

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

**OFFICER INVOLVED SHOOTING 058-09**

<b>Division</b>	<b>Date</b>	<b>Duty-On(X) Off()</b>	<b>Uniform-Yes()</b>	<b>No(X)</b>
Southwest	08/22/09			

<b>Officers(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	6 years, 11months

**Reason for Police Contact**

During the service of a search warrant, a plain clothes officer became involved in an officer involved shooting incident.

<b>Subject(s)</b>	<b>Deceased ()</b>	<b>Wounded ()</b>	<b>Non-Hit (X)</b>
Subject: Male, 16 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 Chief of Police; and the report and recommendations of the Inspector General. The Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

In accordance with state law, divulging the identity of police officers in public reports is prohibited, so the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on August 17, 2010

**Incident Summary**

Southwest Area Narcotics Enforcement Detail (NED) officers obtained a search warrant for narcotics sales at a location. The officers conducted a briefing in preparation for service of the search warrant. The briefing was attended by Southwest Area NED detectives, Southwest Area Gang Impact Team (GIT) Violent Crime Task Force officers, and Southwest Area Gang Enforcement Detail (GED) officers. The team consisted officers, state agents, a lieutenant, and sergeants.

A tactical plan was discussed that included assigning officers as part of the entry team and to containment of the apartment warrant location. During the briefing, officers were advised that the occupants of the apartment were gang members and possibly armed.

Officers A, B, and Detective A were assigned to contain the rear of the apartment. Officer A was given a key to the security gate to allow them entrance to the rear courtyard of the complex. Officer A was wearing a blue LAPD raid jacket and tactical equipment. Prior to arriving at the search warrant location, Officers A, B and Detective A had discussed tactics. It was determined that Detective A would handle communications, and that Officers A and B would be contact officers if any subjects or other people were encountered. Officers A (rear passenger), B (front passenger) and Detective A (driver) arrived in their unmarked vehicle together, and parked south of the location. With Detective A and Officer B following, Officer A ran to the security gate that led to the rear of the apartment.

The search warrant team approached the apartment building and as the officers exited their vehicles they noticed three people on the balcony of the apartment location. Individuals recognized the officers, and Communications Division (CD) was notified that the search warrant team was Code Six at the location.

Officer A had the key to the gate ready, but noticed that it was already propped open. As they ran towards the rear of the apartment, Officer A unholstered her handgun and could hear the entry team giving commands to the occupants of the apartment. Officer A left her hand held radio in the vehicle and Officer B had his radio secured in his tactical vest. According to Officer A, as they reached the rear of the apartment, Officer A observed two small children and told them to go inside. Officer A then heard Detective A yell, "Gun." Officer A thought that Detective A stated, "Gun." Detective A thought that either Officer A or Officer B stated, "Gun." Officer B turned towards the apartment and observed a male (later identified as the Subject) climbing out of the window. Officer A observed that the Subject was holding a chrome revolver in his right hand and that his finger was on the trigger. As Officer A focused on the Subject, the Subject raised the gun and pointed it at Officer A. As recalled by Officer A, in immediate defense of life, Officer A fired one round at the subject's direction. After firing the round, Officer A took cover behind a post, and the Subject went back inside the apartment. Officer A was aware that the children had gone up the stairs and out of the way. The round fired by Officer A did not strike the Subject and the round was subsequently recovered from the exterior wall of the apartment, above the window that the Subject had attempted to exit.

According to Detective A, as they were approaching the rear of the apartment, Officer A was in front of him and to his right. He observed a female with two small children and they complied when told to leave the area. Detective A started watching the rear window of the apartment, and saw the Subject lift up the screen and push himself through the window. Detective A saw what appeared to be a stainless steel revolver in the Subject's right hand and saw the Subject point it in the direction of Officer A. Detective A heard one shot from where Officer A was standing, and the Subject went back into the apartment. When Detective A heard the shot, he simultaneously put down the radio he had been carrying, and unholstered his handgun. Detective A broadcast

that shots had been fired to the rear, and that a man with a gun was inside the apartment.

According to Officer B, he was telling the children to leave the area, when he saw the Subject punch out the screen of the window, while holding a stainless steel revolver. Officer B told the Subject to drop the gun. Officer B then heard the shot from Officer A, and the Subject went back inside the apartment. According to Officer B, his view of the rear window was partially obstructed by a tree. He observed the Subject with the handgun, pointed in a downward direction, and to the Subject's right, which was in the direction of Officer A. .

Entry team officers were at the front door to the apartment and used entry tools to pry open the security screen door and ram the door to the apartment. Officers entered the living room and the Subject was observed coming from the rear of the apartment. The Subject was ordered to put his hands up and to get on the ground. The Subject continued to run to the kitchen, and then came partially back out, hiding his left hand behind his back and then came out of the kitchen after one or two seconds. The Subject walked out of the kitchen with his hands raised. The Subject complied with orders to lie down, and was taken into custody without further incident.

A search was conducted of the apartment and two additional subjects were subsequently taken into custody without incident. During the search of the apartment, officers recovered a blue-steel revolver in a kitchen cabinet. A shotgun was located in a bedroom closet, cocaine base was found on a television stand and under a mattress. Officers A and Detective A were able to positively identify the Subject who pointed the revolver out of the rear window.

### **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, and Detective A's tactics to warrant a Tactical Debrief.

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

The BOPC found Officers A, B, and Detective A's drawing and exhibiting to be in policy.

## **C. Use of Force**

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

## **Basis for Findings**

### **A. Tactics**

In adjudicating this incident, the BOPC considered that:

#### Running with Service Pistol Drawn

In this instance, according to Officer A, *"As I turned the corner to begin going northbound, I continued running. At that point I unholstered my weapon due to the fact that the search warrant was being executed at that time. As I continued running northbound..."* The inherent risks associated with serving a search warrant at a known gang location with potentially armed suspects is taken into consideration when an officer elects to draw their service pistol while responding to their assigned position. In this case, this deviation from protocol was not unreasonable based on the totality of the circumstances. However, the potential of an officer stumbling while running with their service pistol drawn still exists and may result in an unintentional discharge.

In conclusion, although running with a service pistol drawn may be justified, the risks associated with doing so will be addressed during the Tactical Debrief.

#### Search Warrant Service

In this instance, Detective A and Officers A and B, entered the rear courtyard and encountered children playing in the area which caused them to divert their attention briefly to ensure that the children were relocated for their safety. Warrant service is often performed at varying times of the day or night, posing differing challenges with each situation, such as a compromise or children playing within the area of operation. Decision making during search warrant service planning and initiation is crucial to the success of the mission. Intelligence gathering and preparing for the unexpected can differentiate between a successful service and one laden with obstacles. The actions taken by Officers A, B and Detective A were appropriate and consistent with the expectations of the Department in placing priority on protection of life.

In conclusion, although the search warrant service was accomplished effectively following the *compromise*, the BOPC directed that a discussion pertaining to search warrant service planning and procedures be addressed at the Tactical Debrief.

## Communications/Equipment

In this instance, Officers A, B and Detective A faced a situation that ultimately resulted in an OIS. The investigation revealed that Officer A left her handheld radio in her vehicle and Detective A did not have an appropriate holder for his handheld radio. According to Detective A, *"I heard a gunshot from my left where Officer A was standing. When that happened, I simultaneously put my radio down and that's when I unholstered..."* As a result of not being properly equipped, Officer A's ability to communicate with other members of the search team was limited and Detective A was forced to place his radio on the ground in order to address a threat and recover it prior to making critical broadcasts. Additionally, the investigation revealed that only one search warrant entry team member heard Detective A's broadcast that an OIS had occurred.

In order to afford all search warrant team members accurate situational awareness of the warrant service progress, search warrant entry team members should be equipped in a way that would afford them the opportunity to monitor radio transmissions as well as make pertinent broadcasts to members not involved in the entry. Additionally, one designated team member, preferably a supervisor, should monitor both the assigned tactical and area base frequencies in the event that a broadcast over either should become necessary.

In conclusion, as clear, audible and concise communications during search warrant service is vital to ensure all members of the team are fully aware of the service process as it unfolds, the involved personnel, including supervisors, are to be reminded that they should ensure that they are equipped with radios during warrant service. This subject will be included in the Tactical Debrief.

## Loading of Service Pistol Magazines

In this instance, the investigation revealed that Officer A did not properly load her service pistol to capacity. Officer A stated that she loaded her service pistol after her last qualification session; however, the service pistol magazine was loaded with two rounds less than its maximum capacity. Officer A did not load her magazine to capacity and it was not an intentional act. In conclusion, the topic of proper loading standards will be discussed during the 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 situation, substantial information was gathered prior to the obtainment of the search warrant by investigative and surveillance methods. A comprehensive and detailed Warrant Service/Tactical Plan Report and search warrant briefing was conducted with all search team members immediately prior to responding to the apartment building. This briefing included a visual presentation with aerial overview of the service location, along with search criteria specifics. This briefing included, but was not limited to, designated

assignments, specific area and task responsibilities, perimeter details and suspect information. Officers A, B and Detective A discussed additional tactical specifics for their rear containment assignment while traveling to the warrant service location. Additionally, all search warrant team members were properly attired for protection and to identify them as law enforcement officers.

Upon the arrival of the search team, persons standing on the balcony of the apartment were able to see members of the team, which compromised planned warrant service procedures and accelerating their activities. In response to the compromise, all members of the search warrant team, to include Officers A, B and Detective A, appropriately continued with their assigned mission and focused on their respective responsibilities, resulting in a safe and effective warrant service.

Each incident must be looked at objectively and the areas of concern must be evaluated based on the totality of the circumstances. In this case, although there were identified areas where improvement could be made, the tactics utilized did not, *“unjustifiably and substantially deviate from approved Department tactical training.”*

In conclusion, a Tactical Debrief is the appropriate mechanism for Officers A, B and Detective A to evaluate the events and actions that took place during this incident and assesses the identified tactical considerations to better handle a similar incident in the future.

The BOPC believes that the attendance of all search warrant team members at the Tactical Debrief, if available, would be beneficial and concurs with this recommendation.

Therefore, the BOPC directed that Officers A, B and Detective A attend a Tactical Debrief.

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

Officer A turned north to ultimately obtain a position of cover and containment at the rear of the apartment building, while officers at the front made entry. Having knowledge that at least one possibly armed gang member lived at the apartment, while being a known narcotics location that had been compromised, Officer A drew her service pistol.

Officer A stated, *“...I unholstered my weapon due to the fact that the search warrant was being conducted at that time. We were compromised knowing the circumstances that – inside the residence a possible gang members possibly armed. It was a narcotics investigation or narcotics warrant.”*

Officer B arrived in the rear courtyard area and turned the corner of the building to go northbound. Having knowledge that at least one possibly armed gang member lived at the apartment, while being a known narcotics location that had been compromised, Officer B drew his service pistol. Detective A entered the rear courtyard area and became aware of the Subject's presence by Officer B, who yelled, “Gun!” Subsequently,

upon hearing the discharge of Officer A's service pistol, Detective A drew his service pistol.

In conclusion, it was objectively reasonable for Officers A, B and Detective A to believe that there was a substantial risk that the situation had or may escalate to a level where deadly force may be justified. In addition to the above listed employees, there were additional persons that drew or exhibited firearms during this incident. This drawing/exhibiting was appropriate and requires no specific findings or action in regard to these officers as they were not substantially involved. Accordingly, it was reasonable for the involved personnel to believe that the tactical situation had escalated to the point where lethal force may become necessary.

Therefore, the BOPC found Officers A, B, and Detective A's Drawing/Exhibiting to be In Policy.

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

Officer A made her way north on foot behind the apartment building to take her assigned rear containment position. Officer A stated, *"...and getting closer towards the end of the building on the north side, I overheard my partner, A yell gun. I then now focused my attention. I turned to the right. I observed a male black, heavy-set wearing a white T-shirt pushing himself out of the window, a chrome handgun which I believe was a revolver in his right hand, holding it in his right hand. His finger was not along - - along the frame. It was on the - - it was actually on the - - on the trigger as he was holding it. As I turned my attention towards him, I observed that. And then I started - - I observed him begin to raise his hand, his right hand, which is causing the barrel to also raise along with it. At that time in immediate defense of life, I - - I fired at the suspect's direction."* Shortly thereafter in her interview, Officer A stated, *"...I had a split second to decide whether I was going to go home to my family, and I made the decision that I'm going to - - was going to go home, and I fired the round to - - due to fear for my safety and the safety of my partners."* In this instance, Officer A was involved in a life and death situation. Another officer with similar training and experience would believe that a suspect who was armed with and pointing a handgun at them posed a threat of serious bodily injury or death. As such, it was objectively reasonable for Officer A to perceive the suspect's actions as a deadly threat and utilize Lethal Force.

Therefore, the BOPC found that Officer A's use of force to be objectively reasonable and In Policy.