

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

**OFFICER-INVOLVED SHOOTING – 036-07**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Time</u></b>	<b><u>Duty-On (X) Off()</u></b>	<b><u>Uniform-Yes(X) No()</u></b>
Van Nuys	04/09/07			

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	3 years, 7 months

**Reason for Police Contact**

Officers responded to a domestic violence call. After forcing entry to the residence, the officers were confronted by an armed subject which resulted in an officer involved shooting.

<b><u>Subject</u></b>	<b><u>Deceased (X)</u></b>	<b><u>Wounded ()</u></b>	<b><u>Non-Hit ()</u></b>
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Subject: Male, 45 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 Commission and made itself available for any inquiries by the Commission.

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 February 26, 2008.

**Incident Summary**

Officers A and B responded to a radio call of a "possible kidnap suspect there now." The officers noted that the location of the radio call had been deemed a "special location" because of numerous domestic dispute calls.

Officers A and B arrived and parked two or three houses away from the given address. Officer A approached and knocked on the front door of the residence, but there was no response. Officer A knocked again, and heard a male voice yelling obscenities and telling the officers to leave.

Officer A knocked on the door again, identified himself as a police officer, and told the unidentified occupant(s) to come outside and talk with him and his partner. Officer A continued to hear yelling from the male voice inside the residence. Officers A and B took cover behind a vehicle parked in the driveway and waited for a sergeant and additional officers to arrive.

Prior to the arrival of the additional units, Officers A and B again approached the residence in an attempt to have the occupant(s) exit. On this attempt, Officer A drew his service pistol prior to approaching the residence. After receiving no further response, the officers returned to their position of cover where Officer A holstered his service pistol, and Officer B drew his service pistol.

Shortly after returning to their position of cover, the person reporting the incident (Witness A) arrived at the scene and reported that a female was inside the residence. Witness A identified himself as the boyfriend of the female inside the residence (Victim A). In the meantime, Sergeant A arrived, as did a friend of Victim A, Witness B. Witness B used her cellular telephone to call Victim A and then handed the telephone to Sergeant A. Sergeant A briefly spoke with Victim A, who indicated that she was afraid and that she could not talk. Victim A ended the call. When Sergeant A attempted to call Victim A back, the Subject answered and then hung up the phone. Sergeant A's attempts to talk with the Subject were met with profane responses and threats.

According to Victim A, she was married to the Subject. The two were estranged and living in separate residences. On the day of the incident, she had visited the Subject at his residence to get his assistance with tax forms. After entering the Subject's residence, he took the keys to her vehicle and refused to let her leave.

Meanwhile, additional officers arrived including Sergeant B and Officers C and D. Sergeant A formulated a tactical plan to make entry into the Subject's residence by kicking down the front door. Officer A was the lead officer of the four-officer entry team. Officers B and D moved to positions of cover behind the garage and both drew their service pistols. Officer A went to the front door and kicked it five to six times to no avail. Sergeant A then directed all of the officers to retreat to positions of cover. Additional attempts by Sergeant A to contact the Subject by yelling into the residence were unproductive. According to Sergeant A, he felt a continuing need to enter the residence because he believed Victim A was in fear of her life.

At this point, Officer C searched for entry doors at the sides and rear of the residence. After locating a side door, Sergeant A formed an entry team which included himself and Officers A, C and D. The Officers all drew their service pistols.

Officer A approached the side door and forced it open with a kick. Officer A identified himself as an officer and gave the order to “come out with your hands up.” There was no response, so Officer A entered the house and immediately heard the Subject yelling. Officer A observed the Subject, who was naked, advancing toward him while holding an 18 to 36 inch metal pipe in a one-handed grip, above his head, with his arm cocked back. Officer A took one or two steps backward before bumping into another officer and running out of room to move. Officer A yelled at the Subject to drop his weapon but instead, the Subject continued to advance toward Officer A. In response, Officer A fired one round at the Subject from a distance of seven to eight feet. Officer A paused and reassessed the situation. Officer A observed the Subject take another half step toward him. In response, Officer A fired a second round at the Subject. The Subject fell onto his stomach and the pipe the Subject had been holding landed next to him.

Sergeant A requested a Rescue Ambulance (RA). The RA arrived and transported the Subject to a nearby hospital for treatment. The Subject did not respond to medical treatment and died as a result of his gunshot wounds.

### **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 Sergeant A’s tactics to warrant administrative disapproval. The BOPC found Sergeant B and Officers A, B, C and D’s tactics to warrant formal training.

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

The BOPC found Officers A, B, C and D’s drawing to be in policy.

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

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

## **Basis for Findings**

### **A. Tactics**

The BOPC noted that, although Sergeant A took several steps to resolve this incident, there were several tactical areas of improvement that were identified. A command/operations post was never established for this incident and the inner and outer perimeters were never secured to control ingress/egress restrictions for the involved area. There were also indicators of possible mental illness associated with the Subject. A notification to the Mental Evaluation Unit could have provided useful insight. In addition, Sergeant A was uncertain if this incident met the criteria for a Special Weapons and Tactics response and thus did not notify Metropolitan Division. It would have been tactically prudent for Sergeant A to notify Metropolitan Division and give them "First Right of Refusal" for this incident. In addition, prior to making entry into the residence, it would have been tactically prudent to evacuate the surrounding residences and ensure that the entry team personnel were aware of their assigned duties and a less lethal force option (e.g., TASER, Beanbag Projectile Shotgun) had been deployed.

Although the BOPC noted that Sergeant B was the senior sergeant at the scene, Sergeant A clearly oversaw the tactical aspects of the incident. Hence, Sergeant A was held more highly accountable for the overall coordination of the incident.

The BOPC found Sergeant A's tactics to warrant administrative disapproval. The BOPC found Sergeant B and Officers A, B, C and D's tactics to warrant formal training.

### **B. Drawing and Exhibiting**

The BOPC noted that, Officers A and B responded to a "possible kidnap suspect there now" radio call. It was subsequently determined that Victim A was being held inside the residence against her will. An entry team was formed involving Officers A, C and D while Officer B maintained a position of cover. Prior to entering the residence, Officers A, B, C and D reasonably believed that there was a substantial risk that the situation may escalate to the point where deadly force may be justified, and drew their service pistols.

The BOPC determined that Officers A, B, C and D had sufficient information to believe that the situation may escalate to the point where deadly force may become necessary.

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

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

The BOPC noted that the entry team entered the residence led by Officer A. They encountered the Subject who was naked, yelling, and armed with a metal rod, which he held in his right hand, raised above his head in a threatening manner. Officer A raised

his service pistol from a low ready position, up on target, as the Subject took approximately two steps forward. Officer A told the Subject to drop the weapon as he continued to approach. In immediate defense of his life, Officer A fired one round at the Subject from a distance of approximately eight feet, immediately reassessed, and observed the Subject take another half step forward. Officer A fired a second round at the Subject from a distance of approximately seven feet to prevent the Subject from utilizing the metal rod to cause him injury.

The BOPC determined that Officer A believed that the Subject presented an immediate threat of serious bodily injury or death.

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