

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

**OFFICER-INVOLVED SHOOTING – 025-10**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
Olympic	03/20/2010		

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

**Reason for Police Contact**

Officers A and B heard a noise which led them to turn their vehicle around and approach Subject 1, who was walking northbound on the sidewalk. The officers approached Subject 1, attempted to make contact with him and an OIS occurred.

<b>Subject</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
Subject 1: Male, 27 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 Commission and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports and for ease of reference, 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 02/15/11 and 3/1/11.

## **Incident Summary**

### **Events prior to the officer-involved shooting**

Uniformed Police Officers A and B were patrolling and “trying to find gang members that [they knew] . . . committing crime or something like that.”<sup>1</sup> The officers were driving a marked black and white hybrid police vehicle. Officer B was the driver and Officer A the passenger.

According to Officer B, he and Officer A were driving southbound, toward Officer B’s assigned gang area. Officer B pulled into the left-hand turn lane at an intersection and initiated a left, eastbound turn.

**Note:** According to Officer B, there was “very minimal traffic” and “[n]ot too many peds.” According to Witness A, when asked about pedestrian traffic on the sidewalk, he responded, “It wasn’t really crowded.”

**Note:** According to Officer A, the officers were turning left because they were going to get a cup of coffee.

According to Officer B, he started to make his left-hand turn, and as he approached the crosswalk in the intersection, he heard “some kind of loud noise, a pop, some kind of impact noise.” Officer B indicated the noise was coming from a direction north of the officers and further described it as “a loud pop, bang.” According to Officer A, he also “heard a loud bang” as Officer B negotiated the left turn.

**Note:** When asked if the noise sounded like gunshots, Officer B said, “gunshots do sound different depending on caliber [...] It wasn’t like – from what I recall, it wasn’t like a ping [...] Just kind of like a loud, like a bang or something hitting. It’s harder – it’s really kind of hard to describe.”

Officer A stated, “You know, it was just a loud bang that caught my attention [...] It sounded [...] like a deep boom, you know. Not – not so much like a gunshot [...] I don’t believe it was a gunshot.”

**Note:** No witnesses indicated that they heard the noise described by Officers A and B.

According to Officer B, after he heard the noise he looked in his rearview mirror, looked to the left where his view was impeded by a wall, and looked at Officer A, telling Officer A, “let’s check it out.” Officer B further stated that he wanted to initiate “a little further investigation,” given that there were commonly shootings and vandalism in that area.

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<sup>1</sup> Both Officers A and B were interviewed shortly after this incident occurred. Both officers were subsequently re-interviewed to clarify their prior testimony.

**Note:** According to Officer A, after he heard the bang sound, he said something like, “let’s go see what’s going on,” to Officer B.

**Note:** According to Officer A, he did not broadcast the officers’ location via the radio because “[i]t just happened so quick [he] . . . didn’t have a chance to.” According to Officer B, he did not broadcast the officers’ location because he was driving.

According to Officer B, he reversed the black and white vehicle, started driving northbound on the street and saw an individual, Subject 1, walking northbound on the sidewalk on the east side of the street “[d]ressed black on black with his – walking on the sidewalk with his hands kind of tucked in, in his waistband or hoodie or – just in the front where I couldn’t see them.” Officer B believed “that [the] noise came from that individual or that general area.” According to Officer B, after making the U-turn, he drove slowly northbound, “trying to kind of like catch up with [Subject 1], but at the same time [...] we’re just kind of watching him.”

**Note:** According to Officer B, Subject 1 was “the only individual there,” and even though Officer B knew there were other people in line at [a food] stand [north of the intersection, in the middle of the block], there were no other people walking with Subject 1 on the sidewalk or on the street at that time. Officer B stated that although he didn’t see Subject 1 doing anything specific, he knew the noise “came from the north.”

**Note:** According to Officer B, Subject 1 was approximately 15 to 20 yards north of the corner of where the officers made their U-turn when Officer B first saw him. Also according to Officer B, the “initial point [he] started concentrating on” Subject 1 was when he was “towards the trunk of the [brown] car” that was parked just south of a driveway in the middle of the block on the east sidewalk.

A brown car was parked on the eastbound curb of the street, facing northbound, and 3.5 feet from the south opening of the driveway, which led to a food stand. Several witnesses had just placed orders and were waiting for their food prior to the incident.

**Note:** According to Officer B, when he saw Subject 1, the windows of the black and white vehicle were already down.

**Note:** According to Officer B, he believed Subject 1 was “wearing a hoodie” and that the hood was up when the officers saw him walking northbound on the street.

Meanwhile, Officer A also saw a male with dark clothing (Subject 1) walking northbound on the east sidewalk, after the officers negotiated their U-turn.

**Note:** According to Officer A, he noticed that the door to a newsstand located just north of the corner of where the officers made their U-turn was open when the officers passed by. Officer A indicated that the noise the officers had heard could have been a “slammed [...] door of a newspaper stand or mailbox.”

**Note:** According to Officer A, Subject 1 was approximately 50 to 75 feet from the corner when Officer A first saw him.

According to Officer A, Subject 1 continued walking northbound as the officers approached from behind at approximately five to ten miles per hour.

**Note:** According to Officer A, Subject 1 “was the only one on the sidewalk,” and “the only one [he] saw at that time[.]” According to Officer A, the officers’ intent was “just [...] to talk to him to see what’s going on” and take a closer look. According to Officer A, he did not intend to exit the police vehicle; rather, “[i]t was more, like, what’s going on here” because there were parked cars on the street. Officer A further indicated that “it wasn’t like, oh, let’s get that guy right there.”

According to Officer A, as Subject 1 was walking northbound and the officers were still behind him, Officer A “[a]ll of a sudden [...] said something, like, ‘hey,’ you know. ‘Hey,’ you know, something like that.” Officer A also indicated that he asked Subject 1, “hey, are you all right?”

**Note:** When asked what his intention was in asking, “hey, are you all right,” Officer A indicated, “it was just to pass by” and that he, Officer A, “say[s] things to everybody all the time when [he’s] cruising down the street.”

**Note:** According to Officer B, he knew that Officer A “said something to [Subject 1]” but he did not “recall exactly.”

According to Officer A, Subject 1 looked back at him, made eye contact, then looked straight ahead again and continued walking. According to Officer A, Subject 1 looked at him with a “hard stare.” Officer A said that Subject 1 looked at him over his left shoulder “maybe for a second or two,” “hard,” and then when Officer A looked at Subject 1, Subject 1 “looked forward again.” According to Officer B, Subject 1 made a “sharp turn” toward the officers and “just kind of looked at [them] with his stare.”

**Note:** Officer A described Subject 1 as wearing a dark blue sweater and dark pants.

**Note:** According to Officer A, it was dark outside and there wasn’t much light. However, there was a street lamp illuminating Subject 1 such that

Officer A could see him clearly. According to Officer B, he did not use the vehicle's emergency lights as the officers approached Subject 1.

**Note:** Video evidence indicates that the officers' spotlight was illuminated during this incident, although both officers did not recall using the spotlight. When Officer A was asked whether he used any means to illuminate Subject 1, Officer A responded, "No, I don't believe so."

According to Officer B, Subject 1 was "in a daze" and was not looking at the officers. Officer B indicated that he could not see Subject 1's hands, but he knew "his hands were [...] close to his waistband like belly button area" and "underneath [his sweater] maybe [...] like within close proximity to his, like, you know, stomach area [...] like, lower waistband." Officer B further indicated that he and Officer A were "going to stop and talk to him just investigate, just based on his demeanor, the way his hands are clenched in his waistband."

**Note:** According to Officer B, he did not have an opportunity to tell Officer A, "let's go ahead and stop this guy."

**Note:** According to Officer B, his view of Subject 1 was partially obstructed, given that there were parked cars along the street. Also according to Officer B, as the officers got closer to Subject 1, he could not positively discern Subject 1's race.

According to Officer A, Subject 1 extended his arm and "lifted up his [...] sweater" with his left hand and "with [his] right hand, [he's] going into [his] waistband. And he – he began to moving it (sic) up and down[.]" Officer A indicated that he told his partner, "He's going for his waistband. Waistband. Waistband."

**Note:** According to Officer A, he repeated the word "waistband" to his partner because Subject 1 "was going for his waistband." Officer A further indicated that when Subject 1 began "manipulating" his waistband, the officers were between 5-15 feet behind Subject 1.

According to Officer B, as the officers pulled parallel to Subject 1, who was approximately 15 feet east of the officers and just south of the driveway in the middle of the sidewalk, Officer B heard Officer A say, "[h]e's got something, he's got something." According to Officer B, he also heard Officer A say, "Put your hands up[.]" or something about hands, but Subject 1 "wasn't responding." Also according to Officer B, when Subject 1 continued to walk, Officer B started "[s]hout[ing] stuff too [...] Like, 'let me see your hands.'"

**Note:** According to Officer A, he never gave Subject 1 any commands and did not tell Subject 1 to put his hands up.

**Note:** Several witnesses recalled hearing the officers saying something to Subject 1, but they could not relay specifically what was said. According to Witness A, “maybe I heard the officer shouting something [...] I’m not sure. It wasn’t very clear [...] I don’t think it was ‘Freeze.’ It wasn’t freeze. It was something else [...] It sounded like a command.”

#### Officer A’s account of the officer-involved shooting

According to Officer A, as the officers pulled up parallel to Subject 1, Officer A unholstered his weapon with his right hand because he thought Subject 1 had a gun, based on his perception that he “saw something” in Subject 1’s waistband. Officer A indicated that he “pointed [his gun] out the window,” as the police vehicle drove past the brown car that was parked just south of the driveway.

**Note:** According to Officer A, he held his weapon out the window with his right hand only and faced straight toward Subject 1 with his upper body.

Also according to Officer A, Subject 1 “faced [Officer A] and [...] put out his hand,” “yelled something,” and “point[ed] something at [Officer A].” Officer A could not discern what Subject 1 yelled, but it was “just more like a (sic) ‘ah,’ like – ‘ah.’”

Officer A indicated that Subject 1’s body turned westbound toward the officers “[a]nd it was just so quick [...] I thought he was going to shoot me[.]” According to Officer A, “as soon as I told [Subject 1], hey, how you doing, hey, what’s up, [...] as soon as he turned and looked and he gave me that mad dog [look], he immediately went for his waistband, and he started tugging at it like this while still moving fast past the brown car.”

**Note:** Officer A described what he perceived as the tugging motion by indicating that Subject 1 was “mov[ing] both his hands up and down near [his] waistband.”

Officer A also indicated that he was “really scared” and “thought [he] was going to die right there because [Subject 1] had [...] the jump on [him].” According to Officer A, he saw Subject 1 pull something out of his waistband with his right arm and “point his arm” toward the officers. Officer A indicated that when Subject 1 turned towards him, he “saw an object in his hand.” According to Officer A, he believed that Subject 1 “had a gun on his waistband.” Officer A believed he yelled, “Gun. Gun. Gun,” to his partner.

**Note:** Officer B indicated that he heard Officer A’s warning, “Gun. Gun. Gun.”

When in his initial interview he was asked to further describe the object he believed he saw in Subject 1’s possession, Officer A indicated, “I saw something black, sir. Something dark [...] in his waistband[.]” Officer A could not further describe the object.

**Note:** In Officer A's initial interview, he said he saw an object being pulled out of Subject 1's waistband by Subject 1. In a subsequent interview, after he had been questioned as to whether someone had told him that Subject 1 did not have a gun, Officer A admitted that he had, in fact, been told this by his legal representative that Subject 1 did not have a gun. During this second interview, Officer A indicated that he believed Subject 1 had been in possession of a gun. As a result of this statement during his second interview, investigators began to ask Officer A to "describe the gun" he believed Subject 1 possessed at the time of the OIS.

In his follow-up interview, Officer A said Subject 1 took what Officer A believed to be a gun out of his waistband, raised his right arm and turned "to where [Officer A] was positioned sitting in the police vehicle, [...] punching out forward towards [him]." Officer A added that the object, which he believed to be a gun, "looked dark in [Subject 1's] hand. It looked black. To me [Subject 1] had a gun in his hand," but Officer A could not otherwise describe its characteristics, other than saying he saw what he believed to be a gun on the right side of Subject 1's waistband as soon as Subject 1 turned toward him. Officer A believed it was a gun because he "saw it" and that the "butt of the gun [...] looked pretty big," sticking out from Subject 1's waistband.

Also according to Officer A, "[i]t was a gun to [him]." According to Officer A, he "saw [Subject 1] going for [what A believed to be the gun] a hundred percent [...]. He has it – he's pivoted, goes for it, pulls it out, comes up."

**Note:** In further explaining why he believed Subject 1 had a gun, Officer A indicated, "It was the action of him going for his waistband [...] when he grabbed onto the gun [...] spinning – turning his body [...] as well as actions, him pulling it out, pointing it towards us, punching up with the gun [...] and coming at us [...]. I saw it."

According to Officer A, he fired one round from a distance of five to seven feet at Subject 1's center body mass and then ducked down to take cover behind the passenger side of the police vehicle's ballistic paneled door because he "thought [Subject 1] was going to shoot [him]." According to Officer A, he fired in defense of his life.

**Note:** According to Officer A, his left shoulder was down further in the police vehicle than his right when he ducked down inside. Officer A ducked "for cover as soon as [he could] get down [...] under the ballistic panel of the door cause [he did not] want to get shot."

**Note:** According to Officer A, he did not fire additional shots because he "thought [he] was going to get shot [...] and] didn't want to die so [he]

ducked down. [He] lost sight of [Subject 1] [...] So [he] couldn't continue shooting."

Officer A believed that the police vehicle was stopped at the time he fired his shot. However, when Officer A began to exit the police vehicle because he did not want to be a "sitting duck in a car," and reached over to open the door with his left hand, he noticed that the vehicle was still moving. Officer A tried to "put it in park. And [he] got out of the vehicle. The vehicle was already turning [...] into the driveway." Officer A believed that Officer B was already out of the car when A attempted to put the "rolling" car in "park."

#### Officer B's account of the officer-involved shooting

According to Officer B, Subject 1 was in "some kind of faze with his hands tucked underneath [...] he just made like a quick, like sharp turn towards [the officers]." Officer B agreed when the movement was described by an interviewing detective as "[k]ind of like a furtive [...] movement."

**Note:** In a subsequent interview, Officer B referred to Subject 1's movement as a "deferred movement with his waistband."

**Note:** Officer B did not make any reference to his partner saying, "gun, gun, gun" in his first interview. Officer B did make reference during his first interview to hearing Officer A saying, "he's got something."

Officer B indicated in his follow-up interview, however, that he was not sure if he "changed something because [he was told before his first interview that Subject 1] didn't have a gun." In his follow-up interview, Officer B stated that when he saw Subject 1 make the sudden movement toward the officers, he heard Officer A yell "gun, gun, gun."

Officer B also indicated that Subject 1 "just kind of looked at [the officers] with his stare," with his hands still tucked in his waistband. According to Officer B, Subject 1's hands and shoulders were making a quick "up and down movement [...] in his waistband stomach area."

When asked by an interviewing detective if he had the impression that Subject 1 "was maybe like on drugs," Officer B responded that Subject 1 "was in his own world" and "could have been" under the influence of narcotics, given that his eyes "got big." Officer B indicated that the look on Subject 1's face, combined with the rapid turn toward the officers, scared him.

According to Officer B, his intentions up to that point had been to "stop and talk to [Subject 1]. I'm not gonna keep driving and turn . . . [and] have our back towards him." Officer B believed based on the direction Subject 1 was walking, the officers were "gonna deploy from the back [...]. But at that point, you know, Subject 1 just stops [...]"

[T]hat's when he makes that, that [turn toward the officers]." According to Officer B, it was not his intent to stop parallel to Subject 1.

Officer B slammed on the brakes and thought he put the vehicle in park and "knew that [he] had to get out of the car because [his] partner essentially was going to be a sitting trap in the car. Officer B indicated he formed this belief that Officer A would be trapped "based on the way Subject 1 was coming at [the officers]."

Meanwhile, Officer B was "scared" as he unholstered his weapon and exited the police vehicle due to observing Subject 1's "demeanor, his actions, [and] based on prior training that [...] individuals [...] conceal and hide their [...] weapons in their waistband."

After exiting the police vehicle, Officer B attempted to take cover behind the rear of the vehicle, when he heard "a pop, a gunshot."

**Note:** According to Officer B, he heard the first gunshot as he was out of the vehicle and "towards the back where the door closes[.]"

**Note:** According to Officer B, he was intending to take cover behind the rear wheel well so that he could be in a position to draw his gun and order Subject 1 back.

According to Officer B, he "was thinking [the gunshot] was coming from [Subject 1]," although he "did not physically see a gun in [Subject 1's] hands." Also according to Officer B, he did not see Subject 1's hands when he heard the first gunshot.

**Note:** Officer B indicated that he never saw Subject 1 with a weapon.

Officer B indicated he believed that Subject 1 had just fired at him and his partner based on "what [Officer A] stated, the way [Subject 1] had just acted, the gunshot – you know, when he fired – when I first saw him make that movement [...] that quick, sharp turn towards us."

**Note:** Officer B stated that after he heard the gunshot, he was "worried for [his] partner" because he did not see Officer A out of the car, but rather, saw the police vehicle rolling and believed Officer A may have still been inside the vehicle.

**Note:** According to Officer B, the police vehicle kept moving towards the driveway. Officer B also stated later in his interview that the vehicle "moved and it kind of backed up. I don't know if [...] the car just kind of rolled back or stopped on its own[.]" Officer B believed the car moved 15 feet and "slid back down the driveway."

According to Officer B, Subject 1 was located at the south portion of the driveway after Officer B heard the first shot, and Subject 1 was continuing to "com[e] quick. [Subject 1]

was fast. It was rapid [...] It kind of seemed like he was maybe like tucking [his hands into his waistband] to pull something out [or] draw a weapon.”

According to Officer B, he believed Subject 1 “was coming towards [the officers, ...] was pulling out a gun based on his approach, not going with the program” and was “still a threat [...] coming toward me, with his hands [t]o his waistband, stomach, belly button area.” Furthermore, Officer B believed Subject 1’s continued actions of moving his shoulders up and down and bending his arms at the elbows indicated that Subject 1 was “coming back out with his hands to engage [Officer B]” or “manipulating a gun.”

**Note:** According to Officer B, approximately 5-10 seconds passed between the time he heard Officer A issue Subject 1 commands – “put your hands up,” and the time Subject 1 “came toward” Officer B.

Officer B indicated he did not see Subject 1’s hands as Officer B spun around and faced Subject 1 after exiting the vehicle. According to Officer B, Subject 1’s arms were in close proximity to his waistband, as was the case when the officers first saw Subject 1.

**Note:** Officer B indicated that the reason he could not see Subject 1’s hands was because they were “close to his body” and “it wasn’t like his full body was bladed towards us.”

According to Officer B, he believed that as Subject 1 was “coming towards [him...] he’s still a threat[.]” Also according to Officer B, Subject 1 was “still at that point rushing towards [Officer A]” as though he was “attacking” the officers.

According to Officer B, he “c[a]me around [...] hear[d] the pop. And at that point [Officer B ...] pointed [his] gun and [...] shot one round” from a distance of approximately 20 feet.

**Note:** Based on analysis of available video evidence, the maximum time between Officer A’ shot and Officer B’s shot was 5.7 seconds.

**Note:** According to Officer B, he shot Subject 1 when there was a distance of approximately eight to ten feet between him and Subject 1. Officer B indicated he did not have any cover when he fired his weapon.

**Note:** According to Officer A, meanwhile, he was ducked down in the police vehicle, and heard a second shot, so he stayed down because he “didn’t want to get shot.”

According to Officer B, he fired based on Officer A’s warning (“he’s got something,” followed by “gun, gun,”), hearing the gunshot, and because Subject 1’s “body motions [were] consistent with [Subject 1] coming out to draw [...] from] his waistband area[.]” Also according to Officer B, he fired “believing that [Subject 1] was trying to hurt him and

Officer A and [that Subject 1] was trying to kill [the officers]. He was attacking [the officers,]” so Officer B fired in “immediate defense of life.”

Officer B further stated that he fired “based on everything [...] leading up to [the shooting]. That demeanor, that look, the way he charges, not listening to, you know, [the officers’] orders[.]”

According to Officer B, after he fired, he saw Subject 1 fall to the ground.

**Note:** According to Officer B, he did not know if his round hit Subject 1 and kept his weapon drawn out over Subject 1 because Subject 1’s “hands were still underneath him where [the officers] still couldn’t see them.”

Officer B broadcast a “shots fired” radio call. Forty seconds later, Officer B further broadcast, “I got one victim down. There’s a [...] subject down,” and requested a Rescue Ambulance (RA).

**Note:** According to Officer A, as he tried to put the vehicle in park, he heard his partner on the radio say, “Officer needs help. Shots fired. Shots fired[.]”

**Note:** Analysis of ballistic evidence revealed that the round fired by Officer A struck Subject 1. The round fired by Officer B struck a nearby wall.

### Witness accounts

There were various witness accounts of the events prior to and immediately following the incident.

According to Witness E, who was at the food stand at the time of the incident, he saw Subject 1 “throw[ ] something” with his right arm in a downward direction “to the police car.” Also according to Witness E, he saw Subject 1 “make this motion” and then heard a boom. Witness E further indicated that “at that moment of the throwing action, [he] heard the gunshot [...] And [... Subject 1] just fell forward right away[.]” Witness E further stated, “Right about the time that the [...] action motion [with Subject 1’s right arm] was about to finish was when [he] heard that one bang.”<sup>2</sup>

According to Witness F, who was standing across the street outside the restaurant across the street, when the shooting occurred, he saw Subject 1 “raising his hand and that’s when the officer just fired.” Witness F also believed there were two officers in his

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<sup>2</sup> Witness E did not recall whether Subject 1 had any object in his hands or not. Subject 1 can be seen on video making a rapid throwing motion with his right arm.

view at the time he observed the shooting, and that both officers had their guns extended out in Subject 1's direction. Witness F further indicated that he did not see anything in Subject 1's hands. Witness F described Subject 1's movements as "jumpy like scared [...] I guess his hands were in a pocket or something, and, I guess, he was trying to pull his hands out [...] and once he got shot, that's when his hands like finally got out but he didn't have anything." Witness F further indicated that Subject 1's hands "looked like they got stuck in his jacket[.]"

Also according to Witness F, when Subject 1 "turn[ed] and like move[d] suddenly, that's when he got shot." Witness F further stated, "after the first shot [Subject 1] was just like mumbling and hit the ground because he was in pain ... like falling already" and "shout[ing]." Witness F elaborated that he heard a "growl" or moaning" sound and that Subject 1 was still standing after he heard the first gunshot.

Witness F indicated he knew Subject 1 had been hit after the first shot "because [Subject 1] kind of like went back a little" and "because it seemed like something hit him and after that, [...] another shot slipped." Witness F indicated that after he heard another shot, "the guy just fell." However, Witness F also indicated that after the first shot, Witness F himself "just stood there shocked. And then [he] was pretty scared, and [he] kind of looked down," and he "didn't actually see who shot the second one[.]"

According to Witness B, who was waiting at the food stand at the time of the shooting, "one police officer comes out [of the vehicle], [...] and he's shooting [...] [T]he officer that was doing the shooting was on the driver's side of the vehicle." Also according to Witness B, "next thing you know, I – I see the guy. He's down. And from that point on we're running." Witness B "didn't see exactly what [Subject 1] did."

According to Witness C, Witness B's girlfriend, who was also at the food stand at the time of the shooting, she also "heard a shot. And [she] turned around and looked, and [saw] a man laying on the ground in front of [her] car." Witness C further indicated that "all of a sudden [she and Witness B] hear the shot. When [they] hear the initial shot and turn around, this man is already laying in front of [her] car." Witness C further indicated that she saw the officer "shoot the gun as [she saw] him over the person laying on the ground." Also according to Witness C, the officer whom she saw shoot was "completely bald."

**Note:** Both officers have short dark hair. Officer A's hair was shorter than Officer B's and was closely shaven to his head at the time of the incident.

According to Witness A, who was also waiting at the food stand, he heard a popping noise and when he turned around, he saw someone on the ground. Upon seeing the man on the ground, Witness A indicated that he ran toward the back area of the food stand and "heard a second gunshot after that." Also according to Witness A, he "was assuming [...] there was a gun in [the officer's] hand," but he "didn't actually see a gun."

According to Witness G, who was parking his vehicle when he heard the shots, he saw Subject 1 on the ground when he exited his vehicle, but Subject 1 “wasn’t moving.”

According to Witness H, the chef at the food stand grill, when he heard the gunshots, he “ducked, and [he] didn’t see anything.”

#### Video evidence

A video recording portrays a silhouette of Subject 1. Subject 1 is seen stepping back, making a rapid throwing motion with his right arm in the direction of the roadway, and then stepping forward and out of the frame. The video did not capture the officers’ actions during the shooting incident.

#### Events following officer-involved shooting

In the aftermath of the shooting, according to Officer A, he exited the vehicle and thought he may have to “engage again,” so he walked a couple feet away from the car, eastbound.

**Note:** Officer B relayed he did not know if Officer A shot until the officers were asking each other after the incident whether they were okay.

According to Officer A, he saw Subject 1 on the ground to his right with “his hands in the front of his [...] stomach.” Officer A indicated that Subject 1’s head was pointing south, “kind of like off the curb” and facedown.

**Note:** According to Witness F, he observed Subject 1 on the ground with one hand “just hanging and the other one just like crunched up into his [...] stomach.”

**Note:** According to Officer B, he did not definitively discern Subject 1’s race until Subject 1 was on the ground.

**Note:** Officer A recalled people running by, so he told them to stay right where they were.

According to Officer A, he reholstered his weapon because he did not “see [Subject 1] as a threat anymore.” Subject 1 “wasn’t moving,” and Officer A “already thought he was expired.”

Uniformed Officers C and D were near the scene of the incident when they heard Officer B’s “shots fired” radio broadcast and “immediately responded to the location.”

Officers C and D made contact with Officers A and B, who “pointed over to a [subject] that was on the floor laying down face down.” According to Officer C, Subject 1 lay

approximately five to ten feet in front of the other officers' vehicle and was face-down, facing southbound.

**Note:** According to Officer C, Subject 1 appeared to be “shot and unconscious and [...] not breathing.”

According to Officer D, he requested additional units and “wanted to take over the scene [...] [b]ecause [...] he knew Officers A and B] had gotten involved in a shooting obviously because there was a victim down.”

Officer C recalled that Officer D “pull[ed] [Subject 1’s] right hand underneath his body,” and Officer C cuffed both of Subject 1’s hands.

**Note:** According to Officer B, he reholstered when Officers C and D “showed up to take [...] charge of the body[.]”

**Note:** Officer C did not notice any evidence on the ground aside from an expended cartridge casing.

**Note:** According to Officer D, he and Officer C tried to contain as many witnesses as possible in the area.

Shortly after Officers C and D arrived, Sergeant A also arrived at the scene. According to Sergeant A, upon his arrival, he “observed [Subject 1] down on the ground and [...] verified that [Officers A and B] were okay and immediately separated them [...] and obtained a public safety statement[.]”

According to Sergeant A, when obtaining Officer B’s Public Safety Statement, Officer B said he “did not believe that [Subject 1] fired” and did not make any statements that he thought Subject 1 was armed.

Additional Department personnel arrived at the scene to assist with monitoring Officers A and B and transferring them back to the station.

Los Angeles Fire Department personnel responded to the scene. Firefighter/Paramedic A declared Subject 1 to be dead.

A Los Angeles County Coroner’s investigator later recovered the following items from Subject 1’s body at the scene, pursuant to a personal effects inventory search:

- Black cellular telephone case (phone was inside the case) clipped to Subject 1’s right front waistband;
- Black gloves recovered from left rear pants pocket;
- Bottle of hand sanitizer recovered from left rear pants pocket;
- Black wallet recovered from right rear pants pocket;

- House keys and small pocket knife on metal ring attached to a cloth lanyard with one end of the lanyard stuffed into right front pants pocket, and the keys and knife hanging down Subject 1's right leg;
- Black scarf recovered from Subject 1's hooded sweatshirt pocket;
- Black knit cap/headband recovered from under Subject 1's head.

During the subsequent investigation of this incident, a Department of Coroner official was questioned by investigators with respect to the issue of whether Subject 1 could have walked or remained standing after Officer A's first gunshot struck him. The report indicates, "[O]ther than the gunshot being rapidly fatal, he could not give specific information regarding Subject 1 having the ability to walk or if he could have remained standing after being struck."

### **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 Officers A and B's tactics to warrant administrative disapproval.

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

The BOPC found Officer A's drawing and exhibiting to be out of policy. The BOPC found Officer B's drawing and exhibiting to be in policy.

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

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

## **Basis for Findings**

### **A. Tactics**

In adjudicating this incident, the BOPC considered that:

1. Once the decision was made to proceed northbound and prior to initiating contact with Subject 1, Officer A should have notified Communications Division (CD) of the officers' status and location; which would have also notified officers in the area of their location. Although there may be circumstances that prevent officers from advising CD of their status and location, in this situation, the officers had adequate time to notify CD prior to making contact with Subject 1.

Officers A and B's actions substantially and unjustifiably deviated from approved Department tactical training.

2. Officers A and B observed Subject 1 manipulate his waistband in a manner they considered consistent with being in possession of a firearm before they made the decision to position themselves parallel and in close proximity to Subject 1. In some cases, such a parallel position may be unavoidable; however, in situations where officers initiate contact, they should do so consistent with a tactical plan and always maintain a tactical advantage. In this case, it would have been tactically advantageous for Officer B to have stopped the police vehicle behind Subject 1 and exited, thereby utilizing the police vehicle as cover while they attempted to contact Subject 1.

The practice of closing distance and initiating contact with a possibly armed subject while seated in the police vehicle is highly discouraged and is counter to effective tactics and best practices. This decision substantially and unjustifiably deviated from approved Department tactical training and placed the officers at a significant tactical disadvantage.

3. Due to Subject 1's actions, Officer B believed he and his partner were in danger and needed to get out of the vehicle. Officer B attempted to place the police vehicle in park before he exited, but failed to do so.

The stressful dynamics of the encounter impacted Officer B's reactions and impacted his ability to manipulate the gear shifter. Consequently, because of the situation the officers were in, Officer B's actions did not substantially deviate from approved Department tactical training due to his need to react to the threat.

4. Officer A, who was seated in the passenger seat of the police vehicle, fired one round at Subject 1 from a distance of approximately five feet. Believing he would be shot by Subject 1, Officer A elected to duck and seek cover behind the passenger door, thereby losing sight of Subject 1. Officers are trained to address a threat until the threat ceases and to seek cover while maintaining a visual on the subject(s).

Officer A's actions diminished his ability to defend himself and his partner, thereby substantially and unjustifiably deviating from approved Department tactical training.

The BOPC found Officer's A and B's tactics to warrant administrative disapproval.

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

The BOPC evaluated the circumstances relevant to Officers A and B's drawing and exhibiting and determined that the preponderance of the available evidence did not support Officer A's account that he drew his weapon based on his belief that the situation could escalate to the point where deadly force could become necessary.

The BOPC determined that Officer B had a reasonable belief that the situation had escalated to the level where the use of lethal force may become necessary.

The BOPC found Officers A's drawing and exhibiting to be out of policy. The BOPC found Officer B's drawing and exhibiting to be in policy.

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

**Officer A** – one round, from approximately five feet.

In this instance, the BOPC determined that the preponderance of the available evidence did not support Officer A's account that his perception of Subject 1's actions constituted a lethal threat. Specifically, the BOPC determined that the preponderance of the evidence supported the conclusion that Subject 1 was not armed, and that Subject 1 did not engage in any conduct that posed a threat warranting the use of lethal force. Based on the circumstances in this case, the BOPC did not believe that Officer A's lethal use of force was reasonable.

**Officer B** – one round, from approximately 20 feet.

In this instance, the BOPC determined that the preponderance of the available evidence did not support Officer B's account that his perception of Subject 1's actions constituted a lethal threat. Specifically, the BOPC determined that the preponderance of the evidence supported the conclusion that Subject 1 was not armed, and that Subject 1 did not engage in any conduct that posed a threat warranting the use of lethal force. Based on the circumstances in this case, the BOPC did not believe that Officer B's lethal use of force was reasonable.