

**ABRIDGED SUMMARY OF AN OFFICER-INVOLVED SHOOTING AND FINDINGS  
BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

**Officer-Involved Shooting – 062-08**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On(X ) Off()</u></b>	<b><u>Uniform-Yes() No(X)</u></b>
Wilshire	7/11/08		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Detective A	19 years, 7 months
Detective B	13 years, 11 months
Detective C	12 years, 4 months

**Reason for Police Contact**

Detectives conducted surveillance on two subjects who were suspected of involvement in a series of robberies. During the surveillance operation, the subjects committed a robbery. When the detectives stopped the subjects, an officer-involved shooting occurred.

<b><u>Subject(s)</u></b>	<b><u>Deceased ( )</u></b>	<b><u>Wounded (X)</u></b>	<b><u>Non-Hit (X)</u></b>
Male, 48 years, (wounded).			
Male, 48 years, (non-hit).			

**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 the 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. 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 6/30/09.

## **Incident Summary**

Detectives initiated surveillance of Subjects A and B, suspecting they had committed a series of armed robberies.

**Note:** Subject B's vehicle was a pickup truck with a tinted rear window.

Lieutenant A supervised the surveillance operation, which consisted of a minimum of 12 detectives, uniformed personnel and Air Support Division.

Participating in the surveillance was Lieutenant A, Detectives A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q and R, and Police Officers A, B, C, D, E and F, and Air Support Division. All involved detectives were in plain clothes, driving plain vehicles.

During the surveillance, the subjects parked their vehicle and entered a restaurant. Once inside the restaurant, the subjects attempted to commit a robbery. In the course of the attempt, they bound a victim's hands and threatened him with a handgun before ultimately fleeing the scene

Officer F, who was watching the restaurant, broadcast over the radio that the subjects had come out of the restaurant and were running toward their vehicle. After hearing the broadcast, Detective A retrieved his shotgun from the back seat of his vehicle, chambered a round and added an additional round to bring the weapon to its full capacity of six rounds. Detective A then laid the shotgun across his lap and pulled onto the street in preparation to follow the subjects.

Detective B, Detective A's partner, had his shotgun in the front seat with him throughout the surveillance. Detective B chambered a round when he heard the radio broadcast of the subjects running for their truck. Detective B maintained control of the shotgun in the front seat.

Detective R entered the restaurant through the service entrance and contacted Witness A, who explained that he had been the victim of an attempted robbery and said that both subjects were armed with handguns. Detective R broadcast this information over the radio.

The subjects drove away from the restaurant with the detectives following. Detectives D and E communicated by radio and confirmed that they would stop the subjects' vehicle.

Detective D took responsibility for determining the location of the traffic stop and moved his vehicle to a position in front of the subjects' vehicle. Once Detective D broadcast that he would take the front position, Detectives A and B broadcast that they would take the rear position, followed by Detectives C and H announcing they would take the left side. With the units in position, they followed Subject A and Subject B waiting for Detective D to determine the location of the stop. The traffic signal at the next intersection was red, prompting Detective D to broadcast that he would initiate the stop at that location.

The detectives then surrounded the subjects' vehicle with their own vehicles, blocking any path of escape.

Detectives A and B exited their vehicle and stood behind their respective doors with their shotguns deployed. Detective C exited the driver's side of his vehicle, stood behind the door and drew his pistol.

Detectives A, C and H shouted, "Police" and ordered Subjects A and B to put their hands up. Neither subject complied with the orders.

According to Detective A, as he exited his vehicle, he observed Subject B holding a pistol in his right hand, pointing the gun at Detective D's vehicle. Detective A shouted, "Gun" and fired two shotgun rounds at Subject B, breaking out the truck's rear window. Subject B then leaned to his left and his body moved down and started to go out of view. Subject B's gun remained visible and was now aimed at Detectives C and H. As related by Detective A, "I move to my left and back because I no longer see his – any – much of his body at all, nothing that I feel can stop the threat, so I move rearward and a little bit to the left to create I can fire into the side of his vehicle to stop the threat." Standing slightly to the left of the driver's door, Detective A fired four additional shotgun rounds at Subject B, assessing after each shot and observing that after each shot Subject B had continued pointing his gun at Detectives C and H. After Detective A's sixth shotgun round, Subject B's gun was no longer in view and Detective A ceased fire. Detective A did not observe Subject B fire his handgun. Detective A did not observe Subject A in possession of a handgun.

According to Detective B, after hearing Detective A say "Gun", he observed Subject A holding a pistol in his left hand. Subject A was holding the gun on his left side, between himself and Subject B, and swung it around in a counterclockwise movement, pointing it toward Detective A. Detective B fired one shotgun round at Subject A. Subject A then leaned backward and went out of Detective B's view. At that point, Detective B could not see the subjects and ceased firing. Detective B did not observe Subject A fire his handgun. Detective B did not observe Subject B in possession of a handgun.

According to Detective C, he observed Subject A slump in his seat and reach down with his right hand. Detective C heard Detective A shout "Gun," heard gunshots and saw the rear window of the truck shatter. Believing that Subject A was firing at him and his partner, Detective C fired one round from his pistol at Subject A. Detective C's pistol then malfunctioned. Detective C crouched behind his car door and cleared the malfunction. By the time Detective C's pistol was functional, all gunfire had ceased and orders were being given to the subjects to put their hands up. Detective C did not see Subject A's hands come into view once he had reached down and did not see either subject in possession of a handgun.

**Note:** According to Detective H, he did not have a clear view of Subject A and did not observe either Subject A or Subject B in possession of a handgun; therefore, he did not fire his shotgun.

Meanwhile, Detectives M and N stopped behind Detective C's vehicle, heard gunshots and exited their vehicle. Detective N deployed his rifle and Detective M drew his pistol. Detectives K and L stopped behind Detective C's vehicle, heard gunshots and exited their vehicle. Upon exiting their vehicle, Detectives K and L drew their pistols. Detective O stopped behind Detective A's vehicle, heard gunshots and exited his vehicle. Upon exiting his vehicle, Detective O deployed his shotgun. Detective P stopped behind Detective A's vehicle, heard gunshots and exited his vehicle. Upon exiting his vehicle, Detective P deployed his shotgun. Detective J stopped behind Detective C's vehicle, heard gunshots and exited his vehicle. Upon exiting his vehicle, Detective J drew his service pistol. Detective E stopped near the rear of the detectives' vehicles, heard gunshots and exited his vehicle. Upon exiting his vehicle, Detective E drew his pistol. Officers C and D were behind the detectives' vehicles when they heard gunshots. Officer C stopped to allow Officer D to exit the vehicle. Officer D moved in behind the detectives' vehicles and deployed his shotgun. Officer C drove to the opposite side of the street, positioned his vehicle to block traffic, and drew his pistol. Officer C also broadcast that shots had been fired and that plainclothes detectives were on the scene.

Once the shooting had ceased, Detective H told Detective A that he (H) was going to order Subject A and Subject B out of their vehicle. Detective H began issuing orders of "hands up." Simultaneously, Detective N also gave commands for Subject A and Subject B to put their hands up.

Subject B complied with Detective H's orders by showing his hands. Detective H ordered Subject B out of his vehicle and he complied. As Subject B was stepping out of his truck, Detective A observed a handgun tucked into his waistband and yelled, "He's got a gun in his waistband." Subject B was ordered to his hands and knees, and then crawled away from his truck. Detectives E, I and L took Subject B's arms and handcuffed him. Detective L removed the handgun from Subject B's waistband and Subject B was taken into custody without further incident.

An ambulance was requested for Subject A, who had sustained a gunshot wound to his arm.

### **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 Lieutenant A, Detectives A, B, C, D, E, H, J, K, , L, M, N, O and P, and Officers C and D's tactics to warrant a tactical debrief.

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

The BOPC found Detectives, A, B, C, E, H, J, K, L, N, O and P, and Officers C and D's drawing/exhibition of a firearm to be in policy.

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

The BOPC found Detectives A, B and C's uses of lethal force to be in policy.

## **Basis for Findings**

### **Tactics**

In its analysis of this incident, the BOPC noted the following tactical considerations:

#### 1. Communications.

In this instance, the proper notification to the required reporting agency was not made. In order to maintain officer safety during plainclothes surveillance details and to prevent the potential of conflicts with other plainclothes operations, regardless of assignment, such a notification should be made.

#### 2. Securing weapons inside of police vehicles.

The investigation of this incident revealed that it is common practice for the involved detectives to carry various weapon systems unsecured in the rear seat area of their vehicles. Current Department policy states that, generally, the shotgun is stored in the gun rack; however, the detectives were driving unmarked vehicles that did not have gun racks. Additionally, due to the fluid nature of their assignment and the unpredictability of the subjects they encounter, the detectives need to have immediate access to various weapons systems and may not have an opportunity to stop and recover their weapons from a secure location such as the vehicle's trunk.

#### 3. Driving while maintaining control of loaded shotgun.

In this instance, Detective A loaded his shotgun, placed it on his lap then followed the subjects as they drove away from the restaurant. As the driver of the vehicle, Detective A had a limited ability to maintain control of the shotgun as he drove the vehicle. Moreover, Detective B was armed with a shotgun and was ready to address any threat the subjects may have presented. It would have been tactically sound for Detective A to concentrate on driving, and use a pistol that he had secured to his

person upon initial contact with the subjects. If necessary, once the vehicle had stopped, Detective A could have retrieved his shotgun.

#### 4. Vehicle Stop

In this instance, Lieutenant A conducted several tactical briefings with the detectives and supervisors to determine how they were going to conduct surveillance and apprehend the subjects. Based on the nature of the crimes being investigated, it was determined that it was appropriate to stop the subjects' by containing their vehicle with plain police vehicles, as opposed to using uniformed officers to effect the stop.

#### 5. Simultaneous verbal commands to the suspects.

In this instance, after the vehicle stop was initiated, multiple detectives gave commands to the subjects. The detectives are trained to utilize the concept of contact and cover in which one detective gives the verbal commands while the others provide cover. By doing so, the chance of causing confusion in the mind of the subjects and the other personnel at scene is minimized.

The BOPC found Lieutenant A, Detectives A, B, C, D, E, H, J, K, L, M, N, O and P, and Officers C and D's tactics to warrant a tactical debrief.

### **Drawing/Exhibiting**

In this situation, Detectives A, B, C, H and O exited their vehicles and drew their respective weapons in preparation to confront armed attempt robbery suspects.

Therefore, it was reasonable for Detectives A, B, C, H and O to believe that the situation could escalate to the level where the use of lethal force might become necessary.

In this situation, Detectives E, J, K, L, M, N and P, and Officers C and D responded to assist their fellow officers who were attempting to detain attempt robbery suspects. As the detectives and officers approached the location where the subjects had been stopped, they heard shots being fired. In response, the detectives and officers exited their vehicles and drew their respective weapons.

Accordingly, it was reasonable for Detectives E, J, K, L, M, N, and Officers C and D to believe that the situation had escalated to the level where the use of lethal force might become necessary.

The BOPC found Detectives, A, B, C, E, H, J, K, L, N, O and P, and Officers C and D's drawing/exhibition of a firearm to be in policy.

## **Lethal Use of Force**

### Detectives A and B

According to Detective A, he observed Subject B holding a handgun in his right hand and pointing the weapon at fellow detectives. Detective A fired six shotgun rounds at Subject B in response. Detective B observed Subject A holding a handgun in his left hand and pointing the weapon at fellow detectives. Detective Ramirez fired one shotgun round at Subject A in response. Detective A did not observe Subject A in possession of a handgun. Detective B did not observe Subject B in possession of a handgun. Neither detective's account that they saw the respective subjects brandish a gun is corroborated by other witness testimony. When subsequently interviewed, neither subject admitted to brandishing a handgun. Only one handgun was located inside the cab of the subjects' truck at the time of the officer-involved shooting, and that weapon was recovered tucked into Subject B's waistband.

The BOPC found that the available evidence did not establish to a preponderance standard that either detective's statement was representative of the event. However, based on available evidence, neither account was refuted. As such, the conflicting reported observations cannot be resolved. This inconsistency in the available evidence precluded a determination that any single, detailed scenario was supported by a preponderance of the evidence.

Given that the available evidence did not establish to a preponderance standard that either Detectives A or B's use of force was in violation of Department Policy, the BOPC found Detectives A and B's use of lethal force to be in policy.

### Detective C

Detective C observed Subject A reach down, then heard gunshots and observed the rear window of the truck shatter. Detective C formed the belief that he and his partner were being fired upon. Based on his observations, the BOPC found it was objectively reasonable for Detective C to believe that the subject's actions placed him at risk of serious bodily injury or death.

The BOPC found Detective C's use of lethal force to be in policy.