prevent the narcotics or firearm from falling to the ground. Officer B observed the Subject walk northbound through the courtyard, and then attempt to enter a door located on the westside of the apartment. The Subject was unable to enter the door and instead continued northbound through the courtyard as he continued to clutch his left waistband with his left hand. As the Subject walked through the courtyard, Officer B yelled to Officer A that the Subject was holding something and was walking northbound. Officer A heard Officer B so he started to run northbound through the walkway of the apartment complex. Officer A stopped northwest of the apartment building wall to get a better view of a door located in the second unit, and observed three individuals jump over the north wall into the alley from the rear yard of the apartment complex. Officer A then heard Officer B tell him that the Subject was going northbound and was holding something. Officer A believed the Subject was possibly holding a handgun so he unholstered his firearm and held it in a low ready position as he stood on northwest corner of the apartment building. Officer A then observed the Subject run through a second security gate located on the north side of the apartment complex and observed that the Subject was holding a handgun in his left hand and was facing back toward the street, where Officer B was still standing. Officer A lifted his firearm toward the Subject, and twice ordered the Subject to stop. Officer A told the Subject that he was the police. After the second command to stop, Officer A observed the Subject turn in his direction. Officer A observed the Subject holding the firearm in his left hand, alongside his body with his elbow bent at a ninety-degree angle.

Officer A saw the Subject turn around toward him while pointing the firearm at him. Officer A fired five rounds at the Subject. Once Officer A stopped firing, the Subject went southbound through the east walkway of the apartment complex. Officer A held his position, but then moved toward the corner of the building and heard the Subject screaming and saying that he was shot. Officer A slowly made his way around the corner to walkway and saw the Subject on the ground; laying face down.

Officer B reported that once the Subject reached the rear gate of the apartment complex, the Subject pulled his left hand away from his left waistband and Officer B could see an unknown dark-colored object in the Subject's left hand. Officer B yelled at his partner Officer A and told him something to the effect that the Subject had just pulled something out of his waistband. Officer B then observed the Subject go eastbound in the yard and heard Officer A yell something to the effect of drop the gun. Officer B then heard approximately five shots being fired from the rear yard of the apartment complex. After hearing the shots, Officer B unholstered his weapon and moved to the walkway on the east side and looked down and observed the Subject crawling on his side on the walkway. Officer B attempted to climb over the gate leading to the walkway and as he did, the fence swung open. Officer B communicated with Officer A and they decided that Officer A would cover the Subject as Officer B handcuffed the Subject. Officer B approached, holstered his weapon, and handcuffed the Subject. During the handcuffing, Officer A kept his weapon directed at the Subject. Officer B contacted CD and broadcast a help call and that shots had been fired at their location. Officer B also requested that a Rescue Ambulance (RA) respond to their location.

Officer A reported that Officer B stayed with the handcuffed Subject as he positioned himself at the northeast corner of the apartment complex in order to cover the yard. Officer A was not sure if any of the additional males were still in the area or if there was somebody still waiting in the yard, so he maintained his position. The other male who was initially observed with the Subject at the front gate was never located, nor were the three other males who Officer A observed run from the yard and jump over the fence.

According to Witness A, he was driving past the apartment complex with the car window open and heard a voice say that someone was running and had a gun. Witness A also saw one officer at the gate and then heard four shots being fired. Witness B reported hearing four shots, and heard one officer telling someone to get on the ground, and a guy screaming in a pain. Witness C, heard four shots, and exited a residence and observed one officer running to the back yard.

Sergeant A was the first unit to arrive at the shooting location after the help call broadcast. Sergeant A determined that an officer-involved-shooting (OIS) had occurred and assigned another officer to maintain custody of the Subject, while he separated Officers A and B. Sergeant A then obtained a Public Safety Statement from Officer A, who reported that he had been involved in the OIS. Sergeant A then assigned responding supervisors/officers to various duties to maintain control of the property as the apartment buildings was being cleared. Sergeant A also initiated a search for the weapon that Officer A had observed in the Subject's possession.

The RA arrived at the location and the Subject was treated for a single gunshot wound to his left thigh. The Subject was subsequently transported to the hospital for further treatment.

After RA personnel removed the Subject from the walkway, Officer C observed a revolver on the ground that was located near the area where the Subject had been laying on the walkway. The revolver was later examined by Scientific Investigation Division (SID) and the Subject's DNA was found on the revolver. SID personnel also recovered 12 clear plastic bindles, containing an off-white material resembling cocaine. The pants had been removed from Subject by RA personnel and left in the walkway prior to the Subject being removed from the walkway

### **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 and B's tactics to warrant Administrative Disapproval.

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

The BOPC found Officers A and B's drawing and exhibition of a firearm to be in policy.

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

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

## **Basis for Findings**

### **A. Tactics**

In adjudicating this incident, the BOPC considered the following:

1. In this instance, Officers A and B responded to a known gang location in order to conduct extra patrol. When they arrived and observed the two males and decided to conduct a trespass investigation, they did not notify CD to update their location and status. It was not until other events unfolded including an OIS that the officers updated their status and advised CD of their location. In this case, Officers A and B had planned on the stop and had time to go Code Six and notify CD. While occasions arise where it is not reasonable to expect officers to go Code Six, in this instance they should have done so. The officers approached the males and requested that they open the locked front security gate. The two individuals refused to comply and began walking away from the officers. Officers A and B made the decision to tactically redeploy for containment purposes. Officer A redeployed to the westside of the west structure while Officer B remained positioned in front of the location. Even after the officers perceived that the individuals were going to flee and after Officer A redeployed, they still did not advise CD of their location or request additional units.
2. In this instance, once the individuals refused to comply and walked northbound through the courtyard, Officer A proceeded to the west side of the duplex and jumped over the fence, while Officer B maintained his position on the sidewalk at the wrought iron security gate. Officer B observed one of the males attempting to enter one of the apartments and yelled his observations to advise his partner.

In response, Officer A redeployed northbound down a walkway and took a position near the northwest corner of the apartment building while Officer B remained at his position outside the security gate. Upon arrival at the northwest corner of the apartment building, Officer A observed three males scaling a fence to the rear of the property. Simultaneously, Officer A heard his partner yell "He is holding," which both officers understood to mean that the Subject was possibly armed with a handgun. Officer A observed the Subject enter the rear yard of the complex while holding a handgun in his left hand. Subject was looking back toward Officer B. Officer A drew his service pistol and ordered the Subject to stop. The Subject turned, faced Officer A and pointed the handgun at him, resulting in an OIS. Officer B remained at the front of the location, despite the perceived threat of a possible armed Subject heading toward his partner. At the time of the OIS, Officer B was still in front of the complex behind a locked security gate and was not in a position to render immediate aid to his partner.

In conclusion, the BOPC was concerned over the fact that this separation was part of a tactical plan, whereby two officers would assume a diagonal containment on this building separated by a barrier of a fence and out of line of sight of each other.

In this case, Officer A could easily have been critically injured and Officer B would not have been in a position to observe the incident or render immediate aid.

The BOPC found Officers A and B's tactics to warrant administrative disapproval.

### **Drawing/Exhibiting**

In this instance, Officer A reported that he heard his partner say "he's holding," which lead Officer A to believe the situation could possibly escalate to deadly force and caused him to retrieve his firearm from his holster. Officer B drew his firearm upon hearing shots fired in the vicinity of Officer A.

Due to the officers' reasonable belief that the situation had escalated to a level where deadly force had or may become necessary, the BOPC found Officer A and Officer B's drawing to be in policy.

### **Use of Force**

In this instance, while confronted with an armed Subject who was pointing a handgun at him, Officer A fired five rounds at the Subject. During this situation, Officer A was involved in a life and death situation. Another officer with similar training and experience would believe that a Subject who was armed with a handgun and was pointing a handgun at them would pose a threat of serious bodily injury or death to the officer. As such, it was objectively reasonable for Officer A to perceive the Subject's actions as a deadly threat and utilize lethal force. Therefore, the BOPC found Officer A's use of force to be objectively reasonable and in policy.