

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

OFFICER-INVOLVED SHOOTING - 061-05

<u>Division</u>	<u>Date</u>	<u>Duty-On (x) Off()</u>	<u>Uniform-Yes() No(x)</u>
Northeast	07/19/2005		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Detective A	25 years, 3 months
Officer A	9 years, 10 months
Officer B	18 years, 1 month
Officer C	10 years, 1 month
Officer D	15 years, 1 month

Reason for Police Contact

Officers located Subject 1, for whom they had a federal arrest warrant. Subject 1 resisted and pulled a firearm on the officers. Subject 1 was shot. Subject 1 died from the gunshot.

<u>Subject(s)</u>	<u>Deceased (x)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 1: Male, 21 years of age.			
Subject 2: Male, 16 years of age. (Uninjured)			

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 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 July 11, 2006.

Incident Summary

In July 2005, Detective A, and Officers A, B, C and D were working with the Violent Crime Impact Team ("VCIT"), a federal task force aimed at firearms-related criminal activities.

On the evening of July 19, 2005, Officers A, B and C were attempting to locate and arrest Subject 1. A federal arrest warrant had been issued for the arrest of Subject 1 on charges of narcotics and firearms sales. After checking multiple addresses that Subject 1 had been known to use without locating Subject 1, the officers proceeded to an apartment in Northeast Division. The officers were traveling in an unmarked police van and were attired in plain clothes.

The target apartment building was a three-story building, with parking on the ground floor and apartments on the two floors above. The entrances to the apartments were located along three-foot-wide open-air walkways on each floor.

The officers arrived at the apartment building at around dusk and parked their van on a side street. From their position, the officers could see the side of the apartment building where the target apartment was located. Officer A broadcast that they were "Code 6" over the Rampart Area frequency.

A short time later, the officers observed two individuals (later identified as Subject 1 and Subject 2, Subject 1's brother) emerge from the subject apartment and loiter on the walkway outside the front door of the apartment. From their position, the officers were unable to identify Subject 1 positively. The officers' attempt to use a camera with a zoom lens to get a clearer view of the individual was unsuccessful. The officers were not equipped with binoculars.

The officers had been in contact with a Special Agent with the U.S. Department of Treasury, Bureau of Alcohol, Tobacco and Firearms ("ATF"), who was also working with the VCIT and was partnered with Officer D. The Special Agent and Officer D responded to the target apartment building in their unmarked police vehicle to assist the other officers, and initially parked approximately one block away.

While waiting for the Special Agent and Officer D to arrive, Officer B contacted Detective A, who was off-duty, via cellular telephone and advised Detective A of the officers' location, that they had located an individual who looked like Subject 1, and they had not yet positively identified him. Detective A instructed the officers to notify him if they succeeded in identifying and arresting Subject 1.

The officers decided that they were going to need to get closer to the subject apartment to determine whether one of the individuals outside the apartment was Subject 1. They again contacted the Special Agent and decided that Officers A and B would meet the Special Agent and Officer D in front of the apartment building while Officer C stayed in the van to maintain observation of the individuals outside the apartment. The Special Agent and Officer D then proceeded toward the subject apartment building and parked approximately one house away from it.

The officers and Special Agent met in front of the apartment building to form a tactical plan to approach the target apartment. Because the target apartment was located on the second floor toward the northern end of the building, it was decided that the best

course of action was to go to the third floor, proceed to the north end of the building and then come down the stairs at the north end of the building.

The officers and Special Agent did not carry police radios with them, but kept in contact with Officer C via cellular telephone. The officers and Special Agent were not wearing ballistic vests or raid jackets.

The officers and Special Agent proceeded to the third floor, walked to the north end of the building and came down the north stairs to the second floor. They then regrouped before opening the door from the stairs onto the walkway. Officers A and B were to enter the walkway first and make contact with the first individual in the event they could positively identify him as Subject 1 while Officer D and the Special Agent were to cover the second individual (Subject 2) and keep him from interfering. Officer C advised Officer A that the subjects were on the walkway outside the front door of the subject apartment.

Officer B opened the door to the walkway and they all walked out onto the walkway with Officer B first, Officer A second, the Special Agent third, and Officer D fourth. Once they began to walk toward the subject apartment, it became apparent that one of the individuals in front of the apartment was Subject 1. Subject 1 was standing north of Subject 2. Based on how narrow the walkway was, Officer B believed that his best course of action was to deviate from the original plan and to take control of Subject 2 to facilitate the arrest of Subject 1 by the other officers/agent. Officer B walked past Subject 1 and made contact with Subject 2 while Officer A approached Subject 1. The officers identified themselves as officers, and Officer A attempted to take Subject 1 into custody. Subject 1 initially acted as though he was going to comply with Officer A's commands. Officer A held Subject 1's right arm to begin handcuffing him. Subject 1 then began to resist and lunged into the apartment taking Officer A with him. Subject 1 and Officer A fell to the floor inside the apartment where a physical struggle ensued.

Officer B observed Officer A grappling with Subject 1 inside the apartment. Officer B then diverted his attention from Subject 2 and moved toward Subject 1 in order to assist Officer A. Officers A and B struggled to obtain control of Subject 1 inside the apartment, telling him to "stop resisting" as they did so.

Officer D observed Subject 1 lunge into the apartment, and fearing he may be arming himself, Officer D drew Officer D's service pistol. Once Officer D realized that other officers were focused on Subject 1, and that Officer D would need to assist the Special Agent with Subject 2, Officer D holstered Officer D's service pistol.

The Special Agent and Officer D then moved past the front door of the apartment to take control of Subject 2. Subject 2 resisted and attempted to move toward Subject 1.

Subject 1 was able to get up from the floor and get back out the front door of the apartment, as Officer A continued holding onto Subject 1's right arm. As Subject 1 crossed the front door threshold, the Special Agent saw Subject 1 produce a handgun. The Special Agent told the officers, "He's got a gun." Officer B released his grip on

Subject 1 and drew Officer B's service pistol. Officer A asked which subject had the gun. The Special Agent advised that it was Subject 1 who had the gun. Officer A then stepped back from Subject 1 and drew Officer A's service pistol. Officer A observed Subject 1 with a gun in his left hand. Officer A observed Subject 1 move his hand to the left in the direction of the other officers and Special Agent. Officer A fired one round at Subject 1, striking Subject. Subject 1 threw his gun over the railing of the walkway and fell to the ground.

Subject 2 then moved toward Officer A, yelling that Officer A had shot his brother. Officer A observed Subject 2's hand grab the top of Officer A's service pistol. Officer A told the others that Subject 2 was going for Officer A's service pistol. Officer A pulled his service pistol downward and away from Subject 2. Officer B moved up behind Officer A and prepared to fire a "contact shot" at Subject 2. However, the Special Agent and Officer D were able to pull Subject 2 away and take him into custody.

Once Subject 2 was controlled, Officer A looked down and saw that the magazine from his service pistol was on the ground. Officer A retrieved the magazine and re-inserted it into the pistol.

Meanwhile, Officer C saw the officers and Special Agent struggling with the subjects. Officer C prepared to assist, getting out of the van. Officer C then heard a single gunshot. Officer C used her radio to broadcast a request for backup, then broadcast a shots fired call and a request for a Rescue Ambulance.

A Rescue Ambulance responded and transported Subject 1 to the hospital where he died as a result of his injury.

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 that Detective A and Officers A, B, C and D's tactics were seriously deficient, requiring administrative disapproval.

B. Drawing/Exhibiting/Holstering

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

C. Non-Lethal Use of Force

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

D. Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that once Detective A was advised that the officers' were at Subject 1's address attempting to identify him positively, Detective A should have instructed the officers to notify an on-duty supervisor who could respond to the scene. The BOPC noted that Officers A, B and C did not have the proper equipment with them, including binoculars. The BOPC would have preferred that Officers A and B had met the Special Agent and Officer D at an off-site location instead of in front of the subject apartment building. The BOPC also would have preferred that Officer A and/or Officer B had been equipped with a radio when they approached the subjects' location instead of limiting their communications with Officer C to the use of cellular telephones. The BOPC also would have preferred that prior to approaching the subjects' location, the officers had requested additional units, set up containment around the location, and ensured that the officers who approached the subjects were attired in body armor and raid jackets. The BOPC would have preferred that Officer B had advised the other officers and Special Agent of Officer B's decision to deviate from their original plan.

The BOPC determined that Detective A's lack of supervisory control and the officers' actions unnecessarily placed the officers in a tactically disadvantageous situation. The BOPC found that Detective A and Officers A, B, C and D's tactics require administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC determined that at the time Officers A, B and D drew their service pistols, they had sufficient information to believe the situation may escalate to the point where deadly force may become necessary. The BOPC found Officers A, B and D's drawing of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC determined that Officers A, B and D's non-lethal use of force was reasonable to overcome the subjects' resistance and control them. The BOPC found the officers' non-lethal use of force to be in policy.

D. Use of Force

The BOPC determined that, at the time Officer A fired at Subject 1, it was reasonable for Officer A to believe Subject 1 presented an immediate threat of serious bodily injury or death. The BOPC found Officer A's use of lethal force to be in policy.