

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

OFFICER-INVOLVED SHOOTING – 012-06

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes() No(X)</u>
Hollywood	02/08/06		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Officer A	10 years, 10 months
Officer B	6 years, 5 months

Reason for Police Contact

Plainclothes officers working as part of a narcotics operation were confronted several times by an agitated suspect. In his fourth confrontation, the suspect pointed a gun at the officers and refused to comply with their orders, causing one officer to shoot him.

<u>Subject(s)</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 1: Male, 46 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 01/30/2007.

Incident Summary

Officers A and B were working as part of a task force conducting an undercover narcotics operation. Officers A and B positioned themselves where they were able to observe Officer C, who was also working undercover posing as a purchaser in a narcotics transaction.

Around the time when this transaction was being completed, Officer A noticed that six to eight individuals had gathered in the area. Officer A believed that the individuals were

involved in narcotics transactions that took place at the location. Officers A and B decided to move in order to avoid being noticed by the group.

Officers A and B were approached by Subject 1. Subject 1 spoke with Officer A and offered to get Officer A various narcotics. Officer A declined the offer. Subject 1 left, but returned two more times to repeat his offer of narcotics.

Officers A and B went to a new location in order to avoid any further encounters with people at the initial location. While at the new location, Subject 1 approached them a third time and again spoke with Officer A. After this third brief conversation, Subject 1 went back to the initial location.

Officer A used a cellular phone to call Detective A, who was positioned near the location and was monitoring the task force's activities. Detective A and Officer A discussed whether some of the other undercover officers on the task force should conduct a narcotics transaction with Subject 1.

Meanwhile, Officer B monitored the area leading to the new location in order to see whether anyone was approaching. At one point, Officer B noticed Subject 1 approaching their new location and informed Officer A.

Subject 1 walked past Officer B and toward Officer A, whose back was to Subject 1. As Subject 1 reached Officer A, Subject 1 lifted his right arm above his head. Officer B noticed what appeared to be a semi-automatic handgun in Subject 1's right hand. Officer B rushed toward Subject 1, intending to push Subject 1 away from Officer A.

As Officer B moved toward Subject 1, Subject 1 struck Officer A with the weapon in his right hand. Officer A dropped his cellular phone.

A moment later, Officer B pushed Subject 1 using his body weight, causing Subject 1 to stumble forward. Officer B's momentum also carried him forward, so he dropped to his knees in order to avoid further injury.

Officer B then attempted to grab Subject 1's right hand in order to gain control of his handgun. Officer A turned around and saw Officer B struggling with Subject 1. Officer A then charged at Subject 1 and attempted to grab him, saying "Police officers, police officers."

Officer A then pushed Subject 1 backward. As Subject 1 moved back and raised up his arm, Officer A realized Subject 1 was holding a gun.

Subject 1 pointed the gun at Officer A. Officer A repeated his announcement that Officer A and Officer B were police officers. Officer A also ordered Subject 1 to drop his gun. Subject 1 refused to comply.

As Subject 1 moved backward, Officer B drew his service pistol. Meanwhile, Officer A also moved backward, away from Subject 1, and drew his service pistol. Officer B

noticed that he was near a structure that could be used as cover, so Officer B re-deployed behind the structure.

As Subject 1 was pointing his gun at Officer A, he began to lean forward, extending his gun further in the direction of Officer A. Officer A believed that Subject 1 was about to shoot him, so Officer A fired two rounds in rapid succession at him. Both of Officer A's rounds struck Subject 1, causing him to fall to the ground.

Officer B then holstered his weapon and moved toward Subject 1 in order to handcuff Subject 1, while Officer A provided cover. Officer A then notified the other task force members of what had just occurred. Meanwhile, other task force members heard the shots fired by Officer A and broadcast a "help" call to the location.

Detective C responded to their location and drew his service pistol. Once Detective C determined that Subject 1 had been detained and that there were no outstanding suspects, Detective C holstered Detective C's service pistol. Detective C moved toward Subject 1's position and noticed his handgun lying approximately two feet away from Subject 1's feet. Detective C decided to secure the weapon by picking it up. At some point after that, Sergeant A approached Detective C and directed Detective C to place the weapon back where Detective C had found it.

Meanwhile, Sergeant B took a public safety statement from Officer A regarding the use of force that had occurred.

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 warranted divisional training.

B. Drawing/Exhibiting/Holstering

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

C. Use of Force

The BOPC found Officers A and B's non-lethal use of force to be in policy. The BOPC found Officer A's lethal use of force to be in policy.

D. Additional

The BOPC found Detectives A, B and C and Sergeants A and B's actions warranted divisional training.

Basis for Findings

A. Tactics

As Officers A and B repositioned themselves, they did not maintain a tactical position of advantage or a vigilant outlook for Subject 1, who had approached them several times previously. The BOPC noted that Officer B yelled in an attempt to alert Officer A that Subject 1 was again approaching. Officer A did not hear this warning, as Officer A was on the telephone with a detective. It would have been tactically safer for both officers to keep watch, ensuring the earliest warning if Subject 1 were to approach.

As Subject 1 approached Officer A from behind and struck Officer A's head with his pistol, Officer B ran at Subject 1 and pushed him with both hands to prevent further attack upon Officer A. A short struggle ensued between Officer B and Subject 1. Once Subject 1 backed away from Officer A, both officers drew their service pistols. Officer B stated that Officer B ordered Subject 1 to drop his gun for approximately one to two seconds, but did not fire, as Subject 1 had his pistol pointed directly at Officer A. The BOPC noted that there was a slight delay in taking action by Officer B, as Officer B verbally ordered Subject 1 to drop his gun while it was pointed directly at Officer A. As Officer B was about to fire, Officer A did so, stopping the threat.

The BOPC found Officers A and B's tactics warranted divisional training.

B. Drawing/Exhibiting/Holstering

After Subject 1 struck Officer A's head with his pistol, Officer B pushed Subject 1 away from Officer A to prevent further attack. Subject 1 then backed away while still holding his pistol. Both Officers A and B observed Subject 1 holding his pistol and raising it upward toward Officer A. Officer B assumed a position of cover and drew his service pistol. Officer A drew his service pistol. Both officers feared that Subject 1 was about to shoot and kill Officer A with his pistol.

Detective C responded to their location upon hearing the shots being fired and the help call broadcast. Detective C feared an armed confrontation and was unsure if there were any remaining suspects in the area and drew Detective C's service pistol. Once Detective C determined that Subject 1 had been detained and that there were no outstanding suspects, Detective C holstered Detective C's service pistol.

The BOPC has determined that Officers A and B and Detective C had sufficient information to believe that the situation had risen to the level where deadly force may become necessary. The BOPC found Officers A and B and Detective C's drawing to be in policy.

C. Use of Force

Subject 1 struck Officer A's head with his pistol. Officer B observed this, ran at Subject 1, and pushed him with both hands to prevent further attack upon Officer A. Officer A also grabbed at Subject 1 and then pushed him away to create space between them. Subject 1 and Officer B struggled for a moment, and then Subject 1 backed away as the officers drew their service pistols.

The BOPC has determined that Officers A and B reasonably believed that Subject 1 continued to present an immediate threat of serious bodily to them. The BOPC found Officers A and B's non-lethal use of force to be in policy.

Once Subject 1 backed away from Officer A, both officers drew their service pistols. Subject 1 pointed his pistol directly at Officer A and both officers ordered him to drop the pistol, but he refused to comply. As Officer B was about to fire, Officer A fired two rounds at Subject 1. Subject 1 was then taken into custody without further incident.

The BOPC has determined that Officer A reasonably believed that Subject 1 continued to present an immediate threat of serious bodily injury to Officer A. The BOPC found Officer A's lethal use of force to be in policy.

D. Additional

Detectives A and B and Sergeant A arrived to the location after the shooting and ensured that Officers A and B were separated, although they did not obtain a public safety statement from either officer. Sergeant B obtained a public safety statement from Officer A, but not from Officer B.

Additionally, upon Detective C's arrival, Detective C picked up Subject 1's pistol that was near Subject 1's feet to ensure everyone's safety. Detective C held the pistol for a short while, until Sergeant B arrived and directed Detective C to place it back where Detective C recovered it. Detective C placed the pistol back where he best remembered retrieving it.

Once evidence is recovered, it is preferable to control and secure the evidence at the first opportunity. Returning evidence to a location and position in which it was recovered poses several problems. It affects the accurate preservation of the evidence regarding exact positioning and fingerprint obtainment. It also poses unnecessary risk when firearms are involved, causing an increased possibility for an accidental or negligent discharge. Additionally, replacing evidence at a crime scene could be misconstrued as evidence planting by persons observing the actions.

The BOPC found Detectives A, B and C and Sergeants A and B's actions warranted divisional training.