

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

**OFFICER-INVOLVED SHOOTING – 075-05**

<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>
77 <sup>th</sup> Street	08/27/05	2:17 a.m.		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Lieutenant A	27 years, 11 months
Detective A	25 years, 6 months

**Reason for Police Contact**

Lieutenant A and Detective A were conducting an attempted murder investigation when they encountered an armed Subject who approached their vehicle. They became engaged in a shooting.

<b><u>Suspect</u></b>	<b><u>Deceased ()</u></b>	<b><u>Wounded (X)</u></b>	<b><u>Non-Hit ()</u></b>
Subject 1: Male, 23 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 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 8/15/06. The BOPC unanimously made the following findings.

**Incident Summary**

Lieutenant A and Detective A were conducting an investigation into an attempted murder.<sup>1</sup> Lieutenant A and Detective A were dressed in plainclothes and wearing their police badges on their belts. Witness A informed investigators that Witness B might be able to identify the victim.

<sup>1</sup> The victim subsequently died and, as such, the investigation became a homicide investigation.

Lieutenant A and Detective A left the crime scene in an attempt to locate Witness B. Detective A was driving an un-marked police vehicle. Lieutenant A was seated in the front passenger seat. Detective A noticed Witness C working on a car while holding a hammer in his hand. As Lieutenant A and Detective A continued driving slowly, they observed Subject 1 standing behind a parked car.

The police vehicle passed Subject 1's position. At that time, Subject 1 yelled at the officers, "Who are you?"

In response, Lieutenant A and Detective A told Subject 1, "We're the police." Detective A looked over his shoulder, observed Subject 1 approaching his rear bumper, and saw Subject 1 draw a gun out of his waistband. Detective A did not advise Lieutenant A of his observations, believing that Lieutenant A knew what was going on. Detective A yelled, "Police, police!"

**Note:** Subject 1 stated that Lieutenant A and Detective A only identified themselves as police officers after Subject 1 had been shot. Subject 1 stated that he approached the police vehicle with nothing in his hands.

Subject 1 then exclaimed, "F\*\*k the police" and rapidly approached the passenger side of the police vehicle, where Lieutenant A was seated. At or about this time, Lieutenant A drew his service pistol, believing Subject 1 was a threat. Detective A drew his service pistol. Lieutenant A kept visual contact with Subject 1 as he "paralleled" the police. Subject 1 then suddenly approached the police vehicle. According to Detective A, Subject 1 approached within approximately one foot of the vehicle's passenger window.

**Note:** According to Subject 1, before he could get to the car, Lieutenant A started shooting him.

Lieutenant A noticed that Subject 1's right hand was extended as Subject 1 advanced upon him, and Subject 1 had an object in that hand. Lieutenant A perceived the object to be a blue steel handgun. Lieutenant A then heard two to three shots as Subject 1 continued to advance towards him.

Believing that Subject 1 was trying to kill the officers, Lieutenant A responded by firing three rounds from his .38 caliber revolver towards Subject 1.

**Note:** Lieutenant A's pistol contained a total of five rounds. Later analysis determined that three of these rounds successfully discharged, and the remaining two rounds had primer strikes, indicating that Lieutenant A attempted to fire those two rounds but they did not discharge.

Meanwhile, Detective A observed a muzzle flash and believed that Subject 1 had shot Lieutenant A. Detective A then noticed that Lieutenant A began to fall back towards him, with his back towards the windshield. Believing that Lieutenant A had been shot, Detective A reached across Lieutenant A's back as Lieutenant A turned, pushed

Lieutenant A out of the way, and fired two rounds towards Subject 1.

**Note:** Physical evidence shows that the pistol likely possessed by Subject 1 was not fired. Thus, it is unknown if Lieutenant A or Detective A fired first, given that they both fired their weapons after they perceived someone else shooting.

Detective A then attempted to place the vehicle in park, while simultaneously attempting to unlock the car doors. As he was doing so, Detective A unintentionally fired one round from his pistol through the police vehicle's windshield.

Detective A managed to get his vehicle door open and he exited, while identifying him again as a police officer. Detective A observed Subject 1 run, still holding his gun. Believing that Lieutenant A had been shot, and believing that Subject 1 was a danger to the public, Detective A fired at Subject 1 as he fled. Detective A then ran towards a parked vehicle and stood on the driver's side of that vehicle. According to Detective A, as Subject 1 continued to run in the street, and he turned in Detective A's direction while pointing the gun at Detective A. Believing that Subject 1 was about to shoot him, Detective A fired several additional rounds at Subject 1. Detective A then lost sight of Subject 1.

Meanwhile, Lieutenant A, while still seated in the police vehicle, also lost sight of Subject 1. Lieutenant A realized that his vehicle he was in was still moving and looked to his left to see if Detective A was hurt. Lieutenant A did not observe anyone in the driver seat of the vehicle, but noticed that the driver's door was open. Lieutenant A determined he could not exit his side of the vehicle safely, given that Subject 1 was on that side of the vehicle. As such, he jumped out of the driver side door of the police vehicle as the vehicle continued to move. Lieutenant A stated that he dove out of the vehicle headfirst, with his arms extended, and landed in a "prone" position on the pavement still holding his pistol. The unoccupied police vehicle continued and collided with a parked vehicle and then a fence, where it finally stopped.

Lieutenant A observed Subject 1 run between two houses. Lieutenant A and Detective A observed Witness C and Witness D inside a car and ordered them to exit the vehicle and lay down on the ground. As these witnesses were being detained, Detective A observed Subject 1 come back into view.

In response, Detective A pointed his gun in Subject 1's direction and ordered him to the ground. Detective A moved to a position of cover. Lieutenant A also took cover and used his cellular phone to call and request help.

**Note:** The police vehicle was equipped with an ASTRO radio. However, neither Lieutenant A nor Detective A retrieved the radio when they exited the vehicle.

Following the help call, uniformed officers arrived at the scene. Subject 1 and

Witnesses D through F were each handcuffed. At that time, Detective A de-cocked and re-holstered his pistol. Lieutenant A placed his pistol in his waistband.

A subsequent search of the area resulted in the discovery of a fully loaded, .38 caliber revolver placed in an air vent underneath a home, in an area where Lieutenant A and Detective A had observed Subject 1 run. A weapon check revealed that none of the six rounds in the gun had discharged.

### **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 Lieutenant A and Detective A's tactics to warrant divisional training.

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

The BOPC found Lieutenant A and Detective A's drawing and exhibition of a firearm to be in policy.

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

The BOPC found all of Detective A's lethal use of force to be in policy except for one round (his third), which was found to be negligent, warranting administrative disapproval. The BOPC found Lieutenant A's use of force to be in policy.

### **Basis for Findings**

#### **A. Tactics**

The BOPC noted that Subject 1 rapidly approached Lieutenant A and Detective A's vehicle from behind, walked to the passenger side, and reached into his front waistband to retrieve a pistol, while stating, "F\*\*k the police." The BOPC also noted that Detective A looked over his right shoulder and out of the rear window of the vehicle when he observed Subject 1 approaching the officers' vehicle from the rear and observed Subject 1 pulling out a gun from his waistband. However, Detective A did not

communicate his observations to Lieutenant A. Detective A stated that, because Lieutenant A drew his weapon they "were thinking on the same wave length." Regardless of whether Detective A believed that Lieutenant A knew that Subject 1 was arming himself, the BOPC would have preferred that Detective A had alerted Lieutenant A of this fact.

Detective A stated that within a "split second" Subject 1 was present at Lieutenant A's passenger window. Detective A then observed a muzzle flash and heard a gunshot. Detective A believed that Lieutenant A had been shot. Upon Subject 1's approach to their vehicle, the BOPC would have preferred that Detective A had considered accelerating out of the "kill zone" to escape immediate danger, immediately upon observing Subject 1 pulling a gun from his waist area.

The BOPC also noted that during the exchange of gunfire, Detective A had difficulty placing the vehicle in park and unlocking the side door to escape. Both Detective A and Lieutenant A exited the vehicle while it was in motion. The vehicle eventually collided with a parked vehicle, coming to rest against a fence. The BOPC noted that this situation posed a potential risk to the officers and any persons that may have been in the path of the unoccupied vehicle.

The BOPC noted that Lieutenant A fired only three of the attempted five rounds in his revolver. This could have been due to either excessive oil on the rounds or ammunition that was not exchanged regularly. Additionally, the BOPC noted that Lieutenant A did not possess extra ammunition. The BOPC would have preferred that Lieutenant A had rotated his ammunition regularly and carried additional ammunition.

The BOPC further noted that Lieutenant A's holster did not remain attached to him when he drew his revolver. The BOPC would have preferred that Lieutenant A carried a holster that would remain secure on his person to avoid having to place his revolver inside his waistband.

The BOPC also noted that after Detective A exited the vehicle, he continued to engage Subject 1 without effective cover. The BOPC would have preferred that Detective A had obtained cover immediately upon exiting the vehicle.

Finally, the BOPC noted that after Detective A ordered Subject 1 into a prone position, he waited for responding units. The BOPC noted that Detective A did not de-cock his service pistol until additional officers arrived and began their approach to handcuff Subject 1.

The BOPC found Lieutenant A and Detective A's tactics to warrant divisional training.

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

The BOPC noted that as Lieutenant A and Detective A drove, they observed Subject 1 rapidly walk up to the rear of their vehicle and ask, "Who are you?" Lieutenant A and

Detective A both replied, "We are the police." In response, Subject 1 then stated, "F\*\*k the police." Fearing that they were about to be shot, Lieutenant A and Detective A simultaneously drew their pistols. The BOPC determined that Lieutenant A and Detective A had sufficient information to believe the situation may escalate such that deadly force would become necessary. As such, the BOPC found Lieutenant A and Detective A's drawing to be in policy.

The BOPC further noted that ten additional officers, who responded to the "help" broadcast, drew their pistols during the incident. The BOPC found that based on the nature of the broadcast, it was appropriate for the officers to draw their firearms. As such, the BOPC found the officers' drawing to be in policy.

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

The BOPC noted that Subject 1 approached the officers' vehicle, removed a pistol from his front waistband, and pointed it at Lieutenant A. Lieutenant A feared that he was about to be shot and fired three rounds at Subject 1 to stop his actions. Simultaneously, Lieutenant A leaned toward the driver side of the vehicle to increase the distance between him and Subject 1. Detective A believed that Lieutenant A had been shot, pushed Lieutenant A down, reached over Lieutenant A's back, and fired two rounds to stop Subject 1.

The BOPC also noted that as Detective A unsuccessfully attempted to place the vehicle in "park," he fired one round through the vehicle's windshield.

The BOPC further noted that, believing Lieutenant A had been shot, Detective A exited the vehicle to engage Subject 1. Detective A observed Subject 1 running with the pistol in his hand. Believing that if Subject 1 escaped, he would pose an imminent threat to the community, Detective A fired one round at Subject 1. At this time, Subject 1 stopped, turned, and pointed the pistol at Detective A, then began to run again, while still pointing the pistol at Detective A. Detective A fired three additional rounds.

Based upon the above, the BOPC determined that Lieutenant A's lethal use of force was reasonable to stop Subject 1's actions. The BOPC found Lieutenant A's use of force to be in policy. The BOPC also determined that Detective A's lethal use of force, rounds one and two, and four through seven, were reasonable to stop Subject 1's actions. The BOPC found Detective A's lethal use of force, rounds one and two, and four through seven to be in policy.

The BOPC found Detective A's use of force, round three, to be negligent, requiring administrative disapproval. The BOPC noted that Detective A failed to adhere to basic firearm safety rules. Detective A was scheduled for additional firearms training at Training Division.