

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

**OFFICER-INVOLVED SHOOTING – 090-06**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On (X) Off()</u></b>	<b><u>Uniform-Yes(X) No(X)</u></b>
Southeast	10/10/2006		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Detective A	11 years, 6 months
Officer A	3 years, 5 months

**Reason for Police Contact**

While returning to the area police station, Detective A and Officers A and B observed Subject 1 engaged in an exchange of gunfire. Officer A instructed Subject 1 to drop his weapon. Subject 1 turned toward the officers' vehicle and pointed a gun in their direction. Detective A and Officer A fired at Subject 1.

<b><u>Subject</u></b>	<b><u>Deceased (X)</u></b>	<b><u>Wounded ()</u></b>	<b><u>Non-Hit ()</u></b>
Subject 1: Male, 21 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 09/18/07.

**Incident Summary**

Detective A and Officers A and B were approaching an intersection in an unmarked police vehicle. Detective A was in the backseat on the passenger's side of the vehicle, and was wearing his uniform. Officer A was driving the vehicle and Officer B was in the front passenger seat and both officers were dressed in plainclothes. As they approached the intersection, the officers observed a male (Subject 1) standing in the middle of the roadway firing a handgun away from the officers.

Subject 1 began to move backwards, towards the sidewalk and the intersection. Officer A looked in the direction that Subject 1 was firing, and he observed an individual standing on a nearby street, separated from Subject 1 by a flood control channel.

Meanwhile, Officer B observed another male (Subject 2) facing the same direction as Subject 1. Officer B formed the opinion that Subjects 1 and 2 were together.

Officer A then noticed a minivan parked along the sidewalk, and he decided to drive toward it and use it as cover by positioning the police vehicle behind it. Officer A also intended to block one of Subject 1's potential escape routes. Officer A drove the police vehicle past Subject 1 and came to a stop near the minivan.

Officers A and B then drew their service pistols and observed that Subject 1 had already arrived at the edge of the parked minivan. Subject 1, who was facing away from the officers and still moving backward, held his gun in his hand. With the driver's side window down, Officer A verbally identified himself as the police and commanded Subject 1 to drop the weapon.

**Note:** Detective A indicated that he heard Officer A yell, "gun."

Officer B indicated that he heard Officer A yell, "Police. Drop the gun."

Witness 1 indicated that the officers did not tell Subject 1 to drop his weapon, and that they did not say anything to him.

Witness 2 indicated that the police gave Subject 1 no verbal warning before engaging him.

Witness 3 indicated that an unidentified person asked Subject 1 to put his hands up. Later during her interview, however, Witness 3 indicated that the police officers did not exchange any words with Subject 1.

Subject 1 turned and made eye contact with Officer A. Subject 1 then brought his gun in toward his body and pointed it at Officer A, who was still issuing loud verbal commands to Subject 1. In response to the threat posed by Subject 1, Officer A fired eight rounds at him from his service weapon.

**Note:** Officer A indicated that his firing was controlled and methodical, and that he continued firing until the threat was over. He further indicated that the rounds he fired stopped Subject 1's actions.

Officer B indicated that he heard Officer A fire approximately three or four rounds in rapid succession.

Witness 1 indicated that she initially observed Subject 1 exchanging gunfire with the occupants of a vehicle. Subsequently, Subject 1 saw the

officers' vehicle pulling up and he turned around and dropped his weapon. The officers fired at Subject 1 after he had dropped his weapon and while he had his back turned to them.

Witness 2 indicated that while Subject 1 was standing on the street, a vehicle drove past him and three of its four male occupants began shooting at Subject 1. Subject 1 then turned around and fired back at them. Subsequently, Witness 2 saw a black and white police vehicle driving on the same street. Witness 2 observed two officers inside the police vehicle, both of whom were wearing uniforms. When Subject 1 saw the police vehicle and heard its siren, he turned around and threw his gun down. The two officers in the police vehicle then began shooting at Subject 1 without any verbal warning.

Witness 3 indicated that Subject 1 was in the intersection when he began to exchange gunfire with some individuals standing in an adjacent area. Then, two vehicles were seen traveling on the street where Subject 1 stood. The vehicles each had male occupants, and the occupants of one of the vehicles began shooting at Subject 1. Subject 1 then returned fire. Subsequently, Witness 3 observed the officers' vehicle with two officers inside pull up to the south side of the street where Subject 1 was standing. Subject 1 appeared to notice the police car and threw his gun. Witness 3 indicated that when Subject 1 turned around and noticed the officers' vehicle, he did not "turn with the gun", and that he did not point it, even though he was still holding it in his hand. Then, after Subject 1 threw his weapon, and as he was putting his hands up, the officers shot him.

As he fired his weapon, Officer A leaned forward toward the steering wheel of the police vehicle in an attempt to duck out of the way of any rounds that Subject 1 might fire from his weapon. At the same time, Detective A heard gunfire and observed Officer A lean against the steering wheel of the police vehicle. Detective A believed that Officer A had been shot at this time.

Already holding his service weapon, Detective A leaned forward between the driver's seat and the front passenger's seat. He observed that Subject 1 was facing the police vehicle and starting to crouch down with his arms extended out toward the vehicle. Detective A also observed that Subject 1 still had a gun in his hand. In an attempt to save Officer A's life, Detective A then leaned toward the open, front driver's side window, extended both of his hands together out the window, and fired seven rounds at Subject 1. Detective A had leaned in front of the driver's seat but behind Officer A, who was up against the steering wheel of the police vehicle, when he fired his rounds.

Officer A and Detective A observed Subject 1 drop down to the ground on his stomach. Detective A and Officers A and B then exited the police vehicle. Officer A used his radio to broadcast his location, call for help, and indicate that a subject was down. Detective

A and Officer A then approached Subject 1, and Detective A observed a handgun by Subject 1's side.

**Note:** Witness 5 indicated that she saw Subject 1 lying on the ground, and that she heard two uniformed officers use profanity while instructing Subject 1 to "freeze." She also indicated that the officers' police vehicle was marked.

Witness 1 indicated that the driver of the police vehicle (Officer A) exited the vehicle and fired one or two more rounds at Subject 1, who was face-down on the ground.

Witness 3 indicated that Subject 1 fell to the ground after he was shot. Subsequently, according to Witness 3, "one of them cops got up on the corner, they just shot him in his head."

**Note:** Firefighter A indicated that when he arrived at the scene, he found Subject 1 laying face-up, with a gun next to his body.

Officer A handcuffed Subject 1. Meanwhile, Officer B had moved toward the hood of the police vehicle and observed that Subject 1 was down on the ground. He then noticed that Subject 2 was starting to run from the scene. Officer B yelled to Detective A and Officer A that the second individual was fleeing.

**Note:** Neither Detective A nor Officer A indicated that they heard Officer B communicate with them at this point.

Officer B attempted to monitor Subject 2 by moving through the intersection and onto a perpendicular street, stopping at an alley. Officer B then attempted to use his radio, but he realized that he had left it inside the police vehicle. Officer B did not see Subject 2 continue through the alley, and he re-holstered his weapon and returned to the police vehicle. Once at the police vehicle, he used a radio to broadcast the presence of a second subject who was running from the scene.

While Detective A and Officers A and B awaited the arrival of responding units, numerous individuals in the area began running towards the officers and crowded around them. Detective A and Officer B observed that the crowd was agitated, and Officer A indicated that the officers had to push the crowd back in order to maintain the integrity of the crime scene. Shortly thereafter, backup units arrived at the scene and assisted in controlling the crowd and establishing a perimeter to contain the second subject observed by Officer B. A short time later, a rescue ambulance arrived at the scene and transported Subject 1 to a nearby hospital for treatment of his injuries.

## **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 and Officer A's tactics to be appropriate.

The BOPC found Officer B's tactics to warrant divisional training.

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

The BOPC found Detective A and Officer A and B's drawing to be in policy.

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

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

## **Basis for Findings**

### **A. Tactics**

The BOPC noted that, as Officer A drove the police vehicle into an intersection, the officers observed Subject 1 in the middle of the street firing a handgun as he walked backwards. Fearing they would be caught in a crossfire, Officer A quickly assessed the situation and elected to continue to the only available cover in the immediate area, a vehicle parked on the curb of the street.

The officers momentarily lost sight of Subject 1 as Officer A stopped the police vehicle next to the rear corner of the van. Before the officers were able to deploy from their vehicle, they were faced with Subject 1, who appeared in their line of sight from behind the van. Subject 1, still walking backwards, was holding the handgun in his hand. Officer A, while seated in the police vehicle, verbally identified himself as a police officer and ordered Subject 1 to drop the weapon.

Following the officer-involved shooting (OIS), Detective A and Officer A exited the police vehicle and approached Subject 1 in contact/cover roles to apply the handcuffs.

Officer B observed Subject 2 running away from the scene. He decided to track Subject 2's progress by repositioning himself at the mouth of an adjacent alley. After reaching the alley, Officer B realized that he did not have his radio with him and was therefore unable to broadcast any information about the individual's physical description, location, or movement. He then returned to the scene in order to retrieve a radio and make such a broadcast.

The BOPC would have preferred that Officer B attempted to initiate a broadcast about the presence and movement of a second suspect immediately after he observed the individual running away from the scene. By this time, the OIS had concluded and Subject 1 no longer appeared to present a threat. Also by this time, Officer A had broadcast a help call to Communications Division (CD), and backup units would shortly be making their way toward the scene. By delaying his attempted radio broadcast about the second subject, Officer B potentially exposed responding officers to unnecessary risk and decreased the likelihood that Subject 2 would be apprehended.

Additionally, Officer B indicated that, just before he began to track the potential second suspect's movement, he yelled out to his partners that the second suspect was leaving the scene. However, Detective A and Officer A remained generally unaware of Officer B's decision to leave the scene to monitor the potential second subject. It would have been safer for Officer B to have more effectively communicated with Detective A and Officer A by obtaining their acknowledgement of his decision to leave the immediate scene.

The BOPC found Detective A and Officer A's tactics to be appropriate.

The BOPC found Officer B's tactics to warrant divisional training.

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

The BOPC noted that Detective A and Officers A and B observed Subject 1 armed with a handgun and firing rounds. Officer A identified himself, ordered Subject 1 to drop the handgun, and drew his service pistol in response to Subject 1's actions.

After Officer A fired his rounds, he leaned toward the steering wheel. Fearing Officer A had been shot, Detective A drew his service pistol.

Based on the shots fired in progress along with the subsequent OIS involving Detective A and Officer A, Officer B exited the police vehicle with his service pistol drawn and verified Subject 1 was no longer a threat.

The BOPC determined that Detective A and Officers A and B had sufficient information to believe the situation may escalate to the point where deadly force may become necessary.

The BOPC found Detective A and Officer A and B's drawing to be in policy.

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

As Officer A stopped the police vehicle, he told Subject 1 to drop the weapon. Subject 1 failed to comply and turned to face Officer A with his handgun in his hand. Officer A fired eight rounds at Subject 1. Officer A then leaned forward, over the steering wheel.

At that time, Detective A observed Officer A slumped over the steering wheel and believed Officer A had been shot. Detective A leaned over the driver's seat, behind Officer A, extended his service pistol out the driver's window and fired seven rounds at Subject 1.

The BOPC weighed the ambiguities in the accounts of the incident that were given by the officers involved in the use of force, conflicting testimony that was given by multiple witnesses to the incident, and physical evidence which did not definitively resolve what actually occurred. It was difficult to ascertain certain details regarding the actions taken by Subject 1 and the involved officers during the OIS.

It could not be definitively ascertained just what Subject 1's actions were in relation to each officer's sequence of gunfire. Among the ambiguities in this regard were Detective A's indication that when he began to fire at Subject 1, he saw Subject 1 crouching down with his arms extended out toward the police vehicle. Officer A, meanwhile, did not indicate that Subject 1 assumed a crouching position or extended his arms toward the police vehicle. Rather, Officer A indicated that Subject 1 brought his gun in toward his body when he faced the police vehicle and that Subject 1 fell to the ground as a result of being hit by gunfire.

In addition to the ambiguity in Detective A and Officer A's statements, numerous witnesses gave accounts of the incident that materially conflicted with all of the officers' statements. Witnesses 1, 2, and 3 each indicated that the officers made no attempt to verbally communicate with Subject 1 before the OIS took place. Each of these witnesses also indicated that Subject 1 was shot by the officers after he had already dropped his weapon, and Witness 1 stated that Subject 1 was shot while he had his back turned toward the officers. Witnesses 1 and 3 also indicated that after Subject 1 had fallen to the ground, one of the police officers exited the police vehicle and fired at Subject 1 again. The physical evidence in this case does not necessarily resolve the ambiguities or conflicts at issue.

Ambiguities in the statements of the officers involved in the use of force, the materially conflicting statements of some of the witnesses, and the lack of conclusive physical evidence combine to make it difficult to determine with precision just what Subject 1's actions were as the officers fired at him. However, the preponderance of the evidence in this case establishes that the actions of the officers involved in the use of force were consistent with Department policy.

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