

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

**OFFICER INVOLVED SHOOTING – 002-09**

**Division**      **Date**      **Duty-On(X) Off()**      **Uniform-Yes(X) No()**  
Outside City    01/21/2009

**Officer(s) Involved in Use of Force**      **Length of Service**  
Officer A      1 year, 11 months  
Officer B      2 years, 6 months

**Reason for Police Contact**  
Officer observations.

**Subject(s)**      **Deceased ( )**      **Wounded ( )**      **Non-Hit (X)**  
Subject 1: Male, 17 years old

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent 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 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 December 22, 2009.

**Incident Summary**

Police Officers A (passenger) and B (driver) were on duty in a marked police vehicle and were attempting to catch up with a vehicle to make an inquiry on the vehicle's license plate. The officers lost sight of the vehicle and decided to stop for food and use the restroom at a restaurant.

**Note:** The location of the restaurant was outside the Los Angeles City limits.

The officers entered the parking lot of the restaurant and observed Subject 1 exit a vehicle that was backed up to the south wall of the restaurant's parking lot. Officer A also observed Witness 1 seated in the driver's seat of the vehicle.

According to Officer A, the rapid manner in which the subject exited the vehicle drew his attention to him. Officer B stopped for the subject as he walked in front of their vehicle, toward the restaurant. As the subject passed their vehicle, Officer A observed that the subject was looking at them.

After the subject passed the police vehicle, Officer B continued eastbound, then made a u-turn around an island and continued westbound. As recalled by Officer B, "I told my partner he – he [the subject] might have something in his right front pocket as soon as I saw it. And I said let's take a look at this guy. We're here right now, you know, you know, getting a bite. Let's – we might as well just check him out, you know, make sure everything is okay. And that's when he [Officer A] exited the vehicle to go into the store."

**Note:** Officer A indicated that his intent was to use the restroom and obtain some food inside the restaurant. When asked if he intended to confront the subject inside the restaurant, Officer A replied, "Maybe anywhere from a casual contact type thing."

The subject entered the restaurant through a south entrance and Officer B stopped the vehicle facing westbound, against the curb in front of the entrance. Officer A then exited the vehicle, left the passenger side door open and entered the south entrance to the restaurant. Officer A believed his partner was going to park the vehicle then enter the restaurant.

**Note:** Officer B was asked why he parked in front of the restaurant doors that the subject entered. As recounted by Officer A, "Well, our initial reason why we were there is to probably use the restroom and get something to eat. I observed a bulge which could've been a gun, but we weren't certain of it. It could've been a cell phone, whatever it was. And I didn't think that someone with a gun would walk so casually in front of our vehicle and enter the store knowing that there's a uniform presence there."

**Note:** According to Officer A, at the time he entered the restaurant their unit status was Code Six at another location on an unrelated incident. The officers did not advise Communications Division (CD) of their new location.

According to Officer B, he moved their vehicle forward slightly to allow Officer A's door to close. As he did so, he observed the vehicle exited by the subject parked in the restaurant parking lot with Witness 1 in the driver's seat.

Meanwhile, inside the restaurant, Officer A observed the subject at the register. As described by Officer A, "And then when I looked at him, he looked at me, and then I knew

something was up. I was going to allow him to order.” Officer A had a “hunch” that the subject was intending to commit a robbery. As described by Officer A, “Everything just started rolling. I saw the car. He walked in fast. He saw me. The way he looked at us. When – when I entered, it just started clicking at all one time at that point.”

Officer A decided to talk to the subject. As described by Officer A, “I called him over. I asked him to come over. And he – he started walking my way and right away just his – his hands were by his side.” As Officer A moved toward him, the subject’s hand was holding his right pocket. The subject suddenly ran past Officer A and out the south door of the restaurant, as Officer A unsuccessfully tried to grab him.

**Note:** According to Officer A, after he (Officer A) exited the door of the restaurant he did not give the subject any commands.

According to Witness 2, as Officer A came out of the restaurant door, he told The subject to “Stop.”

**Note:** According to the subject, he ran because he was in possession of a pellet gun, which he believed would be a violation of his probation conditions.

Officer A followed the subject out the south door and chased him in a southwesterly direction across the parking lot. As described by Officer A, “We – we exit – I’m in foot pursuit. As I’m chasing the - the subject through the parking lot in a south direction, in a southwest direction, he turns – he turned while running – continue to running in a south – southwest direction, he points a – a black – a blue steel handgun.”

According to Officer A, the subject then positioned the handgun over his left shoulder, turned to his left while he ran and pointed the handgun at him. As recalled by Officer A “I believe my life was in immediate danger at that point.” Officer A drew his pistol and fired six rounds at the subject.

Officer A observed the subject enter an opening between some bushes and a wall that separated the parking lot of the restaurant from a gas station that was located south of the restaurant. Officer A observed the subject make a “body movement” which indicated to him that the subject may have discarded the handgun. Officer A believed that the subject was no longer a threat and stopped firing. Officer A then re-holstered his pistol, followed the subject through the opening and ran southbound onto the gas station property.

**Note:** After Officer A fired the first round, he was unsure if the subject was still pointing the handgun at him, or if he had turned his body away from him. Force Investigation Division (FID) Detectives asked Officer A why he continued to fire after the first round. According to Officer A, he continued to fire because he believed that the subject was still threatening him with the handgun. As described by Officer A, “I fired all the rounds in a – in a burst. To suppress any type of – him firing back at me. And that’s

the only reason I fired the rounds. To protect myself and my partner from or anybody else from getting killed.”

**Note:** According to the subject, he did not point the pellet gun at the officer. The subject told investigators that, at the time of the shooting, he was moving his arms back and forth in a “running motion.”

**Note:** According to Witness 1 the subject exited his vehicle and entered the restaurant. Within a few moments, he observed the subject running out of the restaurant with a police officer chasing him. As recalled by Witness 1, “I was looking at the police. He didn’t – he wasn’t doing anything but running. The police was shooting at him, and he’s running.”

**Note:** After exiting the restaurant in pursuit of the subject, Officer A ran past the vehicle occupied by Witness 1.

**Note:** None of the rounds fired by Officer A struck the subject.

Meanwhile, Officer B had stepped partway out of the vehicle when he heard the restaurant doors open behind him. Officer B observed the subject running out the door and Officer A in pursuit behind him. As described by Officer B, “I immediately look back and I see the suspect running behind the – the police vehicle where I was standing next to. And that’s when I observe him grab – immediately go into his pocket, his front right pocket.”

Officer B then re-entered the vehicle and drove westbound through the parking lot toward an opening between a wall and some bushes. As recalled by Officer B, “My intention was to cut him off, because I knew there was a wall there. I wasn’t aware of the space, but I just – all I wanted to do is put my vehicle in front of him so I can get out and take him into custody or continue the foot pursuit.”

As Officer B drove closer to the wall, he observed the subject with his hand in his right pocket. As described by Officer B, “I look at the suspect with his right hand in his pocket, and he looks back in the direction of my partner. And that’s when I looked – I changed my focus from my – from the suspect to my partner, and my partner is – he’s drawing already downrange on the suspect.” Officer B then observed Officer A standing in a shooting stance with his pistol drawn, firing at the subject.

**Note:** Officer B estimated Officer A was approximately ten to fifteen yards from the subject when he fired the rounds.

According to Officer B, he did not observe the subject with a handgun in the parking lot of the restaurant and did not know whether the subject had pointed a handgun at his partner.

**Note:** Officer A was subsequently asked what tactics he had discussed with Officer B in regards to foot pursuits. As described by Officer A, “The

driver will stay with the vehicle and attempt to broadcast. We've talked briefly about it."

Officer B next drove through the opening between the wall and the bushes onto the gas station property. Officer B then activated the vehicle's emergency lights and siren to alert pedestrians and vehicular traffic that he was in pursuit of the subject.

The subject then ran westbound from the gas station parking lot toward another restaurant. Officer B followed in his vehicle and drove alongside the subject as he ran. Officer A was approximately twenty feet behind the subject as he followed him, but lost sight of the subject when he ran behind another restaurant. While running, Officer A broadcast a "shots fired, help" call on his radio.

Meanwhile, Officer B followed the subject in his vehicle as he ran and observed him attempt to climb over a small fence. Officer A then observed the subject pull a handgun from his pocket. Officer B drew his pistol, pointed it at the subject and ordered the subject to, "Stop, put your hands up." The subject did not comply with the order and proceeded to climb over the fence.

As the subject climbed over the fence he dropped his handgun in a planter near the drive-through. As recalled by Officer B, "When he leaped over – over the – the wall, he had pulled it out, and I saw him throw it on the ground. It looked like he had a grip of the stock of the gun and the trigger guard."

As the subject continued running, Officer B pursed him with his pistol drawn.

**Note:** Officer B was asked why he did not holster his pistol after the subject dropped his handgun. As recounted by Officer B, "Due to, I mean, just experience again and training, you know, if someone has one weapon, they – they most likely have another weapon."

When the subject reached the far southwest corner of the restaurant's parking lot, he began to climb over a fence that ran north and south behind the restaurant. As described by Officer B, "At that point I have two hands on my gun, and I'm telling him, stop. Let me see your hands. He looks at me, and then he – he turns away and attempts to leap over the gate."

The subject abandoned his attempt to scale the fence, then turned and ran back toward the street. As recalled by Officer B, "At that point I'm – I'm running back towards his direction. When he was jumping the fence, I kind of looked at him, make sure if he had anything on him. And I believe I holstered up, ran alongside him again in the in the same direction we originally came. And as soon as he came over – or he met that – that gate or that little wall I un-holstered again. And I was trying to get him to stop. So he jumps over the wall and at that point tries to go back into traffic, and he goes a little bit south of that wall. And he saw me there. And at that point he just stopped."

**Note:** Officer B was asked why he drew his pistol again. As recounted by Officer B, “Just because he ran in the direction of the location where he had dropped the gun initially. So, again, I – I believe the situation could’ve escalated to the use of deadly force, so I un-holstered for my safety.”

As Officer B was running eastbound again, he observed Officer A behind him. According to Officer B, “He’s on – on my side of the gate. I verbalize to him, ‘we’re over here.’ And that’s when he – he comes around the corner, as I’m running eastbound after the suspect.”

As Officer A ran northbound, he lost sight of his partner. When Officer A arrived at the northeast corner of the restaurant, he did not observe the subject. Officer A then proceeded westbound, then southbound behind the restaurant. As Officer A arrived at the southwest corner of the restaurant he climbed over the fence and observed his partner attempting to take the subject into custody.

**Note:** Officer A was asked how much time had elapsed from the time he lost sight of his partner, as he ran around the restaurant, until the time he observed his partner in the parking lot with the subject. Officer A replied, “Approximately five seconds.”

Meanwhile, Officer B ordered the subject to get on his knees and keep his hands visible. The subject then laid down on his stomach. As described by Officer B, “Well I – I approach him before my partner does get there, and I put my – I holster up. I just wanted to get to him, because I didn’t want him to take off again.”

Officer B approached the subject on his right side and placed his knee on his back. Officer A then grabbed the subject’s right arm and placed it behind his back. According to Officer B, “He was moving from side to side left to right against my body, cause I’m crouched down at that point trying to take control of his arm. And he – he started moving his wrist away from the direction I was at, you know, trying to place his arm, and I told him to stop resisting, stop moving. And he – he failed to comply with my command.”

According to Officer B, “At that point my – my gun fell out of the holster.” The pistol fell to the left of the subject and landed on the sidewalk, approximately two feet away from the subject’s left hand.

**Note:** Officer B was wearing a double retention holster and remembered having snapped it closed prior to approaching the subject. According to Officer B, “I would think – the only thing it would happen was during the tussle with – with the suspect trying to – trying to take him into custody and having comply with my commands. That’s when I would figure it would come out.”

As recounted by Officer B, “And at that point knowing that my gun was out and what this guy had done already, I give him distraction strikes to his – to his head – so I can you know, neutralize the situation. As soon as I hit him in the head, he – he stopped. So then

that situation was neutralized, and we were able to take him into custody.” The subject was then handcuffed by Officer B

**Note:** According to Officer B, he used his closed fist to strike the subject approximately two times on the right side of his head “in the area of like his cheek, his ear, like mid-face maybe.”

**Note:** According to the subject, he was already handcuffed at the time Officer B struck him.

According to Officer B, “As soon as I take him into custody and my partner is there with me. And I immediately – I told him to watch him so I can get my weapon and I can go look at the weapon that he had dropped or the object that he had dropped which turned out to be the gun that was found.”

**Note:** According to Officer A, he did not observe Officer B’s pistol lying on the sidewalk and he did not recall Officer B asking him to cover the subject while he recovered his pistol.

According to Officer A, he assisted Officer B in controlling the subject by placing his boot on the back of the subject’s head in order to hold him down.

**Note:** Officer A was asked why he chose to control the subject by placing his boot on his head. As recalled by Officer A, “Officer B was sprawled out on top of him. There was really no – nothing – there’s nothing for me to grab onto.”

According to the subject, after he was handcuffed he was kicked once in the right side of his head by Officer A.

**Note:** According to Witness 1, he observed the subject lying on the sidewalk handcuffed, when he observed Officer A kick the subject once in the face. As described by Witness 1, “Next thing I know he was on the ground, and he kicked – and the other one who was shooting at him kicked him in the mouth.” Witness 1 also stated that Officer B used profanity while he took the subject into custody on the sidewalk.

Officer A denied that he kicked the subject in the face. According to Officer A, his boot could have “slipped from [the subject’s] back, neck area to his face.”

According to Officer B, he did not observe Officer A strike the subject.

Officer A next broadcast, “Code four, he’s in custody,” while Officer B broadcast, “He’s in custody.”

Police Officers C and D next arrived at the scene and observed the subject lying on the sidewalk, handcuffed, in the custody of Officer A. Officer C did not see Officer B and advised Officer A that he should check on his partner.

According to Officer A, upon the arrival of assisting units he and other officers checked the area for the weapon the subject had discarded.

**Note:** According to Officer B, after the subject was handcuffed he asked Officer A to cover the subject while he searched for and found the handgun dropped by the subject. Officer B stood by the handgun, later determined to be a pellet gun, until relieved by other officers.

Sergeant A subsequently arrived at the scene and obtained a Public Safety Statement from Officer A. Officers A and B were then separated and monitored pending the arrival of FID detectives.

### **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 Officers A and B's drawing and exhibiting to be in policy.

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

The BOPC found Officer A's use of Non-Lethal Force to be out of policy and Officer B's use of Non-Lethal Force to be in policy.

#### **D. Use of Force**

The BOPC found Officers A's Use of Force to be in policy.

## **Basis for Findings**

### **A. Tactics**

In adjudicating this incident, the BOPC considered that:

1. Officer A initiated contact with the subject inside the restaurant prior to Officer B's arrival, thereby placing the officers at a tactical disadvantage. Although Officer A believed that the subject may have intended to rob the restaurant, there was a lack of extenuating circumstances that required immediate intervention. Consequently, it would have been tactically advantageous for Officer A to wait for the arrival of Officer B in order to provide him cover while making contact with the subject.
2. Officer A initiated contact with the subject without advising CD of his updated status or location. According to Officer A, his unit status was "Code Six" on an unrelated incident (over an hour old) at a prior location when the decision to detain the subject was made and during the subsequent OIS. It would have been prudent for the officers to update their status with CD upon clearing from the previous incident and for Officer A to advise CD of his updated location once the determination to make contact with the subject was made.
3. As Officer A passed the suspect's vehicle, he made no effort to address the potential threat posed by Witness 1 who was sitting inside. By passing the uncleared vehicle, Officer A exposed himself to potential danger from behind as the foot pursuit progressed. It would have been practical for Officer A to assess whether Witness 1 was a threat, given the fact that the shooting suspect had exited the vehicle moments prior.
4. Officer A engaged in a foot pursuit of the subject which resulted in an OIS. Officer A did not broadcast a help call and continued to pursue the subject on foot while Officer B followed in the police vehicle. Generally, the primary role of the lead officer is to focus on the threat posed and the direction of travel of the suspect. The lead officer is closest to the suspect and in a position to better assess any threat posed, give commands and direct the tactics of the pursuit.
5. Officers A and B intentionally separated from each other, thereby placing themselves at a substantial tactical disadvantage during the pursuit of the subject, as Officer A exited the restaurant and pursued the subject, while Officer B followed the subject in the police vehicle. Although the officers were able to maintain line of sight with each other, by operating the police vehicle, Officer B created a circumstance where he was unable to engage the subject and would be delayed in his response should Officer A need assistance.
6. In all of the above tactical scenarios, neither officer attempted to seek cover or considered establishing a perimeter as they pursued the subject. Instead, Officers A and B continued directly behind or parallel to the subject and on more than one

occasion attempted to “cut him off” by gaining a position in front of him as he fled, which resulted in the potential for a cross-fire situation.

7. Officer B engaged in a foot pursuit of the subject with his service pistol drawn.
8. After Officer B’s verbal commands, the subject placed himself in a prone position on the ground and Officer B felt an urgency to handcuff the subject prior to the arrival Officer A.

Moreover, when Officer B elected to attempt to take the subject into custody, prior to the arrival of Officer A and without a cover officer, he placed himself at a tactical disadvantage. In fact, the subject resisted being handcuffed and Officer B was required to utilize non-lethal force to complete the handcuffing process.

9. While Officer B was attempting to take the subject into custody, his service pistol fell out of its holster and came to rest two feet from the subject’s left shoulder. Fearing that the subject would arm himself with his service pistol, Officer B delivered two closed fist punches to the right side of the subject’s head. Consideration must be given to striking alternative target areas other than hard boney areas, such as the head, or if necessary consider using an open palm strike.
10. When Officer A observed Officer B “straddling” the subject, who was actively resisting arrest, he placed his foot on the back of the subject’s neck or head area. Stepping on the suspect may result in him becoming off balance, thereby limiting his force options. Additionally, the act of stepping on a suspect, especially on the head or neck area will most likely be viewed negatively by the public and may cause unnecessary injuries.

Based on the above-noted issues, the BOPC concluded that Officers A and B’s tactics unjustifiably and substantially deviated from approved Department training, and found the officers’ tactics to warrant administrative disapproval.

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

In this situation, the BOPC found it was reasonable for the involved personnel to believe that the tactical situation had escalated to the point where lethal force had or may become necessary.

Therefore, the BOPC found Officers A and B’s Drawing/Exhibiting to be in policy.

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

The BOPC noted that at the termination of the foot pursuit, Officer B approached the subject with the intent to take him into custody. According to Officer B

*“I gathered his arms first, you know, placed my knee on his back to make sure he didn’t take off anywhere...I grab his right arm with my - - my left and right arm,*

*and I turn it towards his back, so I can take him into custody...And at that point my - - my gun fell out - - of the holster - - And at that point knowing that my gun was out and what this guy had done already, I give him distraction strikes to his - to his head – so I can, you know, neutralize the situation.”*

The BOPC found that Officer B’s application of Non-Lethal Force was reasonable to overcome the level of resistance presented by the subject and to prevent the subject from obtaining his service pistol, which had fallen to the ground.

Therefore, the BOPC found Officer B’s use of Non-lethal Force to be in policy.

However, the BOPC was critical of Officer A’s decision to place his foot on the back of the subject’s head. Officers are not to step on the person’s limbs, hands or back, as doing so may throw an officer off balance, will be viewed negatively by the public, and may cause unnecessary injuries. Suspects who thrash about, kick or swing their arms should be controlled manually by pinning suspects’ limbs using bodyweight and physical force.

Therefore, when evaluated by the applicable Department standards, the form of Non-Lethal Force utilized by Officer A unjustifiably and substantially deviated from approved Department tactical training. The BOPC found the Non-Lethal application of force utilized by Officer B to be out of policy.

#### **D. Use of Force**

The BOPC noted that, based on the subject’s actions with what appeared to be a firearm, it was objectively reasonable for Officer A to perceive he was in danger of serious bodily injury or death and to believe the circumstances warranted the application of lethal force.

Therefore, the BOPC found Officer A’s application of Lethal Force to be in policy.