

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

OFFICER-INVOLVED SHOOTING – 080-07

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No(X)</u>
Northeast	08/02/2007		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer J	1 year, 3 months

Reason for Police Contact

Officer A received a telephone call from an anonymous female citizen who informed Officer A that narcotics were being sold out of an apartment building.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
None			

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.

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 July 15, 2008.

Incident Summary

Officer A received an anonymous telephone call from a female citizen who informed Officer A that narcotics were being sold out of an apartment building by an unknown male. The female citizen also told Officer A that the seller was in possession of guns and possibly two grenades. The female citizen then offered to meet Officer A to point out the exact location of the apartment building.

Officer A and Officer B, both in plain clothes and in an unmarked vehicle, drove to an intersection to meet the female citizen. The female citizen contacted Officer A and directed him to the balcony of an apartment.

As the female citizen left, a Jeep drove toward the location so the female citizen told Officer A over the phone that the subject was driving the Jeep. Officers A and B watched the Jeep stop near the apartment building, and moments later, a male exited the apartment building and entered the Jeep. According to Officer A, the male matched the description that had been provided by the female citizen.

Officers A and B followed the Jeep and monitored its movement. The officers requested a uniformed unit in anticipation of conducting a traffic stop.

Shortly after the Jeep drove away, uniformed Officers C and D responded to the area. Officer A instructed Officers C and D that he needed them to conduct a traffic stop so that the driver and passenger of the Jeep could be identified. Officers C and D began to follow the Jeep and when they observed a violation of the California Vehicle Code, they conducted a traffic stop near an intersection. Officer D and Officer C exited the police vehicle and approached the Jeep. Officer C asked the driver of the vehicle (later identified as Subject 1) for his driver's license. Subject 1 told Officer C that he had never been issued a California driver's license so Officer C asked him to exit the vehicle and walk over to Officer D. Officer D conducted a pat-down search of Subject 1 and located a container in one of his pants pockets. Officer D tossed the container to Officer C, who opened it and discovered a bag containing what appeared to be methamphetamines. Officer D handcuffed Subject 1 and took him toward the back of the police vehicle.

Meanwhile, Officer C observed that the passenger of the Jeep was avoiding eye contact with him. Officer C asked the passenger (Subject 2) to exit the Jeep. Officer C believed that Subject 2 looked very nervous so Officer C handcuffed Subject 2 and had Officer D conduct a pat-down search on him. During the search, Officer D recovered a handgun from Subject 2's waistband. Officer D continued his search of Subject 2 and recovered a bag containing a substance resembling methamphetamines from Subject 2's left front pants pocket.

Officers A and B made their way over to the intersection and joined Officers C and D. Additional officers also made their way to the intersection: Detectives A and B and Officers E, F, G, H, I, and J. Detectives A and B and Officers E, F, and G were in plainclothes and in plain vehicles. Sergeant A and Officers H, I, and J were in uniform and driving marked police vehicles.

Detective B contacted both of the Area captains and informed them about the information that he received from the female citizen, the traffic stop, and the recovery of a handgun and narcotics from Subjects 1 and 2.

Detective B reported that his initial plan was to secure the apartment and write a search warrant to recover the rest of the items, but Detective B's captains told him that it would be best if he did more work on the location, and requested additional resources to assist him with the investigation.

Officer A asked Subject 2 if there was anyone inside the apartment and Subject 2 told Officer A that there were two individuals in the apartment. Officer A observed that the detained subjects had three or four cellular telephones with them and that one of them kept ringing. Officer A informed Detective B that he could attempt to call the individuals in the apartment to see if he could get them to come out.

Detective A and Officers E and F drove to the apartment building to monitor it and Officer G positioned himself on the street near the apartment building.

Officer A indicated made numerous unsuccessful attempts to contact the remaining occupants of the apartment with the numbers he found in the cellular phones. One of the phones continued to ring, so Officer A decided to answer it, and spoke with an unidentified individual who indicated that he wanted to purchase narcotics. Shortly thereafter, the same phone rang again. Officer A answered the phone, identified himself as a police officer, and the person on the phone made reference to a "buddy" being in custody. Officer A told the person he was going to come over to talk.

Officer A told Officer B what had occurred with the phone call. Moments later, Officer B observed a pickup truck arrive at the apartment building. The individual that Officer B had observed on an apartment balcony approached the truck, which appeared to be ready to leave, but instead another individual came from the balcony and yelled something, and both individuals ran back into the apartment complex. Officer B then observed the lights in the apartment turn off and four individuals run out of the building, carrying a bag and containers. The individuals looked around and then stood around a trash can on the street in front of the apartment building. Using his radio, Officer B communicated his observations to Officer A.

Officer A spoke with Detective B about detaining the four individuals that were observed exiting the building by Officer B, and Detective B directed that they be detained. Officers C, H, I, J and Sergeant A began to drive toward the intersection. Officers H and J used their vehicle's spotlights to illuminate the area around the four individuals. As Officer H brought the vehicle to a stop, he yelled through his open window in both English and Spanish to the individuals to put their hands up. Officer J and Officer H exited the police vehicle and drew their service pistols. Officer J observed one of the four individuals turn around, as if he was going to walk away. Officer J then yelled at the individual to stop and put his hands up and Officer H began to order all of the individuals to get down onto the ground. Some of the individuals began to comply with the officers' directions, but a fifth individual was running in Officer J's direction while holding a shiny object. Officer J described the object as a blue steel handgun, perhaps a "Glock." Officer J also observed that the male had his hand outstretched and slightly bent, with his hand "aiming" toward the location of Officers H and J.

Officer J believed that this individual was going to fire a gun at him and Officer H so Officer J fired one round at the male. As Officer J then heard the male say, "Don't shoot us, police officer." Officer J observed the male (later determined to be Officer B) make a sharp turn to his right, revealing what appeared to be a badge. Officer J then recognized that the individual with the gun appeared to be a police officer so he refocused his attention on the group of four individuals who had exited the apartment building.

Meanwhile, Officer B reported that he was inside his plain vehicle and had observed one of the four individuals who exited the apartment building move away from Officers J and H as they issued verbal commands. Officer B was holding his radio in his left hand, and took a few steps when he heard the round fired by Officer J. In response to hearing the round fired, Officer B moved toward cover, dropped his radio onto the hood of a nearby vehicle, and drew his service pistol. Officer B indicated that he believed one of the four individuals who had exited the apartment building was possibly armed. He then indicated that he also thought it was possible that one of the four individuals who had exited the apartment building was firing at the other officers at the scene. Officer B stated that he did not think he was being fired at and he did not hear the sound of an impact or a ricochet caused by the fired round. Officer B had his badge hanging around his neck at the time he exited his vehicle, but was not wearing a ballistic vest.

Detective A and Officers E and F observed Officers J, H, I and C as they initiated contact with the four individuals who had exited the apartment building. Detective A, Officer E, and F then stopped their plain vehicle just past the intersection. Detective A stated that he heard a gunshot before he crossed the intersection with Officer E and Officer F. Detective A exited his vehicle, drew his service pistol, and took a position of cover behind a nearby parked vehicle, which allowed him to monitor the front door of the building.

Officer E also heard one gunshot as soon as he, Detective A, and Officer F arrived at the location. Officer E exited his vehicle, drew his service pistol, and moved toward cover behind Officers I and C's marked police vehicle. Officer E holstered his service pistol once everyone was accounted for.

Officer G heard "what sounded like a – a gunshot" so he drew his service pistol and repositioned himself closer to Officers H and J's vehicle. Officer G observed that Officer J had his service pistol drawn and pointed at the four individuals who had exited the apartment building so Officer G holstered his service pistol because he did see an immediate threat.

Sergeant A reported hearing a "pop" and assumed it was a gunshot so he made his way toward the intersection. Once he arrived, Sergeant A exited his vehicle, drew his service pistol, and moved to where he had observed an unidentified female exit the apartment building.

Once additional units arrived, he holstered his service pistol. Sergeant A broadcast a help call and indicated that shots had been fired at his location. Officer A heard both a shot and Sergeant A's help call, and he ran to join the other officers. Detective B heard a "pop" sound that he thought was a gunshot. He then heard the "shots fired" radio call, and ran to the location. Detective B drew his service pistol after he arrived at the intersection and after determining what had occurred prior to his arrival, Detective B holstered his service pistol. Officers F and J backed away from their positions and obtained cover further from the apartment building. They then holstered their service pistols.

An arrest team was formed, and the four individuals who had exited the apartment building were taken into custody without further incident. Detective A and Officers B, C, and I holstered their service pistols. Officer C then ran back to the location to rejoin Officer D who had remained there with Subjects 1 and 2.

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 Detective B's tactics to warrant Administrative Disapproval.

The BOPC found Detective A and Officers A, B, E, F, and G's tactics to warrant formal training.

The BOPC found Sergeant A and Officers C, H, I, and J's tactics to be in policy.

B. Drawing/Exhibiting/Holstering

The BOPC found Sergeant A, Detectives A and B, and Officers B, C, E, F, G, H, I, and J's drawing to be in policy.

C. Lethal Use of Force

The BOPC found Officer J's lethal use of force to warrant formal training.

Basis for Findings

A. Tactics

The BOPC noted that during the course of the investigation Detective B was advised by the Area Commanding Officers to hold off on the search warrant and conduct further investigation involving other resources. Detective B did not adhere to the Commanding Officer's direction and employed a ruse in an attempt to provoke the subjects to flee the residence with narcotics or weapons, including hand grenades. The ruse was unsound and posed a great risk to the officers. The BOPC determined that Detective B's tactics were seriously deficient and required administrative disapproval.

Officer B, who was in his vehicle near the subjects, believed there were exigent circumstances for him to leave his observation post vehicle in order to prevent the subjects from obtaining an advantageous position to use a firearm or possible hand grenade against the officers. Although well intended, Officer B's decision was ill advised. Officer B's actions created a crossfire situation and precipitated the officer-involved shooting. The BOPC determined that Officer B would benefit from formal training.

In addition, once the undercover phase was complete, the Criminal Apprehension Team and Narcotics Enforcement Detail officers should have donned their raid jackets and ballistic or tactical vests to readily identify the officers and afford them a higher level of safety. The BOPC also noted that Communications Division should have been informed of this incident, so that nearby units could respond more rapidly if needed.

Lastly, the BOPC was pleased with the tactics of the uniformed element of this incident. Sergeant A responded to the incident to appropriately monitor his officers. Officers J, H, C, and I advised Communications Division of their self-initiated activities, communicated well and worked as a team. The BOPC determined that Sergeant A along with Officers Officer J, H, C and I's tactics were appropriate and require no further action.

The BOPC found Detective B's tactics to warrant Administrative Disapproval.

The BOPC found Detective A and Officers A, B, E, F, and G's tactics to warrant formal training.

The BOPC found Sergeant A and Officers C, H, I, and J's tactics to be in policy.

B. Drawing/Exhibiting/Holstering

The BOPC noted that, in preparation to confront possibly armed narcotics subjects, Officers H and J drew their service pistols. The BOPC determined that Officers H and J had sufficient information to believe that the incident may escalate to the point where deadly force may become necessary.

In response to the gunshot fired and the belief that they were involved in an assault, Sergeant A, Detectives A and B, along with Officers B, C, E, F, G, and I drew their service pistols. The BOPC determined that Sergeant A, Detectives A and B, along with Officers B, C, E, F, G, and I had sufficient information to believe the incident had escalated to the point where deadly force may become necessary.

The BOPC found Sergeant A, Detectives A and B, and Officers B, C, E, F, G, H, I and J's drawing to be in policy.

C. Lethal Use of Force

The BOPC noted that Officer J saw a male, later identified as Officer B, who started to run toward him from the street. Officer J stated he had to re-focus his eyes from a well-illuminated area to a dark area of the street from where he saw Officer B approach. Officer B was holding a radio with an antenna in his left hand with his arm outstretched. Officer J reasonably perceived the ASTRO radio to be the barrel of a gun. Officer J believed Officer B was a fifth subject and that Officer B constituted an immediate threat to his and his partners' lives. Officer J did not feel he had adequate time to verbalize any commands. In immediate defense of his and his partner's life, Officer J fired one round at Officer B.

Although the BOPC determined that Officer J's lethal use of force was "objectively reasonable" under the circumstances and that he believed Officer B presented an immediate threat of serious bodily injury or death, Officer J should receive additional training in target recognition.

The BOPC found Officer J's lethal use of force to warrant formal training.