

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

**OFFICER-INVOLVED SHOOTING 034-06**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ()</b>	<b>Uniform-Yes (X) No ()</b>
Newton	05/15/2006		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	10 years, 11 months

**Reason for Police Contact**

Officers responded to a radio call of an armed subject involved in the sales of narcotics. Officers encountered the subject, who attempted to flee. A foot pursuit ensued, during which time the subject produced a handgun. An officer-involved shooting then occurred.

<b>Subject</b>	<b>Deceased ()</b>	<b>Wounded ()</b>	<b>Non-Hit (X)</b>
Subject 1: Male, 33 years.			

**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 27, 2007.

**Incident Summary**

On the evening of May 15, 2006, a male called Communications Division (CD) from a public telephone to report that a group of seven males was loitering and selling narcotics in an alley. The male further indicated that a member of the group (described as male, Black, 35 years, wearing a gray shirt and black pants), had a gun in his waistband. CD assigned the call to Police Officers A and B.

Officers A and B responded to the call location. Officer A, who was driving the police vehicle, then turned off the vehicle's headlights before turning southbound into a north-south alley. Officer A stopped the police vehicle at a T-intersection with the east-west

alley where the group was reportedly located. Officer B informed CD that his unit was at the call location.

Officer A used the police vehicle's spot lamp to illuminate the alley. When he did so, the officers saw a group of three to five people in the alley, approximately 178 feet east of their location. A member of the group (Subject 1), whom the officers observed to match the description of the armed suspect provided by the caller, ran northbound, jumping over a wall into a residential yard.

Officer A told his partner that they needed to get to the front of the residence in question. Leaving the spot lamp shining down the alley, Officers A and B left their vehicle and ran northbound, then eastbound along the street, toward the residence. Officer A ran approximately twenty feet ahead of Officer B.

As Officer A approached, he encountered Subject 1 at the front of the residence.

According to Officer A, when he encountered Subject 1, Subject 1 was sitting in a chair on the driveway of the residence. Officer A described Subject 1 as breathing heavily. According to Officer A, as he approached Subject 1, he could see a pistol protruding from Subject 1's waistband. According to Officer A, Officer A drew his service pistol and instructed Subject 1 to stand up, put his hands on his head and get down on his knees. Subject 1 stood up and raised his hands, but then ran southbound, back toward the east-west alley. Officer A then broadcast a request for "back-up," providing his location.

**Note:** Officer B's account of the encounter with Subject 1 at the front of the residence was inconsistent with that of Officer A. Officer B reported that Subject 1 came out from between the residences and onto the sidewalk of 65<sup>th</sup> Street, saw the officers, then ran back, southbound, through the houses.

**Note:** According to Officer B, Officer A broadcast a request for back-up "for a man with a gun." However, the recording of the broadcast demonstrates that Officer A did not refer to a gun when he requested back-up.

**Note:** When CD relayed Officer A's back-up request, the operator mistakenly broadcast an incorrect location.

Officer A told Officer B that Subject 1 was running towards the alley, and to "contain the other side of the alley." As Officer B went westbound, back toward the entrance to the north-south alley, Officer A began to move southbound, through the driveway and yard of the residence where Subject 1 had fled.

Subject 1 scaled a wall at the rear of the residence and ran eastbound in the alley. Officer A, who could hear Subject 1 running eastbound, looked over the wall and saw Subject 1 fleeing. According to Officer A, he "heard" Officer B "coming around the corner," had Officer B in his "line of sight," and yelled to him that Subject 1 was heading eastbound and had a gun.

**Note:** According to Officer B, Officer B had run westbound on West 65<sup>th</sup> Street and had reached the mouth of the alley when he heard Officer A say, "He has a gun."

Officer A holstered his service pistol and scaled the wall. Once in the alley, Officer A re-drew his service pistol and began to chase Subject 1, whom Officer A estimated was 15 to 20 yards ahead of him. Officer A then reached for his radio, intending to broadcast Subject 1's direction of travel, but found that the radio was no longer in its holster. Officer A then drew his flashlight.

**Note:** Officer A's radio was subsequently located in the yard of the residence Street, close to the wall the officer had scaled.

As Officer A continued to follow Subject 1 in the alley, he saw Subject 1 grasping the pistol in his waistband with his right hand, turn and look in Officer A's direction several times, then draw the pistol from his waistband. As Officer A ran at a "sprint," he saw Subject 1 point the weapon "completely" towards him. Officer A responded by firing two rounds in rapid succession at Subject 1. Officer A observed no effect from these rounds, and, seeing that Subject 1 was still pointing his pistol in his direction, came to a halt and fired a third round. When the third round was fired, Officer A saw Subject 1 throw his pistol over a gate, into a residential yard.

**Note:** Subject 1 was not struck by any of Officer A's rounds.

**Note:** A loaded 9mm pistol was subsequently recovered from the residential yard into which Officer A observed Subject 1 throw the gun.

**Note:** Officer A indicated that he fired three rounds.

Officer B reported that heard two gunshots.

Witnesses A, B and C indicated that they heard two separate sets of multiple gunshots.

Three shell casings associated with Officer A's pistol were recovered at from scene of the incident.

**Note:** Witness A stated that she heard gunshots from the front of her residence, not from the alley (which was behind her residence).

**Note:** One of the three expended shell casings recovered at the scene was located 29 feet and one inch west of the location where Subject 1's pistol was recovered. A second casing was recovered five feet and seven inches east of the pistol. A third casing was recovered 51 feet and six inches east of the pistol.

**Note:** Three bullet impacts at the eastern end of the alley were found to have been caused by projectiles traveling in an easterly direction.

Having thrown the gun, Subject 1 continued to flee, turning southbound at an L-intersection in the alley, toward another residential street. Officer A lost sight of Subject 1 for a couple of seconds, but could still hear Subject 1 running southbound. Officer A maneuvered around the corner and saw Subject 1 running in a southwesterly direction, across the street. Officer A gave verbal commands to Subject 1 to stop and raise his hands. Officer A followed Subject 1 westbound and Subject 1 began to slow and raise his hands. However, Officer A saw that Subject 1 appeared to be looking for an escape route as he did so.

Officer A heard and observed the lights from the responding police vehicles, reholstered his service pistol and tackled Subject 1 from behind, taking him to the ground. According to Officer A, when he initially took Subject 1 down, Subject 1 moved his arms back and forth, but then offered no further resistance. Officer A then handcuffed Subject 1 without further incident.

According to Officer B, meanwhile, moments after he heard Officer A say, "He has a gun," Officer B heard two gunshots. Upon hearing the shots, Officer B turned back to see where Officer A was, but found that Officer A was no longer in sight. Realizing that Officer A needed help, Officer B ran eastbound, back to the front of the residence where he had last seen his partner. Officer B then went south, through the yard of that residence, over the wall and into the alley.

Once Officer B made it into the alley, he saw Officer A turning southbound at the L-intersection. Officer B followed his partner. When Officer B emerged onto the street, he saw that his partner was about 100 feet to his west, with Subject 1 already handcuffed.

**Note:** CD received a broadcast from an officer who sounded out of breath, saying, "Shots fired. Officer needs help..." Forty seconds later, CD received a broadcast by an officer who sounded out of breath, indicating that the subject was in custody. Neither Officer A nor Officer B acknowledged making these broadcasts.

Subject 1 was handed off to a responding unit by Officer A. Officer A ran back to Officer B and told him that Subject 1 had thrown a gun and that they needed to contain the area where the gun had been thrown. Officers A and B then went back towards the location where Officer A had seen Subject 1 throw the pistol.

### **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 Officer A's drawing to be in policy.

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

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

#### **D. Use of Force**

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

### **Basis for Findings**

#### **A. Tactics**

The BOPC noted that Officer A and Officer B deployed in the alley from a tactically advantageous position, illuminated the potential suspects with their vehicle's spotlight, and, anticipating that Subject 1 would emerge on the street, left the vehicle's spotlight on before running to the street. This tactic created the illusion that additional police personnel were present, reducing the likelihood that Subject 1 would double back. The BOPC further noted that, although the decision to effectively contain Subject 1 was appropriate, neither officer broadcast a request for an air unit or additional units to respond. It would have been tactically prudent to broadcast a request for a perimeter and to direct responding units to specific perimeter locations. The broadcast should also have included the officers' location, the subject's description, and direction of travel, and the type of crime.

When Officer A encountered Subject 1 and observed that Subject 1 had a gun, it would have been preferable for Officer A to advise Officer B that Subject 1 was in possession of a handgun and that it was concealed in his waistband.

Officer A broadcast a back-up request. The broadcast should have included a request for an air unit; should have provided responding units with information regarding the suspect's description and direction of travel; and should have indicated the type of crime involved, that Subject 1 was armed with a handgun, and specific perimeter locations for units to respond to.

Officer A then instructed Officer B to return to the police vehicle and occupy that position on the perimeter. After having instructed Officer B to return to the police vehicle, Officer A should have returned to the mouth of the north/south alley and directed the first responding unit to the eastern side of the perimeter. From these positions and behind sufficient cover, Officer A and Officer B would have been in line of sight and in a position to render immediate aid. That this tactic would have provided the officers with coverage of three of the four sides of the perimeter and would have required Subject 1 to travel the distance of the long block before the arrival of the first unit to defeat the containment efforts.

Based on the need for a balance between those tactics that provide a sufficient likelihood that a suspect will be apprehended and those that afford an officer an appropriate level of safety, the BOPC was critical of Officer A's decision to follow an armed subject through unfamiliar territory. Officers are not to engage in a foot pursuit of an armed subject unless there is adequate cover to continue the pursuit with the intent of monitoring the subject's progress to better establish a perimeter. The BOPC also noted that officers should not split-up during a foot pursuit and are strongly discouraged from doing so.

As Officer A pursued Subject 1 in the alley, Officer A reached for his radio, only to discover his radio holder was empty. At this point, Officer A should not have remained in foot pursuit. Officer A was unaware of Officer B's location and was knowingly without radio communication, which minimized the ability of Officer B and responding units to readily assist Officer A.

According to Officer B, at the time of the officer-involved shooting, Officer B was running back to the police vehicle and that, upon hearing shots fired, turned to visually locate Officer A, last observed standing on the sidewalk. When Officer B observed that Officer A was no longer there, Officer B ran back to locate Officer A. The BOPC was critical of Officer B's decision to not immediately broadcast a "Help" call.

After the officer-involved shooting, Officer A continued after Subject 1 with his service pistol in one hand and his flashlight in the other. Running with a firearm in hand can increase the chance of having an unintentional discharge, and that officers should have their firearms holstered when involved in a foot pursuit.

At no time between the officers' initial separation and Subject 1 being taken into custody was either officer in a position to render immediate aid to the other. The BOPC was particularly concerned that the officers separated when they knew that multiple subjects were in the vicinity, including at least one who was seen to be armed.

There were inconsistencies between the accounts of the involved officers, and an apparent inconsistency between Officer B's account and broadcasts made during this incident. As a result of these inconsistencies, some of the details of the officers' performance cannot be ascertained. Nevertheless, the available evidence shows that the officers separated, that they did not make appropriate broadcasts, and that they did not meaningfully attempt to orchestrate a perimeter.

Finally, Officer A did not take his baton with him when he left the police vehicle, and his pistol was not loaded to capacity.

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

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

The BOPC noted that, according to Officer A, he observed Subject 1 sitting on a chair in the driveway, and that, as Officer A visually scanned Subject 1's waistband area, Officer A observed the handle of a handgun protruding from underneath Subject 1's shirt. Officer A drew his service pistol and ordered Subject 1 to raise his hands over his head and get down to his knees; and that Subject 1 raised his hands and stood up from the chair, but then ran toward the rear of the property and climbed over a wall. Officer A pursued Subject 1 and holstered his service pistol before climbing over the wall, then drew his service pistol a second time after he climbed the wall and resumed his pursuit of Subject 1.

The BOPC found Officer A's drawing to be in policy.

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

The BOPC noted that Subject 1 discarded his handgun and slowed his pace as he continued to run. Officer A tackled Subject 1 from behind, taking him face down to the ground. Subject 1 briefly attempted to push himself up off the ground with his arms, but soon complied with Officer A's verbal commands and placed his hands behind his back, allowing Officer A to complete the handcuffing without further incident.

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

### **D. Use of Force**

The BOPC noted that, according to Officer A, while pursuing the suspect through the alley, Officer A observed Subject 1 clutch at the pistol in his right front waistband while looking back over his right shoulder, then pull the pistol from his waistband. Officer A, in immediate defense of life and while moving forward, fired two rounds in rapid succession at Subject 1. Apparently unaffected by either of the officer's rounds, the still running Subject 1 continued to swivel his upper body clockwise and pointed his pistol back in Officer A's direction. At that point, Officer A stopped and fired a third round in an easterly direction at Subject 1.

The BOPC noted that accounts provided by witnesses who heard gunshots were potentially inconsistent with Officer A's account of the incident. The BOPC further noted two of Officer A's expended shell casings were recovered east of the location at which Subject 1's pistol was found. The two easternmost of the three casings recovered were located substantially eastward of where they could be expected to be located, based upon Officer A's account. Although it is possible that the casings were disturbed following the shooting and prior to the measurement of their locations, the apparent incongruity cannot be resolved, given the available evidence. However, given that the shell casing evidence does not *necessarily* refute Officer A's account, the BOPC found

that the preponderance of the evidence supported the reasonableness of the officer's actions.

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