

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

Officer-Involved Shooting – 058-05

<u>Division</u>	<u>Date</u>	<u>Duty-On(x) Off()</u>	<u>Uniform-Yes(x) No()</u>
Southeast	07/13/2005		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Officer A	11 years, 5 months
Officer B	20 years, 8 months
Officer C	9 months
Officer D	8 years, 5 months
Officer E	9 years, 8 months
Officer F	8 years, 4 months

Reason for Police Contact

Officers followed a male who ran from them, holding his waistband as if he was concealing a gun. A perimeter was established and officers located a male hiding along side a residence. The male reached for an object at his waistband and an officer fired at him.

Subject(s) **Deceased ()** **Wounded ()** **Non-Hit (x)**

Subject 1: Male, 50 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 June 27, 2006.

Incident Summary

On the evening of Monday, July 13, 2005, Police Officers A and B were patrolling in Southeast Area. The officers saw a male cross the street outside of a crosswalk and decided to stop him in order to issue a citation for jaywalking.

As the officers exited their vehicle in order to initiate the stop, a second male (Subject 1) began to run away from the officers. As Subject 1 ran, Officer B saw him throw a black plastic bag and both officers saw him place his left hand at his waistband. Both officers interpreted Subject 1's actions as an indication that he could be armed with a gun. The officers began to follow Subject 1.

Officer B drove a short distance, opened his vehicle door and looked in the bag he had seen Subject 1 throw. Officer B saw that the bag contained an open container of alcohol. As Subject 1 continued running, the officers began to follow Subject 1 in their vehicle.

Officer A broadcast to Communications Division (CD) that his unit was "gonna be in foot pursuit, possible male with a gun," and provided the officers' location.

Subject 1 crossed the road and went behind a bus, out of sight of the officers. Officer B stopped the police vehicle parallel to the bus. Officer A exited the police vehicle and took a position behind the police vehicle's trunk, seeking a better view of Subject 1. Officer B, still seated in the police vehicle and believing that Subject 1 could open fire, drew Officer B's service pistol.

The bus drove away and the officers saw Subject 1 running through the parking lot of a strip mall. Officer A told Officer B that he was "going to the corner to see where [Subject 1 is] going," and approached the strip mall on foot. Meanwhile, Officer B moved the police vehicle, taking a position adjacent to the strip mall. Officer A watched Subject 1 as he ran through the strip mall, then over a gate and a wall, toward an area of residential properties. Officer A drew Officer A's service pistol as he watched Subject 1 go over the gate. According to Officer A, Subject 1 continued to hold his waistband area as he scaled the wall.

An Air unit responded and began requesting additional units and directing the establishment of a perimeter around the area into which Subject 1 had fled.

Police Officers C, D, E and F heard Officer A's broadcast regarding the foot pursuit. The officers responded to the vicinity and were directed by the Air unit to hold positions on the perimeter.

An estimated 10 to 15 minutes after they took their position on the perimeter, Officers C and D saw a young female and two adult females at the front of a house. According to Officer C, three or four females and a male came into the street, crying and pointing to the rear of their house. Officer C heard one of the females say that there was a man in their back yard that was threatening to hurt them. Officer C tried waving them over to

Officer C's position. When they did not respond, Officers C and D left their assigned position on the perimeter and approached the group.

According to Officer D, a young girl came into the street "hysterically crying" and he and Officer C attempted to direct her to their location. Then, the "rest of her family came out hysterically crying," so the officers approached them and were informed that "the man is in our house." Officer D saw that the front door of the house was ajar.

Officer E, followed by Officer F, joined Officers C and D at the front of the house.

Officers C, D, E and F did not broadcast that they were leaving their positions on the perimeter. Nor did they broadcast an update regarding the subject's possible location.

Officer F entered the house via the front door with a witness in order to retrieve a young child who was still inside the house. Meanwhile, Officers C, D and E moved along the driveway at the side of the house. Officers C, D and E drew their service pistols.

According to Officer C, as he reached a point approximately half-way down the driveway, he saw Subject 1 under a vehicle. Officer C shouted commands to Subject 1 to not move and to keep his hands in view. Subject 1 got out from under the vehicle, and climbed onto a wall at the end of the driveway. As Subject 1 stood in a crouched position on top of the wall, Officer C saw his right hand go "to the side of his waist" and saw Subject 1 begin to turn back towards the officers. Officer C saw "what looked like the handle of a gun" in Subject 1's waistband and saw Subject 1 place his hand on the "handle." As Subject 1 turned towards him, Officer C feared that Officer C was going to be shot and fired one round at Subject 1. Officer C then saw Subject 1's hands go up and watched as Subject 1 went over the wall and out of sight.

According to Subject 1, he was shot at as he climbed over the wall. Subject 1 stated that his right hand may have gone to his waist as he "jumped up from the ground." Subject 1 was carrying a gray cell phone in a black holder, clipped to the pocket of his pants. When asked whether he had reached for the cell phone as he got up on the wall, Subject 1 replied that he "thought he had dropped it when [he] was coming over the wall." Subject 1 also said that, when he was shot at, he was just reaching up for the wall and did not remember reaching to his waistband or his phone. Subject 1 denied having possessed a gun.

Subject 1, who was not struck by Officer C's round, fled and hid in a nearby yard. The officers in the Air unit saw Subject 1's movements and broadcast this information to units on the ground.

According to Officer D, Officer D broadcast that an officer-involved shooting had occurred. However, the Air unit and other officers involved in the perimeter did not receive this information.

The perimeter was maintained until Subject 1 was taken into custody without incident, later that evening. Subject 1's black cell phone holder was attached to his pants when

he was taken into custody and his cell phone was found nearby during a subsequent search. No weapons were recovered.

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 divisional training. The BOPC found Officers C, D, E and F's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A, B, C, D and E's drawing and exhibition of a firearm to be in policy.

C. Use of Force

The BOPC found Officer C's use of force to be in policy, warranting formal training.

Basis for Findings

A. Tactics

The BOPC noted that Officer A informed CD the officers were going to be in foot pursuit of a possible man with a gun. The BOPC noted that Officers A and B were still in their vehicle when the broadcast was made. The BOPC would have preferred that Officer A had not broadcast that they were in foot pursuit, and had instead requested a back-up unit and an air unit.

The BOPC noted that when Subject 1 crossed the street and approached a bus, Subject 1 was out of the officers' view. The BOPC noted that, during this time, Officer B remained in the police vehicle and drew his service pistol. The BOPC noted that, although in there were no negative consequences resulting from Officer B remaining in the police vehicle with his service pistol drawn, this tactic is not taught and generally places the officer at a tactical disadvantage.

The BOPC would have preferred that, as Subject 1 fled and climbed over a wall, Officer A had given him verbal commands to attempt to take him into custody.

The BOPC determined that Officers A and B's tactics warrant divisional training.

The BOPC noted that Officers C, D, E and F responded to the back-up request for a man with a gun and took a position on the perimeter. The BOPC noted that Officers C, D, E and F left their respective positions on the perimeter to approach residents who screamed and indicated that there was a man in their backyard. The BOPC would have preferred that the officers had not left their respective positions on the perimeter and had instead advised the Command Post of this information to facilitate the response of an additional unit to interview the residents.

The BOPC noted that when Officers C and D determined that Subject 1 was in the backyard hiding underneath a vehicle parked in the driveway, Officers C, D and E entered the backyard to search for Subject 1. The BOPC would have preferred that the officers had not entered the established perimeter and had instead informed the Command Post of the information they had received regarding Subject 1's location. The BOPC would have also preferred that the officers had requested a supervisor, additional units and established a tactical plan before initiating the search.

The BOPC also noted that, while the search was being conducted, Officer F entered the residence with one of the residents to retrieve a child. The BOPC would have preferred that Officer F communicated his intention to remove the child and had maintained the integrity of the search efforts.

The BOPC would have preferred that the officers had secured a Tactical Frequency at the onset of the incident and immediately broadcast that an officer-involved shooting had occurred.

The BOPC found Officers C, D, E and F's tactics to warrant administrative disapproval.

B. Drawing/Exhibition/Holstering

The BOPC noted that Officer B was seated in the driver's seat of the police vehicle when he lost sight of Subject 1, whom Officers A and B believed to be in possession of a firearm. Officer B drew Officer B's service pistol. The BOPC also noted that Officer A initiated a foot pursuit of Subject 1, who reached underneath his shirt as though he was supporting a firearm. Officer A, believing that Subject 1 was arming himself, drew Officer A's service pistol.

The BOPC noted that Officers C, D and E initiated a search for an armed suspect. The officers, believing that the incident could rise to the level where deadly force may have been required, drew their service pistols.

The BOPC found Officers A, B, C, D and E's drawing and exhibition of a firearm to be in policy.

C. Use of Force

The BOPC noted that, as Subject 1 reached the top of the wall, he crouched down, reached for his waistband area, and turned toward the officers. As Subject 1 turned clockwise to face the officers, Officer C observed him reach for what Officer C perceived to be the handle of a handgun protruding from Subject 1's waistband area. Officer C, believing that Subject 1 was going to shoot at Officer C, fired one round toward Subject 1.

The BOPC determined that Officer C reasonably believed that Subject 1 was arming himself in an effort to shoot Officer C. However, the BOPC would have preferred that Officer C had used cover and considered the distance and the immediacy of the threat prior to using lethal force. The BOPC found Officer C's use of force to be in policy, warranting formal training.