

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

OFFICER-INVOLVED SHOOTING – 088-05

<u>Division</u>	<u>Date</u>	<u>Duty-On(x) Off()</u>	<u>Uniform-Yes() No(x)</u>
Northeast	09/22/2005		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Detective A	26 years, 5 months
Detective B	16 years, 10 months
Officer A	10 years, 11 months
Officer B	15 years, 3 months

Reason for Police Contact

A detective investigating a robbery requested assistance. When uniformed officers responded to the request, the detective mistook one of the officers for a suspect and fired. No one was struck by the detective's single shot.

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

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 September 12, 2006.

Incident Summary

On the evening of Wednesday, September 21, 2005, Communications Division (CD) received a 911 call reporting that a male armed with a handgun had robbed a pizza restaurant. Police Officers A and B responded to the call and conducted a preliminary investigation. Following an additional call from a citizen and follow-up investigation by patrol and detective personnel, an apartment was identified as a possible location for

suspects associated with the robbery. It was also determined that the suspects could be driving a Toyota SUV, although the license plate of the vehicle was unknown.

In the early hours of Thursday, September 22, 2005, Officers A and B, Sergeant A and Detectives A and B responded to a parking lot in a strip mall, just north of the apartment building.

Note: The strip mall parking lot cannot be seen from the apartment building.

Note: Detective A was wearing jeans, a casual shirt, athletic shoes and a baseball cap. Detective B was dressed in business attire. The officers and sergeant were wearing uniforms.

Detectives A and B put on their body armor and raid jackets. Detectives A and B, Sergeant A and Officers A and B then walked westbound down the driveway and checked the parking area for a Toyota SUV. No such vehicle was seen.

The detectives spoke with residents at the apartment building and established the name of the person who lived at the apartment. Meanwhile, Officers A and B left the location to search for the Toyota SUV.

With Sergeant A positioned to the side of the apartment and Detective A covering a front window, Detective B crouched to the side of the front door of the apartment and knocked. There was no response.

Note: According to Detective A, Detective A believed that Officers A and B were still present and were covering the rear of the apartment as Detective B knocked at the door. By Officers A' and B's accounts, they were no longer at the scene.

Detectives A and B removed their body armor and raid jackets, and then began a search of the area for the Toyota SUV. The detectives did not update CD regarding their location and status when they left to conduct the search.

After a search of the area, Detectives A and B parked their vehicle in the strip mall parking lot and again put on their body armor and raid jackets. Detective A then walked away, along the driveway of the apartment buildings, leaving Detective B in the parking lot.

Once at the corner of the apartment building, Detective A looked around the corner into the apartments' parking area. Detective A saw a Toyota SUV parked there. The vehicle was parked facing away from Detective A's position. A car was parked between Detective A and the Toyota SUV. Detective A drew Detective A's service pistol.

Detective A turned Detective A's radio from the area frequency to an emergency channel and requested that the operator broadcast on the area frequency to Detective B

that the robbery suspects had returned. Detective A then broadcast over the area frequency that the suspects were at the location, and requested assistance. However, the address Detective A provided was incorrect.

In the interim, Detective B redeployed along the driveway, toward Detective A's position. Detective B had the radio's volume turned down and did not hear broadcasts made by Detective A. As Detective B neared Detective A, Detective B heard Detective A state that the suspects' vehicle was at the location. Detective A asked Detective B, "What is the address? What is the address."

Officers A and B monitored Detective A's broadcast and responded to the address that Detective A had provided in the broadcast.

Upon their arrival at the address given in the broadcast, it was immediately apparent to Officers A and B that they had been provided with the wrong location by Detective A. Officer B used the radio to ask Detective A to verify the address. There was no response from Detective A. As with Detective B, Detective A had turned down the volume on Detective A's radio.

Officers A and B, surmising that the detectives were at the apartment they had previously attended in relation to the robbery investigation, began to run toward that location.

Meanwhile, Detective A moved from the corner of the apartment building to a position at the passenger side of the parked car. Detective A crouched by the side of the car and attempted to read the license plate of the Toyota SUV.

Detective B remained in position at the corner of the apartment building and drew Detective B's service pistol.

As Officers A and B reached the entrance to the apartment complex, Officer A chambered a round in Officer A's shotgun, and Officer B drew Officer B's service pistol. With Officers A in the lead position, Officers A and B moved along a path through the apartment building.

From his position by the car, Detective A looked up the path and saw what Detective A later described as the silhouette of a figure carrying a shotgun or large-caliber rifle. Detective A did not see anyone else with the silhouetted figure, and did not hear the figure say anything. Detective A did not issue verbal commands to the figure.

According to Detective A, Detective A attempted to redeploy toward Detective B's position. As Detective A did so, Detective A stumbled. According to Detective A, as Detective A reached the rear passenger side of the car, Detective A saw the "suspect" swing the shotgun toward Detective A and believed that Detective A was going to be shot. Detective A aimed at the shotgun and fired one round. Thinking that the shot had hit the "suspect," Detective A then dove to the ground, behind the car. Upon hearing the shot, Detective B broadcast, "Shots fired! Shots fired!"

The round fired by Detective A perforated the rear windshield of the car and came to rest in the steering wheel. Nobody was injured as a result of the gunshot.

Meanwhile, Officer A heard a gunshot and saw a muzzle flash. Officer A then saw an individual wearing a baseball cap behind the car. Officer A stepped back to cover to retreat from the gunfire and assess the situation.

Having taken a moment to assess that he (Officer A) had been shot at and was not injured, Officer A stepped back out from cover in order to engage the person who had fired the shot. As Officer A did so, Officer A saw Detective B and heard Detective B shout words to the effect of, "We're cops! We're cops!" Officer A then realized that the person who had fired the shot was an officer.

Upon realizing that Detective A had shot at Officer A, Detective A holstered Detective A's pistol.

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 A's tactics to warrant administrative disapproval; Detective B's tactics to warrant formal training; and Officers A and B's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC found Detectives A and B and Officers A and B's drawing and exhibition of a firearm to be in policy.

C. Use of Force

The BOPC found Detective A's use of force to be out of policy, warranting administrative disapproval.

Basis for Findings

A. Tactics

The BOPC noted that Detectives A and B and Officers A and B conducted a follow-up investigation for robbery suspects and that, at some point, Officers A and B left the location to search the surrounding area for the suspects' vehicle. Believing that Officers A and B were covering the rear of the location, Detectives A and B knocked on the door of an apartment that they believed possibly contained the suspects. However, Officers A and B were not at the scene, and would have been unavailable to assist the detectives had they encountered the suspects. The BOPC noted that it would have been tactically advantageous for the detectives and officers to have coordinated their activities and communicated more effectively, so as to ensure the location was contained prior to the detectives knocking on the door.

The BOPC noted that the detectives left the location to search the surrounding area for the suspects' vehicle and later returned to the same location to see if the suspects had returned. The detectives advised CD of their location upon the initial follow-up but did not advise CD that they had left the location and then later returned. The BOPC reminded Detectives A and B that CD should be aware of their location while conducting follow-up investigations.

The BOPC noted that, on the second follow-up, Detective A, without communicating, separated from Detective B, by walking to the rear of the apartment building. The BOPC further noted that this separation contributed to the continued breakdown in communications between everyone involved.

The BOPC noted that after observing the suspects' vehicle parked at the rear of the apartment building, Detective A switched Detective A's radio to the emergency channel and broadcast a message. Detective A then switched his radio to the area frequency and advised CD that Detective A had located the robbery suspects, but provided an incorrect address. The BOPC noted that, despite the content of the broadcast, Detective A had observed only the suspects' vehicle, not the suspects. The BOPC noted that this inaccurate information ultimately led to Officer A's decision to deploy a shotgun, led officers to believe that Detective A was confronting a suspect, and unnecessarily increased the sense of urgency about the situation. The BOPC noted that Detective A should have advised CD on the area frequency of what Detective A had observed and coordinated the response. The BOPC noted that, as a detective on scene, Detective A should have exerted command and control of the situation, but did not do so.

The BOPC noted that Detective A left the cover of the apartment building corner and deployed behind a parked car. Detective A then deployed along the passenger side of the parked car to get closer to the suspects' vehicle in order to read the license plate. The BOPC noted that this position afforded Detective A negligible cover, and that it was still unknown if the suspects were inside the vehicle. The BOPC would have preferred that Detective A had not left the position of cover to obtain the license plate number,

given that the suspects were known to be armed and that their vehicle had not been cleared.

The BOPC noted that, as Officers A and B responded to Detective A's request for assistance, there was no communication among them to ensure a safe tactical approach. This created confusion and a crossfire situation, which ultimately resulted in the officer-involved shooting.

The BOPC noted that Detective A observed what Detective A believed to be a suspect with a shotgun or rifle, but was actually Officer A. Detective A did not verbalize with the individual Detective A believed to be a suspect, nor did Detective A identify himself as a police officer. The BOPC further noted that the culmination of events, including Detective A's lack of cover and poor communication, did not afford Detective A time to assess the potential threat. The BOPC would have preferred that Detective A had identified Detective A as a police officer and had verbalized with the individual Detective A believed was a suspect with a gun.

The BOPC noted that Detective A held Detective A's radio and his service pistol in Detective A's hands, preventing Detective A from using a flashlight in the dimly lit area. During the shooting incident and Detective A's diving for cover, Detective A continued to hold the radio and pistol. The BOPC further noted that Detective A did not de-cock Detective A's pistol prior to diving to the ground, which could have caused a negligent discharge, and that the dive exposed Detective A to the very threat that Detective A had purportedly attempted to stop.

The BOPC noted that after Detective A fired the shot, Officer A stepped from cover in order to engage the person who had fired the shot. The BOPC would have preferred that Officer A had remained behind the cover of the building and devised a plan with Officer B to address what Officer A believed to be an armed suspect. The BOPC would also have preferred that Officer A had identified himself and attempted to verbalize with the person he observed.

Finally, the BOPC noted that, at various times throughout the incident, Detectives A and B had their radio volume down low, which precluded them from hearing pertinent communications. The BOPC would have preferred that the detectives had maintained a volume level with their radios that would have afforded them the opportunity to hear all of the communications with the other involved officers.

The BOPC found Detective A's tactics to warrant administrative disapproval and Detective B's tactics to warrant formal training. The BOPC found Officers A and B's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC noted the circumstances under which the detectives and officers drew firearms and determined that they had sufficient information to believe the situation may escalate to the point where deadly force may become necessary. The BOPC found

Detectives A and B' and Officer B's drawing of their pistols to be in policy. The BOPC found Officer A' exhibition of a shotgun to be in policy.

C. Use of Force

The BOPC noted that, as Officer A stepped out from the cover of the apartment building, Detective A believed that Officer A was a suspect with a shotgun or rifle and fired one round.

The BOPC noted that Detective A failed to properly identify the target, which caused Detective A to fire upon a fellow police officer. The BOPC determined that Detective A's use of force was not reasonable or justified. The BOPC found Detective A's use of force to be out of policy, warranting administrative disapproval.