

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

**OFFICER-INVOLVED SHOOTING 036-05**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On(x) Off( )</u></b>	<b><u>Uniform-Yes(x) No()</u></b>
Southwest	05/11/2005		

<b><u>Involved Officer(s)</u></b>	<b><u>Length of Service</u></b>
Officer B	9 years, 6 months
Officer C	9 years, 3 months

**Reason for Police Contact**

Officers served a search warrant.

<b><u>Subject(s)</u></b>	<b><u>Deceased (x)</u></b>	<b><u>Wounded ( )</u></b>	<b><u>Non-Hit ( )</u></b>
Subject: Male, 26 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 Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, 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 June 3, 2008.

**Incident Summary**

Officer A prepared an affidavit and search warrant and submitted both documents to Lieutenant A and Detective A for review and approval. After both Lieutenant A and Detective A approved the documents, Officer A submitted them to a superior court judge, who issued the search warrant. Additionally, Officer A prepared a warrant service tactical plan report. The search warrant briefing was attended and supervised by Lieutenant A, Detective A and Sergeant A.

The majority of the officers who were to be involved in the warrant service attended the briefing. Officer B did not attend the search warrant briefing because of an arrest he and Officer C had made, but he was briefed by the case agent, Officer A, prior to the service of the search warrant.

The officers were attired in plain clothes, wearing Department raid jackets with "POLICE" displayed on the front and back. Officers B, C, D, E, F, and G were assigned to rear containment at the residence. All of the officers assigned to the service of the search warrant responded to a location close to the warrant service location and exited their vehicles, with the exception of Officer D. At the time the search warrant was to be served, Lieutenant A was a short distance north of the warrant service location. Detective A was supervising the entry team.

The officers formed up into teams and began moving toward the residence. As the containment team started down the driveway, Officer C saw a male, the Subject running to the rear. Officer A, who was assigned to the entry team, walked toward the front door, and, as he was walking, he observed the Subject in a blue shirt begin walking eastbound out of the driveway, from the back of the location. Officer A stated that when the Subject saw the officers approaching the property, he immediately turned around and ran. Officer A yelled out "runners," but could not recall if he also broadcast this information.

Officer A and the entry team continued onward toward the front door of the residence. Officer A reached the front door, shouted "LAPD," and, "search warrant." He knocked on the door when he looked into the house and saw a male running through the house. Officer E communicated they had Subjects running out of the rear door. Officer E proceeded past the target location with Officer H and observed the Subject hop over a gate and continue through a yard.

Officer G was delayed in getting to the rear of the house because one of the officers dropped his radio, and had to stop to retrieve the equipment.

Officer C was behind Officer B by approximately five feet, and the Subject was anywhere from thirty to fifty feet from the officers. Both officers pursued the Subject down the driveway and continued to the rear of the residence. Officer B slowed down as he approached the backyard and tactically cleared the corner as he turned in a southwesterly direction into the backyard.

Officer B entered the backyard, and saw an additional three male subjects. Officer B believed these three individuals had not come out of the residence, but instead had been in the backyard when the officers arrived. Officer C followed and stayed clear of the corner when he heard Officer B say gun. At this point Officer C saw three male subjects, and one who was holding a blue steel handgun in his left hand.

Shortly thereafter Officer B heard the sound of someone hopping a wooden fence. Officer B could hear the thud of shoes against a wooden fence and believed the Subject had fled over a fence. Officer B's attention was then drawn to three additional males

who were fleeing toward the fence line. Officer B focused on all three males and observed the male who was nearest him, later identified as the Subject, holding a blue steel semi-automatic pistol in his left hand. Officer B observed that the Subject's left arm was "fully extended," and that the gun was pointed in his direction. Officer B yelled out "gun" and unholstered his gun. Officer C also unholstered his gun. According to Officer B, the Subject turned left over his left shoulder. Officer B continued forward toward him and discharged his firearm two to three times due to the fear of getting shot. After this first volley of rounds, the Subject continued forward and subsequently placed the gun that he was holding in his left hand atop the chain link fence in an effort to brace himself in an attempt to get over the fence. In doing so the gun was twisted back in the direction of Officer B and C. Officer B subsequently fired two to three rounds when the Subject's left hand and pistol were atop the fence and pointed in their direction. At that point, the Subject actually made it over the chain link fence and collapsed face down with one of his hands underneath his body.

Officer C reported that he fired one round before the Subject reached the fence line at the edge of the yard. As described by Officer C, he fired at the Subject as the Subject turned facing them with the pistol pointing at them. Officer C recalled that the Subject was closer to Officer B than he was to himself. According to Officer C, after firing his last two rounds, the Subject turned and then took two steps and then fell forward to the ground.

According to Officer G, after picking up Officer C's radio, and before he reached the backyard, he heard unknown officers shouting 'runners' and then shortly thereafter, he heard someone shout 'gun' followed by five to six gunshots.

According to Officer A, prior to the gunshots, he heard unknown officers shout 'runners.' Officer A continued in the driveway, and prior to reaching the backyard, he recalled hearing approximately four to five shots. When asked if he heard anyone shout 'gun' prior to the shooting, Officer A recalled only hearing Subjects running.

Communications Division (CD) received a broadcast from Officer A advising that shots had been fired and that an airship and additional units were needed in order to begin establishing a perimeter.

Sergeant A moved to the backyard of the residence after hearing the gunshots. Sergeant A saw Officer B and C were there, who were giving orders while their guns were facing southbound. Sergeant A ensured the officers were not injured and then assembled additional officers in order to tactically approach the Subject and handcuff him. Sergeant A requested that an airship and a rescue ambulance (RA) respond to his location.

Officer A was designated as the handcuffing officer. Officer A approached the Subject and grabbed his right hand, wrist rather, that was underneath him, place it on the small of his back, and another officer placed his left hand in the small of his back and handcuffed the Subject. After he handcuffed the Subject, Officer A leaned to the Subject's left side to make sure there were no weapons underneath him, and cleared

for weapons around his waistband area before settling the Subject back down where he was found.

A pistol was not found on or underneath the Subject. A detective later located a blue steel semiautomatic pistol in the high grass between the chain link fence the Subject had scaled and a 4 foot by 8 foot sheet of vinyl lattice that was leaning against the chain link fence on its side. The pistol was located in the area of the chain link fence where, based on physical evidence, it appears that the Subject had traversed it. The pistol was functional and had one unfired cartridge in the chamber and eleven unfired cartridges in the magazine. The pistol and cartridges were examined for latent prints; however, no latent prints of value were observed.

A Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) arrived and the Subject was transported to the hospital for treatment. The Subject failed to respond to medical treatment and was pronounced dead.

### **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 determined that Officers B and C's tactics were appropriate and require no further action.

The BOPC determined that Lieutenant A, Detective A, Sergeant A and Officers A and I will benefit from additional divisional training.

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

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

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

The BOPC found Officers B and C's use of force to be in policy.

## **Basis for Findings**

### **A. Tactics**

The BOPC noted that, in preparation for the search warrant, it would have been tactically prudent for Officer A to have obtained an aerial photo of the target location, as this would give the containment team a visual of the potentialities they may face.

Once the search warrant was obtained, and prior to the execution, Operations-South Bureau should have been notified and Metropolitan Division should have been contacted for advice. Often personnel conducting narcotics investigations conduct an internal assessment and prematurely determine that the situation does not meet the criteria for the Special Weapons and Tactics Section of Metropolitan Division to serve the warrant. According to the Warrant Service Tactical Plan Report, a prior narcotics and gun arrest was identified. Coupled with a security door fortifying the front of the location, the Commanding Officer, Metropolitan Division, should have been contacted for advice, and a formal request posed for Metropolitan Division to assess the warrant for Metropolitan Division Criteria.

Captain A, Commanding Officer, advised the Use of Force Review Board (UOFRB) that upon reviewing the original Warrant Service Tactical Plan Report, he noted the Subject's information was not included. Further investigation revealed that Officer A retrieved a prior report to use as a template and did not redact certain information. This practice is not prudent and it lends itself to the dissemination of inaccurate information to the search team.

On the day of the warrant service, Officer A conducted the briefing; however, all team members were not present. Those not present should have been subsequently briefed by Officer A or by a designated representative to ensure that all members were intimately aware of their assignments, the specific nature of the operation and the global tactical plan.

As the search team drove in-trail toward the target location, they did so without obtaining a last-minute intelligence update. It would have been tactically prudent to utilize a scout team prior to the initiation of their approach to monitor pedestrian and vehicular traffic patterns in the area.

In addition, the placement of the rear containment team near the end of the in-trail configuration may have created a perceived need to rush. As Officers B and C were responsible for establishing containment on the target location prior to the entry team initiating the service of the warrant, consideration should have been given to having them proceed to their assigned position in advance.

When the entry team reached the front door of the target location, two males were observed running westbound toward the rear of the residence and it was communicated that the operation was "compromised." As the word "compromised" does not clearly communicate what is occurring, it would have been tactically safer had an officer

broadcast a clear and concise account of their observations over their radio, thereby preparing the officers in the rear for a possible confrontation.

Simultaneously, Officers B and C followed Witness A down the driveway of the residence. Officer B, the lead officer, slowed his pace and tactically deployed around the corner of the residence. Upon entering the rear yard, Officer B observed three additional males, who proceeded to flee. Witness A was not among those three individuals; however, Officers B heard the sound of someone climbing over a wooden fence west and opined it was Witness A.

Officers B and C's attention was drawn to the Subject, who was running with a handgun in his left hand. The Subject pointed his handgun at Officers B and C, and an OIS occurred. With the backyard void of anything that would provide cover, Officer B and C advanced toward the Subject and appropriately engaged the threat.

After the OIS and before the Subject was taken into custody, Officer A exited the rear door of the residence. As part of the entry team, Officer A should have remained disciplined. It is important for the entry team to remain focused on their assigned duties. With a tactical situation unfolding, Officer A could have been misconstrued as an additional Subject.

In addition, Officer I responded to the rear yard where the Subject was lying before an arrest team was formulated. When officers work independent from one another, officer safety is jeopardized.

The BOPC was satisfied with Officers B and C's tactics. They showed good judgment as they responded to the deadly threat.

The BOPC found that Officers B and C's tactics were appropriate and require no further action.

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

The BOPC noted that Officer B followed a male down the driveway and then to the rear of the residence. When Officer B entered the rear yard, the man he was pursuing had jumped a fence and he observed the Subject with two additional males. The Subject pointed a handgun at Officer B while he fled. Fearing that the Subject would shoot him, Officer B drew his service pistol and yelled, "Gun," to warn his partner. Officer C was running approximately five feet behind Officer B when he heard Officer B say, "Gun." Officer C drew his service pistol in anticipation of confronting an armed Subject.

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

## **C. Use of Force**

The BOPC noted that, as Officer B slowed his pace, around the corner of the residence and entered the rear yard, he observed the Subject and two additional males. The

Subject, the individual positioned closest to Officers B and C, pointed a handgun at them while continuing to run away. Fearing he was going to be shot, Officer B fired two to three rounds at the Subject from approximately eight feet. Simultaneously, fearing Officer B or he was about to be shot, Officer C fired one round at the Subject from approximately eight feet.

The Subject appeared unaffected as he continued running and placed both hands on top of a chain-link fence in preparation to climb over it. While maintaining the handgun in his left hand, the Subject proceeded to climb the fence. Officer B observed the barrel of the handgun turned back toward him with the Subject's left index finger on the trigger. Once again, fearing he was going to be shot, Officer B fired two to three rounds at the Subject from a decreasing distance of eight to three feet.

Officer C stated that the Subject jumped over the fence pivoted around and pointed his handgun at him. Fearing he was about to be shot, Officer C fired two rounds at the Subject from a decreasing distance of eight to three feet.

The BOPC found Officers B and C's use of lethal force in policy.