

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

**OFFICER-INVOLVED SHOOTING – 091-07**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On(X) Off ( )</u></b>	<b><u>Uniform-Yes(X) No ( )</u></b>
Pacific	09/23/07		

<b><u>Involved Officer(s)</u></b>	<b><u>Length of Service</u></b>
Officer A	9 years, 10 months

**Reason for Police Contact**

Officers A and B responded to a “shots fired” radio call. When they arrived in the area of the radio call they began searching on foot for the subject. Officer A saw a subject hiding in the driveway of an apartment complex. This subject jumped up and ran towards the alley. Officers A and B pursued the subject. As the subject was running through an enclosed backyard he turned and pointed a handgun at Officer A. Officer A fired two rounds from his pistol at the subject.

<b><u>Subject(s)</u></b>	<b><u>Deceased ( )</u></b>	<b><u>Wounded ( )</u></b>	<b><u>Non-Hit (X)</u></b>
Subject 1: Male, 18 to 20 years old.			

**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 Subject 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 08/19/08.

**Incident Summary**

Officers A and B monitored a “shots fired” radio call and responded to the area of the call.

**Note:** Officer A was Officer B’s field training officer (FTO).

As recalled by Officer A, "As we got to the area [ . . . ] we heard two more gunshots."

As described by Officer A, a second radio call of "shots fired" followed shortly thereafter, and Officer A informed Communications Division (CD) that he and Officer B were Code Six in the area.

According to Officer B, "We circled the area. We don't see anything suspicious.

Officer A thought he saw a subject standing on the sidewalk in front of an apartment complex. According to Officer A, "Told my partner, 'hey, I think I see somebody on the sidewalk.'"

According to Officer B, "I exited the passenger side. Headed east clearing cars to the north and clearing the house and the side of the house to the north of our location [ . . . ] he [Officer A] was approximately 30 feet west of my location."

According to Officer A, there was a gray car parked in the driveway. "When I turned, looked to my left, I saw a male with a hoodie, a hooded sweatshirt and a black bandana over his face, pop up from the front of the car." As recalled by Officer A, "I drew my weapon. I told him, 'let me see your hands, don't move.'"

According to Officer A, "He [the subject] immediately turned to his right and climbed and jumped over a cement brick wall which was I think about 5-6 feet. He landed on the other side of the wall [ . . . ] [the subject] then jumped over a wooden fence. As he landed over the fence, I pushed open a black metal gate which is beyond the wooden fence; it's along the curb line. [The subject . . . ] turned in my direction. I couldn't see his complete figure or whatnot so I kicked open the wooden fence so I could see him."

According to Officer B, "My partner started running northbound between houses on the sidewalk and I followed after him."

As recalled by Officer A, "As we began running along the cement walkway I [ . . . ] didn't see a gun. My partner was a few steps behind me."

**Note:** Officer B stated that he was approximately 30 feet behind Officer A and could not see who Officer A was chasing.

As recalled by Officer B, "It's very, very dark. The only light is my flashlight. My hand held and my partner's flashlight."

According to Officer A, "[The subject] kind of ran to his right which would be a northeast direction to the backyard. As he was running northbound he kind of slipped or stumbled [ . . . ] he kept going [ . . . ] it looks like he stumbles. His left hand goes down to the ground [ . . . ] and then he looked back to his right and I could see a black semi auto handgun in his right hand [ . . . ] he was looking over his right shoulder at me [ . . . ] as he turned and looked and raised that gun, I fired two rounds at him. He took a few more steps and jumped over the brick wall at the rear of the yard."

**Note:** Officer A fired two rounds at the subject from a distance of approximately 12 feet.

Officer A fired his pistol at the subject because he believed, “that he’s [the subject’s] gonna try and shoot me and kill me.”

As recalled by Officer B, “As I’m about where the tree is, I hear [ . . . ] ‘Stop, police. Get on the ground.’ And then I hear pop, pop. At that point, Officer B unholstered his pistol and simultaneously saw the subject run into the alley through an opening in the fence.

**Note:** The walkway on the west side of the apartment complex measured 108 feet from the north edge of the front sidewalk to the entrance of the rear yard. The rear yard measured approximately 30 feet by 30 feet. The cinder block wall on the north side of the rear yard measured approximately six feet high and approximately 29 feet in length, interrupted by a black metal rolling gate.

According to Officer A, “Next to the brick wall there’s a long metal aluminum fence. I think it was partially ajar. I kind of leaned in with my shoulder and wedged it open and cleared the wall to see where the subject was at and I could see him about 10-15 feet away and he was running eastbound through the alley.”

As recalled by Officer A, “My partner was right next to me on my left shoulder. I squeezed through the fence. My partner followed.”

According to Officer B, “My partner is continuing to chase him through the gate. I immediately holster and continue to chase. He’s [Officer A’s] continuing to tell him to get on the ground. ‘Get on the ground. Stop. Police.’”

**Note:** Officer A used his radio to broadcast that an officer-involved shooting (OIS) had occurred and that officers were in foot pursuit of the subject.

According to Officer A, the subject ran eastbound in the alley for approximately six or seven houses, turned northbound, and then climbed over a wooden fence and into a backyard of a residence.

Officer A holstered his pistol once he heard the subject running northbound through the backyard. Officer A then ran eastbound and began establishing a perimeter.

As recalled by Officer B, “We see him jump over a fence. We see him disappear [. . .] there’s a lot of tree and shrubbery [. . .] we see him disappear out of sight from that location. Then we continue eastbound through the alley where I hold my position at the end of the alley and my partner continues northbound, holding position at that corner.”

Sergeant A had monitored the “Shots Fired” call and responded to the location. According to Sergeant A, “[Officer A] was setting up the perimeter because he had worked gangs in the area for several years [. . .] so I allowed him to go ahead and set up the perimeter.”

After the perimeter was established, Officer C and a K-9 searched the east/west alley. The K-9 located a pistol along the fence line. The pistol had one live cartridge in the chamber and ten live cartridges in a twelve cartridge magazine. When the pistol was recovered, the safety was off and the hammer was down.

The Subject was not located by the search teams.

### **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 Officer A’s and Officer B’s tactics to warrant formal training.

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

- The BOPC found Officer A’s and Officer B’s drawing to be in policy.

## **C. Use of Force**

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

## **Basis for Findings**

### **A. Tactics**

- The BOPC noted that Officer A appropriately advised CD that he and his partner were Code Six in the area; however, he did not confirm that CD received the updated location, where the foot search was initiated to locate the potential subject. This was a factor in CD inaccurately broadcasting the foot pursuit location because the officer's last known location reflected the origin of the initial radio call and not his actual location.

Officers A and B exited their police vehicle and began to independently search the area while being approximately 30 feet apart. When the subject "popped up" in front of the vehicle, Officer B did not see the subject and only became aware of the subject's presence after hearing his partner giving the subject verbal commands. Based on the circumstances and the nature of the investigation, the officers should have searched the area as a team and operated within close proximity, thereby maximizing officer safety.

Officers A and B initiated a foot search for the potentially armed subject without first drawing their service pistols. They heard two distinctive incidents of gunshots being fired, acknowledged the "Shots Fired" radio call and were searching for a previously observed potential subject. In considering these factors, it would have been tactically prudent to have conducted the search with their weapons drawn.

Officer A did not verbally communicate his observations to his partner before initiating the foot pursuit. Officer B did not see the subject and followed in foot pursuit as a reaction to his partner's actions.

During this incident, it was imperative that Officer A communicate with his partner to ensure that he understood the rapidly unfolding tactical situation. It was also noted that Officer A should have given consideration to his partner's level of experience and the probability that the subject was armed when determining whether to initiate a foot pursuit or establish containment for apprehension purposes. Although initiating a foot pursuit of an armed subject is not prohibited, it would have been prudent under these circumstances to have established containment to apprehend the subject through a systematic search with the assistance of the appropriate resources.

Officer A engaged in the foot pursuit with his service pistol drawn. Although running with a firearm can increase the chances of the officer having an unintentional discharge, Officer A recognized that the subject was potentially armed and the situation could escalate and necessitate the use of deadly force. After a review of

the tactical circumstances, it was determined that the decision to engage in the foot pursuit with a drawn service pistol was warranted.

The BOPC noted that the foot pursuit was not broadcast until after the OIS occurred. A timely broadcast of a foot pursuit that includes the direction of travel and pertinent subject information increases the likelihood of the successful apprehension of the subject and promotes officer safety.

The BOPC determined that Officers A and B would benefit from additional tactical training.

### **Drawing and Exhibiting**

- The BOPC noted that Officers A and B heard gunshots and several radio call broadcasts regarding shots fired in the area. The officers exited their vehicle and initiated a search of the area. Officer A observed the subject wearing a black hooded sweatshirt and a black and white bandana covering the lower half of his face, “pop up” in front of a vehicle. Based on his experience of the area, the subject’s attire and the shots fired, Officer A believed that the subject was a gang member who was likely armed and drew his service pistol.

Officer B was involved in a foot pursuit of the subject with his partner. Officer B heard his partner yell, “Stop, police,” followed by two gunshots. Fearing a possible armed confrontation, Officer B drew his service pistol.

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

The BOPC found Officers A and B’s drawing to be in policy.

### **Lethal Use of Force**

- The BOPC noted that the subject ran along a walkway, away from Officers A and B. The subject reached the middle of the rear yard and stumbled forward. While regaining his balance, the subject turned his upper body in a clockwise direction toward Officer A, raised his right arm and pointed a semiautomatic handgun at him. In immediate defense of his life, Officer A fired two rounds in a northeasterly direction from approximately 12 feet, at the subject.

The BOPC determined that Officer A reasonably believed that the subject presented an immediate threat of serious bodily injury or death. The BOPC found Officer A’s use of lethal force to be in policy.