

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

**OFFICER-INVOLVED SHOOTING - 024-10**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ()</b>	<b>Uniform-Yes (X) No ()</b>
Wilshire	03/19/10		

<b>Involved Officer</b>	<b>Length of Service</b>
Officer A	2 years, 7 months

**Reason for Police Contact**

Officers responded to a radio call involving an assault with a deadly weapon.

<b>Subject</b>	<b>Deceased ()</b>	<b>Wounded ()</b>	<b>Non-Hit (X)</b>
Subject 1: Male 17 years of age.			
Subject 2: Male 17 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 Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on February 22, 2011.

**Incident Summary**

Subjects 1 and 2 planned to attend a friend's party and met outside their apartments. They decided to go to a nearby CVS Pharmacy and each stole one bottle of alcohol. Subject 1 put the bottle in his jeans, and walked straight out of the store, but when he

and Subject 2 exited, a sensor went off, so they started running. Subject 2 took the bottle of vodka and concealed it in his jacket as he and Subject 1 headed out of the store.

Subject 1 and Subject 2 tried to get on the bus by waving their wallets at the bus driver, but the bus did not stop, as it was not close to any regular bus stop. According to Witness A, Subjects 1 and 2 “had something in their hands. According to Witness A, after their failed attempt to board the bus, the males walked onto the sidewalk and one “put a handgun down his pants and proceeded [to walk] south.” Witness A called 911 to report her observations, including her belief that one of the males was carrying a gun. According to Witness A, it was a “big, black gun” and the males “looked like they [were desperate] to get on the bus or to get away from something.” Witness A also told the bus driver that she believed one of the males had a gun.

An unknown male witness bus passenger also called 911 to report the incident. He indicated that two “gentlemen just tried to get on the bus. The guy turned around and displayed a weapon, two young guys [...] It looked like a black handgun.”

Uniformed Police Officers A, B, C and D were deployed in Wilshire Area – Officers A and B in one black and white vehicle and Officers C and D in another. The officers overheard the following broadcast on the Wilshire Area Base frequency: “Any Wilshire Unit, possible 415 man with a gun. Subjects are two males, 18 to 19 years, both wearing black T-shirts and blue jeans. Subject [sic] had a possible handgun in rear waistband.” According to Officer A, once the officers heard the radio call, they exited the café and headed in the direction of the incident. The Air Unit, which had responded to the unfolding incident as a result of the radio call, broadcast that there were two males walking. According to Officer A, he looked in the intersection of the incident, and [he] saw two males that matched the description of the radio call.

Officer A broadcast that he and his partner “were Code 6 in the area and that [they] had a visual of the subjects and that they were directly across the street from [their] location[.]” Officer C also went to retrieve his black and white vehicle. According to Officer A, both Subjects 1 and 2 looked in the officers’ direction and became startled. Subject 1 ran down an alley while Subject 2 ran into the nearby fast food restaurant.

Officer A notified the Air Unit of the officers’ location and started running after the subjects. He could hear the Air Unit broadcasting that the officers were in foot pursuit of the subjects and that they needed backup. According to Officer A, because he knew that he “had Officer D with [him], [he] felt it was best to just – to go after [the subjects] immediately.” In addition, Officer A indicated that he “compensate[d]” for the fact that his partner was not present because he “had Officer D by [his] side on foot and Officer C was in the vehicle right next to [them].”

Officer A ran across the street toward the fast food restaurant parking lot with Officer D behind him and Officer C alongside the officers “in the police car holding traffic[.]” Officer A saw Subject 2 enter the fast food restaurant while Subject 1 hopped a railing

adjacent to the fast food restaurant drive-through and ran through the parking lot. Officer E then put out a broadcast. Officer B observed Subject 1 running away from the fast food restaurant, leading Officer B to turn his vehicle into the north-south alley, but he “mistook the drive-thru driveway for the actual alley and had to stop[.]” Officer A indicated that he ordered Subject 1 to stop and show his hands, and Subject 1 refused and “proceeded to run while [...] holding his waistband.” According to Officer A, Subject 1 was “intently holding his waistband and looking in [the officers’] direction.” Officer A relayed that Subject 1 was holding his waistband above his groin and saw a “bulge.” According to Officer C, he also saw Subject 1 holding his waistband.

According to Officer D, while Officer C was driving the police vehicle across the street, he exited the vehicle and started running after Subject 1. Officer A was in front of him, and Officer C continued following in the vehicle. Officer D also recalled telling Officer C that he was going to get out of the vehicle and run. Officer A, he observed Subject 1 through a wrought iron fence adjacent to the carport area and saw that Subject 1 “stopped, turned around, looked west and began to pull an object from his waistband.”

Officer A indicated that Subject 1 removed a “shiny [...] chrome object” from his waistband and that based on this, along with the initial radio call and the fact that Subject 1 was intently holding his waistband, Officer A “felt that [Subject 1] was carrying a handgun in his waistband.” According to Officer A, the black and white vehicle driven by Officer C was “to his right,” behind Officer A. Officer A indicated that knowing Officer C was alongside him in a police vehicle, “coming at a fast pace,” led him to believe that Subject 1 “was anticipating Officer C’s arrival or [...] was going to pull a weapon from his waistband and possibly shoot at Officer C.” Officer A, he unholstered his weapon and pointed it through the bars of the wrought iron fence. Immediately upon deploying his weapon, Subject 1 began “pulling upward with his right hand,” as though he was holding an object in a “vertical position.” Officer A felt that Officer C could be shot, so he fired two rounds in Subject 1’s direction from a distance of approximately 20 feet. Officer A indicated that Subject 1 was facing west toward the alley when he fired. Officer A fired “when [Subject 1] turned around and began to pull what [he] thought was a gun from his waistband.”

After the shots were fired, Officer A “noticed [Subject 1] became startled and [observed him throwing] an object over the wall behind him, which was east of his location. [And then Subject 1...] immediately sat down on the ground.” According to Officer F, Subject 1 reached for his waistband and made a throwing motion up toward the roof of a nearby structure. Officer F “saw something fly up there which [he] believed[d] was a gun due to [Subject 1]’ actions.”

According to Subject 1, as he was running down the alley, he took the bottle of Jack Daniels out of his jeans with his right hand and then he “threw it over” and onto the top of a nearby roof. Subject 1 indicated that “when [he] threw it over, [...] he] heard a gunshot behind [him].” According to Officer A, once the shots were fired, Subject 1 “kicked his legs out in front of him and sat on his buttocks with his feet straight and his

hands to his side [...] as if he was bracing himself.” Officer A also indicated that Subject 1 sat down on the ground “immediately on his own,” without being ordered to do so.

Officer C did not recall drawing his weapon as Subject 1 had already “dropped down” on the ground and “both guns were drawn out already, [...] and so the next step was [...] to take him into custody.” Officer C heard a “banging” noise, “like an object hitting something.” Officer C further stated that he saw Subject 1 reach for something. Video evidence indicates that Officer C did, in fact, draw his weapon as he approached Subject 1.

Officer A kept his weapon pointed at Subject 1 and “ordered him to lay flat, [and] place his hands around his back.” Officer A ordered, as he issued commands, Officer A started approaching Subject 1 on foot with Officer D to his right side. Officer A saw that Subject 1 had “nothing” in his hands. Officer D also issued commands to Subject 1, telling him to turn around, lay down, and not to move.

Officer A then broadcast, “[B]e advised we just had shots fired and Officer E then broadcast, “Officer needs help.” According to Officer A, while he maintained cover, Officer D “came up and handcuffed [Subject 1].” Officer A holstered his weapon “[o]nce either of the two officers began to place handcuffs on[.]” Officer D also holstered his weapon once the handcuffs were placed on [Subject 1]. According to Officer B, he told Officer A they should go back inside the fast food restaurant, as he believed there was a second, outstanding subject.

According to Officer A, he “made entry with three other officers who were [...] clearing the restrooms of the fast food restaurant” Officer A believed Subject 2 was apprehended. After the restrooms were cleared, Officer A holstered his weapon. As patrons were exiting the restaurant, Subject 2 identified himself to Officer G and H and was taken into custody. Subject 2 threw his bottle of vodka in a trash can inside the fast food restaurant

Sergeant A arrived at the scene and obtained a Public Safety Statement from Officers A and B. Officers C and D also provided Public Safety Statements to additional supervisors, Sergeant B and Sergeant C, who had arrived at the scene.

### **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, B, C, and D's tactics to be in policy.

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

The BOPC found Officer A, B, C, and D's drawing and exhibition of a firearm to be in policy.

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

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

## **Basis for Findings**

### **A. Tactics**

A Tactical Debrief is the appropriate mechanism for Officers A, B, C, and D to evaluate the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future. The BOPC directed that Officers A, B, C, and D attend a Tactical Debrief and that the specific Debriefing Points outlined above are covered with the officers.

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

In this instance, Officers A, B, C, and D were attempting to apprehend a possible armed subject who was fleeing on foot.

Officer A was in foot pursuit of what he believed to be an armed subject. The foot pursuit ended when the subject ran into a carport area, leaving him no avenue of escape. Believing that this situation could escalate to deadly force, Officer A drew his service pistol.

Officer B was inside his vehicle, stopped in the fast food restaurant. drive-through, when he heard one gunshot. Officer B exited his police vehicle, drew his pistol and with his finger along the frame, ran toward Officers A, C, and D in the alley.

Officer C did not recall drawing his service pistol. However, upon reviewing video surveillance, which captured the officers approaching Subject 1, it was clear that Officer C had drawn his service pistol as he approached Subject 1. Significant research has been done on the impact or stress on memory. Research supports that each person has a set of expectations that color our individual and collective recollections. Our memories and perceptions may be impacted by what we expect to see and recall. The

influence of this is so strong it literally means perception is reality. Moreover, stress has a powerful impact on the perception and recall of incidents. The more critical, dynamic and stressful the incident the more potential for error or omission. The same is true of law enforcement personnel involved in a tactical situation. Heightened levels of stress, combined with increased elements of both focused attention and distraction, further magnify this effect. In these types of dynamic and stress filled circumstances, most human beings just pick up snippets of information and can exclude or compress what is not critical. Due to the circumstances, Officer C just heard shots fired and exited his police vehicle.

Officer D was in foot pursuit of what he believed to be an armed subject. After the OIS, Officer D observed Officer A with his service pistol drawn and ordering the subject into a prone position in the carport area. Officer D drew his service pistol and ordered the subject to turn around and lay down.

In conclusion, the BOPC found Officers A, B, C, and D's Drawing/Exhibiting to be in policy.

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

In this instance, Officer A monitored a radio call of a man with a gun. *"It was a possible robbery subject armed with a handgun."* As Officer A observed Subject 1 retrieve what he believed to be a handgun from his waistband area, and was about to shoot Officer C, Officer A fired two consecutive rounds at Subject 1.

Based on the fact that the officers had been informed that the subjects were armed with a gun, Subject 1' flight from the officers and Officer C' observations of Subject 1 pulling a shiny object, which Officer C believed to be a handgun from his waistband, officers with similar training and experience would reasonably believe that Subject 1 was arming himself with a handgun and was about to shoot Officer C. Therefore, it was reasonable for Officer A to perceive that Subject 1 was arming himself and presented a significant risk of serious bodily injury or death toward Officer C. As such, it was objectively reasonable for Officer A to utilize Lethal Force in defense of Officer C's life.

In conclusion, the BOPC found Officer A's application of Lethal Force to be in policy.