

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

OFFICER-INVOLVED SHOOTING – 096-11

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
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Southeast	10/23/11		
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<u>Officers Involved in Use of Force</u>	<u>Length of Service</u>
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Officer A	8 years, 8 months
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Officer B	5 years, 5 months
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Reason for Police Contact

Officers responded to a “shooting in progress” radio call, when one subject pointed a gun at an officer, resulting in an officer-involved shooting. Moments later, a second officer-involved shooting occurred when an officer encountered a fleeing individual and mistook him for a subject.

<u>Subject(s)¹</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
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Subject 1: Male, 27 years of age.

Subject 2: Male, 26 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, 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 Chief of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department

¹ Two separate officer-involved shootings (OISs) occurred during this incident. The first OIS occurred when Officer A shot Subject 1. Moments later, a second OIS occurred when Officer B encountered Subject 2 and mistook him for a subject.

Subject 1 sustained gunshot wounds as a result of the OIS involving Officer A. Subject 2 also sustained gunshot wounds during this incident; however, it is unknown whether these injuries were the result of Subject 1’s gunfire or of rounds fired by an officer.

Command Staff presented the matter to the Chief and made itself available for any inquiries by the BOPC.

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 October 9, 2012.

Incident Summary

Subjects 1 and 2 became involved in a physical altercation while outside on the street. Following the fight, Subject 2 went to his residence and locked the front, metal security screen door. Subject 2, Witnesses A, B and C, and six children (ranging from 16 years to 10 months of age) were inside residence.

Approximately five minutes later, Subject 1 came to Subject 2's residence and tried to open the door, but it was locked. Subject 2 asked Subject 1 to leave and Subject 1 began to walk away, but then turned toward the metal security screen door and pulled a handgun out from his back waistband area. Then, all of the children ran into the bedroom and hid in the closet. Subject 1 started to shoot several rounds through the living room metal security screen door at them. Subject 1 entered the residence through a different door and went toward the bedroom, where Subject 2 and Witness A wrestled violently over control of Subject 1's gun.

Several calls to 9-1-1 were made. One caller reported that a gun had been shot and that kids were in the residence. Officers A and B responded to the radio call of a "shooting in progress." The radio call also informed the officers that children were in the residence.

Subject 2 and Witness A continued to wrestle with Subject 1 inside the apartment, and Witness A grabbed the magazine from Subject 1's gun and fled outside. The fight between Subjects 1 and 2 moved out to the rear yard.

In the meantime, Officers A and B responded to the scene and spoke with Witnesses A and C, who were frantically yelling, "He's got a gun; He killed the kids; I have kids inside." Under the belief that the situation might escalate to deadly force should he confront an armed subject, Officer B drew his pistol.

Officer A requested at least two additional units to respond to his location. Officers C, D, E and F also responded to the location.

Due to the exigent circumstances, in addition to their belief that there was an armed subject inside the apartment with small children, the officers elected to enter the apartment. Officers A, C and D drew their pistols. The officers could hear screaming coming from inside the apartment, and a male voice yelling. Officer A heard what sounded like a female child yelling for help.

The officers cleared the rooms and covered for each other as they moved through the residence.

Officer A entered the bedroom and was aware Officer B was behind him. The bedroom was cluttered with boxes, clothing, and miscellaneous objects on the floor. According to Officer A, a female, approximately 14 years old, opened the closet, peeked out and said, "Help, he has a gun," and pointed to the back door. Officer B directed his attention to the closet and yelled, "Let me see your hands," and upon seeing small hands and part of a head, he realized it was a little girl, and thus not a threat.

Officer A had directed his attention to the back door and heard what sounded like fighting or screaming. Officer A took one step out the back door, and observed two males on the ground, one on top of the other, nearby the door. As Officer A deployed in the rear yard, one of the males, Subject 2, stood up, and ran past him, out of his view and into the bedroom.

Officer A saw the other male, Subject 1, lying face up on the ground with a gun in his right hand. According to Officer A, Subject 1 made eye contact with him, locked out his right arm, and pointed the gun at him. In immediate defense of his life, Officer A fired four consecutive rounds at Subject 1. After the fourth round, Subject 1 dropped the gun.

Note: Witness A observed Subject 1 point his gun and fire possibly one or two shots, and then the officer fired.

Meanwhile, Officer B heard what sounded like three to four gunshots, directed his attention toward the back door, and immediately saw Subject 2 run toward him. Officer B ordered Subject 2 to stop and get down. Fearing that Subject 2 had just shot Officer A, and observing Subject 2's right arm start to come down and punch outward as though he was pulling a gun and about to shoot him, Officer B, in defense of his life and the children's lives, fired two rounds at Subject 2 as Subject 2 continued toward him. As he fired, Officer B stepped back to distance himself from Subject 2 and bent his arm to pull his service pistol in toward himself. Officer B fired at Subject 2 from an increasing distance of approximately one foot to four and a half feet.

Subject 2 hunched over and pushed past Officer B. As Officer B stepped back, he stumbled, and struck his hand that was holding the gun on either his knee or possibly the bed, knocking it from his hand to the floor at the foot of the bed.

Officer B regained his footing, leaned toward Subject 2 and pushed him forward to the ground, just past the threshold of the bedroom and into the hallway. Officer B, who had not yet retrieved his service pistol, grabbed Subject 2's left hand and held it behind his back with his left hand. Using the palm of his right hand, Officer B held Subject 2 down on the floor. Officer B believed he possibly placed his left knee on Subject 2's back to

hold him down, and yelled to Officer D to hold Subject 2 down. Officer D holstered his weapon and took control of Subject 2 from Officer B.

Rescue ambulances responded and Subjects 1 and 2 were transported to the hospital. Both survived their gunshot injuries.

Subject 1's pistol was recovered in the rear yard. Subject 2 was unarmed.

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 of a firearm 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 Officers A and B's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

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

D. Lethal Use of Force

The BOPC found Officers A and B's use of lethal force to be in policy.

Basis for Findings

A. Tactics

- In their analysis of this incident, the BOPC identified the following tactical considerations:
 1. Immediate Action Rapid Deployment (IARD)

In this instance, Officers A and B received information that a subject was armed with a handgun, shots had been fired, and small children were at risk inside the apartment. This information influenced the decision that a swift response was necessary to neutralize the threat and safeguard human life. Subsequently, Officer A implemented IARD tactics that were consistent with how he had been trained. The BOPC evaluated the decision to employ the IARD tactics and found it to be consistent with approved Department tactical training and his expectations.

In conclusion, the implementation of the IARD tactics did not substantially deviate from approved Department tactical training. The BOPC directed that this topic be discussed during the Tactical Debrief.

2. Tactical Communication

The inherent chaotic nature of circumstances that warrant the implementation of IARD tactics undoubtedly will result in areas where improvements could be made. To that end, the following areas for consideration have been identified:

- Communications Division (CD) was not updated on the unfolding tactical scenario.
- The intention to enter the location was not broadcast to CD.
- The lack of communication between partners resulted in the most efficient coordinated team movement through the exterior bedroom door.

The evaluation of these identified areas for improvement requires that consideration be given to the conceptual intent and practical application of IARD tactics. Officers assigned to contact teams are taught to bypass victims in order to facilitate contact with that subject to neutralize the deadly threat as quickly and efficiently as possible. The BOPC recognized that these officers were operating under very stressful and dynamic circumstances that required a split second decision be made. Although the officers momentarily were not in line-of-sight, it was short in duration and a consequence of the immediate efforts to immediately stop the threat, rather than intentional in nature.

In conclusion, these identified areas for improvement did not substantially deviate from approved Department tactical training. The overall actions of the involved officers were consistent with the BOPC's expectation that action be taken to safeguard human life and were commendable in nature. However, these identified areas for improvement provide officers with an opportunity to evaluate their actions in order to enhance their future performance, in the event they are confronted with similar circumstances in the future. The BOPC directed that these aspects of tactical communication be discussed during the Tactical Debrief.

3. Physical Contact of a Possibly Armed Subject

In this instance, Officer B fired his service pistol while Subject 2 continued to advance toward him. Officer B ordered Subject 2 to stop and attempted to create distance from him by moving backward; however, Officer B stumbled, and his service pistol struck the bedframe or his knee, causing it to inadvertently slip from his hand. Officer B regained his footing, leaned toward Subject 2 and pushed him forward to the ground (see Non-Lethal Use of Force) and momentarily held Subject 2 until he received assistance from Officer D.

In evaluating the decision to initiate physical contact with Subject 2, whom he believed to be armed, the BOPC took into account the totality of the circumstances and considered the information known to Officer B at the time his decision was made. Accordingly, Officer B had knowledge that the subject was armed, that there were children inside the residence, and that there had been shots fired prior to the officers' arrival and just before Subject 2 entering the bedroom. After giving consideration to the objective facts, the BOPC found it reasonable that Officer B initiated contact with Subject 2, rather than allow him to continue out of his view with the potential that he would engage the other officers in the apartment in a deadly confrontation.

In conclusion, the BOPC found that Officer B acted appropriately when he made physical contact with Subject 2 and that this action in this case did not substantially deviate from approved Department tactical training. The BOPC will direct that this topic be discussed during the Tactical Debrief.

- The BOPC additionally found that:

1. Vehicle Deployment

The Digital In-Car Video System (DICVS) revealed Officers A and B were attempting to locate the address, when they observed Witness A in the middle of the street. Officer A subsequently stopped the police vehicle in front of the apartment complex. It would have been tactically advantageous for Officer A to stop the vehicle prior to the complex.

2. Tactical Language

A review of the DICVS assigned to Officers A, B, C and D recorded an unidentified male voice yelling, "Don't move. Don't fucking move." The issue was subsequently addressed by the Area Commanding Officer and it was determined that no further action was necessary.

3. Weapon Retention

Although Officer B inadvertently dropped his service pistol, consideration should have been made to again obtain control of it before initiating contact with a subject he reasonably believed to be armed with a firearm. The BOPC directed that these topics be discussed during the Tactical Debrief.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Each tactical incident merits a comprehensive debriefing.

In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident.

In conclusion, the BOPC found Officers A and B's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

- **Officer A**

In this instance, Officers A and B responded to a "Shooting in Progress" radio call. Officer A arrived at the scene, determined that an IARD entry would be made, and quickly developed a tactical plan to enter the apartment. Prior to entering the location, Officer A drew his service pistol.

- **Officer B**

In this instance, Officer B responded to the radio call involving a shooting. Upon arrival, he exited his vehicle and was confronted by a frantic female who indicated that an armed subject was inside her residence with her children. Additionally, Officer B observed a loaded pistol magazine on the ground near his police vehicle and was informed that it belonged to the subject.

The BOPC determined that officers with similar training and experience while faced with similar circumstances would reasonably believe there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Officers A and B's drawing and exhibition of a firearm to be in policy.

C. Non-Lethal Use of Force

- **Officer B – Firm Grip, Physical Force**

In this instance, Officer B was faced with a possible armed subject running toward him leading to an OIS. Immediately following the OIS, Subject 2 continued to run toward Officer B. Officer B attempted to increase the distance between himself and Subject 2; however, he stumbled and lost possession of his service pistol. Officer B

then grabbed Subject 2 with both hands and pushed him onto the ground prior to recovering his service pistol.

Officer B, subsequently instructed Officer D to control Subject 2, recovered his service pistol from the ground and exited the apartment to join his partner. Officers D and E subsequently walked Subject 2 from the residence where he was taken into custody without further incident.

Based on the totality of the circumstances, an officer with similar training and experience would reasonably believe that Subject 2 posed a threat to the remaining entry team and other potential victims inside the residence and that the use of non-lethal force in order to defend them would be justified. Therefore, the BOPC found that Officer B's application of non-lethal force was objectively reasonable and within Department policy.

Therefore, the BOPC found Officer B's use of non-lethal force to be in policy.

D. Lethal Use of Force

- **Officer A** (pistol, four rounds)

In this instance, Officer A was utilizing IARD tactics in search of an armed subject. Officer A located a female child who was hiding in a bedroom closet. The female child informed Officer A that Subject 1 was armed and was outside the back door, which led to the exterior of the property. Officer A exited the back door and immediately observed Subjects 1 and 2 on the ground. Subject 2 looked at Officer A, stood up and ran into the bedroom. As Subject 2 ran past Officer A, Officer A observed Subject 1 lying on his back and armed with a handgun in his right hand. Subject 1 then pointed the handgun directly at Officer A. Fearing for his life and the people behind him, Officer A fired four rounds at Subject 1.

An officer with similar training and experience as Officer A would reasonably believe that the actions of Subject 1 represented an imminent threat of serious bodily injury or death and that the use of lethal force would be justified.

- **Officer B** (pistol, two rounds)

In this instance, Officer B was actively involved in attempting to locate an armed shooting subject. Officer B entered the rear bedroom and made contact with a female child who advised him that Subject 1 was outside and was still armed. As Officer B was concentrating his efforts on the safety of the child, he heard several gunshots and observed Subject 2 charging into the bedroom through the exterior door.

Additionally, Officer B was concerned about the safety of the child that was located inside the bedroom closet. Officer B believed Subject 2 returned to shoot the girl. ,

Based on the totality of the circumstances, an officer with similar training and experience as Officer B would reasonably believe that Subject 2 and his actions represented an imminent threat of serious bodily injury or death and that the use of lethal force would be justified.

In conclusion, the BOPC found Officers A and B's use of lethal force to be in policy.