

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

**OFFICER-INVOLVED SHOOTING – 059-07**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On (X) Off()</u></b>	<b><u>Uniform-Yes() No(X)</u></b>
Outside City	06/19/2007		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Detective B	24 years, 8 months
Officer A	7 years, 1 month

**Reason for Police Contact**

Detectives received information that gang members were planning to meet at a residence to address retaliation against members of a rival street gang. Subject 1 was observed at the location while officers conducted surveillance in advance of the meeting. During attempts to detain Subject 1, an officer-involved shooting occurred.

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

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate the 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 and addenda items); the 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 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 06/03/08.

**Incident Summary**

Detectives received information that gang members were planning to meet at a residence to address retaliation against members of a rival street gang, who were believed to have carried out a murder. Subject 1 and Subject 2 were identified as two of the five gang members believed to be attending the meeting.

The detectives shared this information with other personnel, including Detectives A, B, C and D, and Officers A, B and C. The personnel initiated surveillance at the residence.

**Note:** Officer A received a “game plan” related to the surveillance of the residence, which included, among other things, the reason for the surveillance and available subject information.

Involved personnel were provided with the Los Angeles County Consolidated Criminal History System (CCHRS) Reports on five individuals who might be at the residence, which included parole and probation information. There appears to have been confusion among the detectives and officers regarding whether the individuals named were on parole and subject to search by law enforcement.

**Note:** Detectives A, B, C and D and Officers A, B and C were all attired in plain clothes throughout this incident.

The next night, while continuing their surveillance, the personnel observed Subject 1 speaking on a cellular telephone in front of the residence. Sometime thereafter, Subject 1 and a female (Subject 3) entered a black vehicle that had pulled up on the street, along with two other males (Subjects 2 and 4) and a small child (Subject 5). The black vehicle then departed and Detectives A, B, C and D, and Officers A, B and C all followed.

While on a freeway, the black vehicle pulled over to the shoulder and came to a stop. Moments later, Subjects 1, 2, 3 and 4 (with Subject 5) all exited the vehicle and climbed over a fence that ran along the edge of the freeway.

**Note:** It was later determined that the vehicle had run out of gas.

Subjects 1, 2, 3 and 4 (with Subject 5) walked across a street and outside the boundary of the City of Los Angeles. Detectives A, B, C and D and Officers A, B and C continued to monitor their movement.

Detective A requested that other detectives and officers initiate contact with Subject 1 and detain him at the most advantageous opportunity. Detective B observed Subjects 2 and 4 move across the street, as they and Subjects 1 and 3 (with Subject 5) continued walking. Detective B then drove down the street and toward Subjects 2 and 4, who had just entered the yard of a nearby residence.

Meanwhile, Officer C drove up behind Subject 1, stopped, drew his service pistol, and yelled “Police, police,” through his open, driver’s side window. Officer C observed that Subject 1 was carrying Subject 5 at the time, and that Subject 1 looked in his direction, “dropped the baby,” and began running down the street. Officer C, who had begun to exit his vehicle, holstered his pistol and pursued Subject 1 on foot.

At the same time, Detective B looked in his rear view mirror and observed Subject 1 running toward him. Detective B parked and exited his vehicle and broadcast that

Subject 1 was running. Detective B then attempted to stop Subject 1, who maneuvered around him. Detective B then joined Officer C in the foot pursuit.

Officer A also exited his vehicle and ran in order to catch up with Detective B and Officer C. After Subject 1 ran around one of the corners of a residence, Officer C stopped and drew his service pistol. Officer C then observed Subject 1 running toward a brick wall in the rear yard. As Subject 1 was pulling himself up over the wall, Officer C caught up with Subject 1, holstered his weapon and grabbed Subject 1's clothing to stop him. Detective B yelled at Subject 1 to stop running and put his hands up.

Officer C felt the butt of a gun in Subject 1's pants and yelled out, "gun, gun." He then lost his grip as Subject 1 fell over the brick wall. Detective B stopped on top of the wall and regained sight of Subject 1. At the same time that Detective B heard Officer C yell, "Gun," Subject 1 stopped and turned his upper body to face Detective B. Detective B stated that Subject 1 turned toward him, looked at him, and could see him holding what appeared to be a butt of some type of gun in his waistband. Detective B saw that the grip portion was in Subject 1's hand. Fearing for his safety, Detective B drew his service pistol and fired one round at Subject 1.

After hearing Detective B's gunshot, Officer A broadcast a request for help, indicating his location and that shots had been fired. Within seconds of the gunshot, Officer A observed Subject 1 climbing over a concrete wall, into the yard of a residence. Officer A identified himself and ordered Subject 1 to show his hands. Subject 1 ignored Officer A and ran toward a house. Officer A then drew his service pistol, backed out onto the street, and used some parked vehicles as cover.

Officer A stated that when he ordered Subject 1 to show his hands, Subject 1 opened his shoulder up, such that he was in line with Officer A. Officer A said that he saw a gun pointed right at him. Officer A fired one round at Subject 1. Subject 1 continued running onto a different porch. Officer A again identified himself and ordered Subject 1 to show his hands. Subject 1 complied.

Officer B had drawn his weapon after hearing the gunshots fired by Detective B and Officer A. Officer B then assisted Officer A in directing Subject 1 into a prone position in a yard enclosed by a fence. Detective B and Officer C also made their way toward the yard, and Officer C drew his weapon. Detective B advised the other personnel nearby to wait for backup before attempting to enter the yard to handcuff Subject 1. Officer A holstered his service pistol and guided responding units to the scene.

Meanwhile, moments after the foot pursuit of Subject 1 had begun, Detective D exited a police vehicle near the location. Detective D heard one of the rounds fired at Subject 1. Detective D drew a service pistol and, immediately thereafter, observed Subjects 2 and 4 under a carport, trying not to be seen. Detective D ordered Subjects 2 and 4 to step out onto the sidewalk, and they eventually complied.

Meanwhile, Detective C had also exited his vehicle after hearing Officer A's radio broadcast that shots had been fired. He too began running in the direction of the foot pursuit. Detective C then noticed Detective D attempting to detain Subjects 2 and 4. Detective C drew a service pistol and covered Detective D while Detective D holstered the service pistol and handcuffed Subjects 2 and 4. Detective C then holstered his service pistol, and he and Detective D searched Subjects 2 and 4.

Moments later, additional uniformed units began to arrive at the scene. Subject 1 remained in a yard and, according to Detective B, a large German Shepherd would not leave Subject 1's side. Responding officers attempted to subdue the dog with both Oleoresin Capsicum spray and a fire extinguisher, which had no effect. One of the responding officers threw the fire extinguisher at the dog, causing it to run away. Officers were then able to enter the yard and handcuff Subject 1 without further incident. Detective B and Officer B holstered their service pistols.

Detective A, who was still in his vehicle when he heard Officer A's radio broadcast requesting help, attempted to drive toward the scene but was unable to do so due to the number of vehicles that had been abandoned because of the pursuit.

Officer D, one of the officers who responded to the scene, searched Subject 1 and recovered a box of nine millimeter ammunition, a ski mask, a black beanie and a knife from Subject 1. Another responding officer, Officer E, went up to the porch in front of a residence and located a cocked, blue steel semi-automatic pistol tucked into a planter. He notified other officers nearby and then stood guard over the pistol.

Detective C moved toward the street and began separating the involved officers. He also verified that no officers were injured and that Subject 1 had not been struck by a bullet and did not need a rescue ambulance (RA).

Detective D was later approached by a nearby resident and informed that a female and a child were in the resident's home without permission. Detective D responded to the residence, where Subjects 3 and 5 were discovered. Detective D took Subject 3 into custody without incident.

### **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 Detectives A, B, C and D, and Officers A, B and C's tactics to warrant formal training.

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

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

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

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

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

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

## **Basis for Findings**

### **A. Tactics**

The BOPC noted that involved officers had previously learned when Subject 1 was discharged from parole. On the day of the surveillance, Officer A conducted the briefing, wherein all involved personnel were provided with the information about the current parole/probation status of each subject.

**Note:** During the briefing a miscommunication occurred that resulted in a belief by all officers that Subject 1 was on active parole.

The BOPC noted that regardless of Subject 1's parole status, sufficient cause existed to legally detain Subject 1. However, each officer's belief that they were effecting an arrest for a parole violation, when he was not in fact on parole, calls into question the planning of the operation. Had Officer A and Detective Supervisors A, B and C conducted a thorough review of the game plan and work histories, such an oversight would not have occurred.

Although the operation evolved into a moving surveillance, an observation post was utilized to gather intelligence, observe subjects' actions and coordinate the officers' actions; thus an Operation Plan should have been completed. In addition, the Area Watch Commander should have been notified, in the event that their activities evolved into a tactical situation.

When the subjects abandoned their vehicle on the freeway and proceeded into a residential neighborhood outside the City boundary, Detective A directed the officers to

take Subject 1 into custody; however, Communications Division (CD) was not advised of their status, location or description of the subjects.

Detective B drove past Subjects 1, 3 and 5 and placed himself between the two subject groups to monitor the actions of Subjects 2 and 4. This is a highly discouraged tactic because it inherently places the officers at a significant disadvantage by increasing the likelihood of a “cross-fire” situation.

Officer C, the second vehicle, approached Subject 1 as he was carrying Subject 5 in his arms, thereby placing the child’s safety in jeopardy. Subject 1 tossed the child to Subject 3 and ran toward Detective B’s vehicle. Detective B observed Subject 1 running in his direction through his rear view mirror and subsequently exited his vehicle, leaving the keys in the ignition. While wearing a blue long sleeved shirt worn over a Los Angeles Police Department raid jacket that concealed his Department-issued badge, Detective B was not clearly identifiable as a police officer. This could have created a “friendly-fire” situation had uniformed officers encountered him while responding.

During the course of the foot pursuit, Detective B and Officer C ran past Subjects 2 and 4. In doing so, the officers exposed themselves to potential danger from behind as the foot pursuit progressed. It would have been prudent for Detective B and Officer C to assess the danger presented by Subjects 2 and 4, given the fact that they were neither identified nor eliminated as being the individuals planning the retaliatory gang shooting.

As the foot pursuit continued and Officer C attempted to pull Subject 1 down from the wall, Officer C felt something in Subject 1’s right front pants pocket that he believed to be a handgun. Officer C alerted Detective B by yelling, “Gun!” Officer C was unable to overcome Subject 1’s resistance. Subject 1 proceeded over the wall and out of the officers’ line of sight. It would have been safer for Detective B to take a quick peek over the wall, as subjects have been known to lie in wait for officers who are chasing them.

During the foot pursuit, Officer C’s magazine fell to the ground, which was not discovered until after Subject 1 was taken into custody. Officer C should have periodically checked his service pistols, as an officer must be prepared to engage a threat at all times.

When Officer A observed Officer C and Detective B pursuing Subject 1, he took the initiative by exiting his vehicle to assist. After Detective B’s officer-involved shooting (OIS), Officer A looked through the wrought iron fence and observed Subject 1 running toward the residence. Officer A appropriately maintained his distance and utilized vehicles parked along the west curb as cover.

Simultaneously, as Detective D ran toward the foot pursuit, Detective D observed Subjects 2 and 4 attempting to conceal themselves. Detective C arrived at the location as Detective D was ordering the subjects into a prone position. It would have been safer had Detective D broadcast the location, requested additional resources and covered the subjects until additional personnel arrived.

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

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

The BOPC noted that Detective A directed Subject 1 to be taken into custody and Officer C drove toward him, approaching Subject 1 from behind. Officer C identified himself as a police officer through the open driver's side window and exited the police vehicle. Fearing Subject 1 was possibly armed, Officer C drew his service pistol. Subject 1 looked in Officer C's direction and fled. Officer C holstered his service pistol and ran after Subject 1.

Detective B joined Officer C and ran after Subject 1, who fell out of Officer C's line of sight. Officer C once again drew his service pistol, went around the corner of a residence and observed Subject 1 running toward a wall.

When Subject 1 reached the wall and attempted to climb over it, Officer C holstered his service pistol. Subject 1 proceeded over the wall and into the neighboring yard. Detective B began to scale the wall and heard Officer C yell, "Gun!" Detective B maintained his position on the wall and surveyed the area for Subject 1. As Subject 1 turned toward him, Detective B observed Subject 1's right hand grasping a handgun secured in his waistband. Fearing that he was about to become involved in a shooting, Detective B drew his pistol.

After Detective B's OIS, Subject 1 ran. Detective B holstered his pistol and he and Officer C ran down the street. As Officer C reached the sidewalk, he heard what he believed to be an officer issuing commands to Subject 1 and he drew his service pistol.

Officer A heard what he believed to be an officer yell, "He's got a gun," followed by a single gunshot and Subject 1 jumping over the wall. Officer A ordered Subject 1 to stop; however, Subject 1 ignored the officer's commands. Fearing that the situation could escalate to the point where deadly force may become necessary, Officer A drew his service pistol.

Officer B was driving past Officer A when he heard a single gunshot emanate from nearby. Officer B stopped his vehicle, exited and as he attempted to locate the point of origin of the shooting, he heard a second gunshot fired. Fearing a possible armed confrontation, Officer B drew his service pistol.

As Detective D ran toward the vicinity of the foot pursuit, Detective D heard a gunshot. Fearing a possible armed confrontation, Detective D drew a service pistol and surveyed the area. Detective D observed Subjects 2 and 4 attempting to conceal themselves and ordered them to walk to the sidewalk. As he arrived at the location, he drew his service pistol to provide cover.

The BOPC determined that Detectives B, C and D, along with Officers A, B and C had sufficient information to believe the incident might escalate to the point where lethal force may be justified.

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

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

The BOPC noted that Officer C identified himself as a police officer and ordered Subject 1 to stop; however, Subject 1 ignored his commands and ran. When Subject 1 reached the wall, he pulled himself on top. Officer C reached the wall and grabbed Subject 1's pants with both hands and attempted to pull Subject 1 down. Unable to maintain his grasp, Subject 1 proceeded over the wall and out of Officer C's line of sight.

The BOPC determined that Officer C's use of non-lethal force was reasonable in an attempt to overcome Subject 1's resistance.

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

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

The BOPC noted that Detective B grabbed the top of the wall with both hands, pulled himself up, placed his leg over the wall and heard Officer C yell, "Gun!" Detective B, positioned on top of the wall, observed Subject 1 take a few steps and stop. Subject 1 turned toward Detective B while removing a handgun from his waistband area with his right hand. Fearing he was about to be shot, Detective B fired one round at Subject 1.

Officer A observed Officer C and Detective B pursuing Subject 1 on foot. Officer A exited his vehicle and heard what he believed to be an officer yell, "He's got a gun!" Officer A heard a single gunshot emanate from the area of the foot pursuit shortly thereafter. Believing Subject 1 had just shot at Detective B and Officer C, Officer A utilized parked vehicles for cover and monitored Subject 1 as he ran. When Subject 1 reached a corner of the residence, he turned his upper body and pointed a handgun at Officer A. Fearing he was about to be shot, Officer A fired one round at Subject 1.

The BOPC determined that Detective B and Officer C had sufficient information to believe the subject presented an immediate threat of serious bodily injury or death.

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