

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

OFFICER-INVOLVED SHOOTING -- 047-08

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform- Yes(X) No()</u>
Hollenbeck	05/20/2008		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	12 years, 4 months
Officer C	19 years, 6 months
Officer D	1 year, 5 months

Reason for Police Contact

Witness A was shot by Subject 1. Witness B called 911 after hearing and observing the incident. Officers responded accordingly and encountered Subject 1 on the street. Subject 1 did not cooperate with officers' commands, ran from the officers and reached for a gun carried in his waistband. Subject 1 was shot by officers who thought he was about to fire on them.

<u>Subject</u>	<u>Deceased (x)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 1, Male, 28 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. Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on 05/05/2009.

Incident Summary

Witness A and some friends were in a known gang location when Witness A observed a male, later identified as Subject 1, on the sidewalk across the street. Subject 1 pointed

a handgun at Witness A and started firing rounds. Witness A sustained a single gunshot wound to his upper left arm and was transported to a local hospital.

Witness B telephoned 911 and reported hearing four or five gunshots. Witness B observed three males walking, and she believed one of the males had been shot. Communications Division (CD) broadcast a "shooting just occurred" radio call.

Officers A and B heard the broadcast and acknowledged that they would respond to the call. At the same time, Officers C and D heard the broadcast and also decided to respond.

Officers A and B arrived in the area and broadcast their location accordingly.

Witness C heard gunshots and came out of his residence in time to see Subject 1 running from the area with a gun in his hand. While standing in front of his residence, he observed a police vehicle approach and flagged it down. Officers A and B stopped to talk with Witness C. Witness C told the officers that Subject 1 was wearing a black T-shirt, black shorts and a cap. Without broadcasting, Officers C and D arrived on scene in time to overhear Witness C describing Subject 1's clothing to Officers A and B. Witness C then pointed the officers in the direction where she had last seen Subject 1, and the officers started a search. Officer B broadcast Subject 1's clothing description and direction of travel.

Witnesses D and E initially heard four or five gunshots. Minutes later, they heard two or three additional shots and then saw Subject 1 casually walking along the sidewalk across the street from their residence. As Subject 1 passed by, both witnesses observed Subject 1 holding a handgun behind his back in his right hand. Moments later, the witnesses observed a police vehicle and directed the officers to the location they had last seen Subject 1 walking.

Officers A and B observed Subject 1 walking along the sidewalk. Officer A drove toward Subject 1 and stopped in front of him. Both officers exited their vehicle and drew their service pistols.

Officer A ordered Subject 1 to stop and put his hands up while Officer B ordered Subject 1 to get on the ground and spread his arms and legs. Subject 1 faced the officers, put his hands in the air and said, "I didn't do anything. What do you guys want?" Subject 1 then turned, reached for his waistband and ran from the officers.

Officers A and B ran after Subject 1. Both officers holstered their weapons before running. During the foot pursuit, Officer A observed Subject 1 reach into his pants pocket and retrieve a handgun. Officer A yelled to Officer B, "Gun." Officer A drew his service pistol and gave commands for Subject 1 to drop his gun.

Simultaneously, Officers C and D observed Subject 1 running along the sidewalk toward their vehicle with Officer A in foot pursuit. Officers C and D joined the chase.

Subject 1 approached a residence where, inside the fenced front yard, Witnesses F, G, and H were standing. The chain-link fence was gated from the sidewalk and the gate was closed. Subject 1 reached the gate and told Witnesses F, G, and H to go inside the house. As Subject 1 opened the gate to enter, the three witnesses ran in different directions.

Subject 1 ran into the front yard of the residence, followed by Officer A. Officer A could see Officers C and D approaching from the opposite direction. Officer D entered the front yard closely behind Officer A and was followed by Officer C. Officer A continued giving Subject 1 the command, "Drop the gun."

Subject 1 ran around the corner of the residence into a narrow walkway bordered by a chain-link fence on one side and the outer wall of the residence on the other. As Subject 1 ran into the walkway, his gun struck the fence and fell to the ground. Subject 1's momentum carried him three or four more steps at which point he turned and started back for the gun. Officer A realized that Subject 1 would get to the gun before he could.

Officer A was approximately three feet from the gun when Subject 1 reached down and picked it up. Officer A remembered seeing the weapon come up and being pointed at his lower legs. Subject 1 was still crouched when Officer A fired from his service pistol. Officer A started backing away but observed that Subject 1 still had the gun in his hand. From an increasing distance, Officer A fired additional shots. Subject 1 dropped his gun and fell to the ground.

Note: According to Officer D, Subject 1 picked up the gun and started to raise it when Officer A fired his first shot.

After Officer A fired his first rounds and backed up, Officer D had an unobstructed view of Subject 1. Officer D observed Subject 1 drop his gun after Officer A's initial shots were fired. Officer D ordered Subject 1 not to reach for the gun, but Subject 1, still crouched, ignored the command, reached for the gun and tried to grab it. At that point, Officer D fired at Subject 1.

Officer C lost sight of Subject 1 when Subject 1 turned into the walkway. Officer C drew his service pistol when he heard Officer A issue the command to "drop the gun." Officer C heard shots as he reached the opening of the walkway and saw Officer A backing up. Officer C observed a gun on the ground next to Subject 1 and Subject 1 reaching for the weapon. Officer C fired from his service pistol.

Officer B was on the sidewalk running when he heard the first shot. He did not observe who fired the round. As Officer B entered the gate into the front yard, the shots ceased.

Officer B broadcast an "officer needs help" and "shots fired" call, as well as a request for a rescue ambulance (RA).

Los Angeles Fire Department (LAFD) personnel arrived on scene and attended to Subject 1, who was nonresponsive, not breathing and pulseless. LAFD paramedics declared Subject 1 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 found Officers A, B, C, and D's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

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

C. Lethal Use of Force

The BOPC found Officers A, C, and D's lethal use of force to be in policy.

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

1. Officer A allowed Witness C to approach while seated in his police vehicle.

It would have been prudent for Officers A and B to exit the police vehicle before making contact with Witness C.

2. Officers C and D did not update their status when they responded to the radio call location.

It would have been prudent for Officers C and D to have advised CD of their status and location.

3. Officers A and B both gave commands to Subject 1.

Both officers gave commands to Subject 1 which may have created confusion in the mind of the subject and distracted the cover officer from his primary responsibility of protecting the contact officer.

It would have been prudent for one officer to provide commands to Subject 1 while the second officer focused on protecting himself and his partner.

The BOPC found Officers A, B, C and D's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

Officers A and B observed the subject who they believed was armed with a handgun. Officers A and B believed the incident had escalated to the point where lethal force may become necessary and drew their service pistols as they exited their police vehicle.

Officers C and D heard Officer A yell, "Drop the gun!" three or four times, while he was confronting subject. Believing that the subject was armed and that the situation could escalate to the point where lethal force may be necessary, Officers C and D drew their service pistols.

Accordingly, it was reasonable for Officers A, B, C and D's to believe that the situation had escalated to a level where lethal force may become necessary.

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

C. Lethal Use of Force

Officer A observed Subject 1 holding a handgun. Believing that Subject 1 was going to shoot him, Officer A fired his pistol at Subject 1.

Officer D observed Subject 1 pick up a handgun and point it in the direction of Officer A. Believing that Subject 1 was going to shoot Officer A, Officer D fired his pistol at Subject 1.

Officer C heard shots and saw Officer A moving backwards toward Officer C. Officer C then observed Subject 1 attempting to arm himself with a handgun. Believing that Subject 1 was going to shoot, Officer C fired his pistol at Subject 1.

The BOPC found Officers A, C and D's lethal use of force to be in policy.