

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

**OFFICER-INVOLVED SHOOTING – 076-07**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On (X) Off()</u></b>	<b><u>Uniform-Yes(X) No()</u></b>
Northeast	07/19/2007		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	9 years, 3 months

**Reason for Police Contact**

While conducting patrol duties, Officers A and B observed Subject 1 crossing the street and it appeared he was concealing an object under his arm. Subject 1 entered a gas station store which Officer A believed was already closed for business. Officers A and B decided to investigate. Subject 1 subsequently produced a shotgun, prompting Officer A to fire at him.

<b><u>Subject</u></b>	<b><u>Deceased ()</u></b>	<b><u>Wounded (X)</u></b>	<b><u>Non-Hit()</u></b>
Subject 1: male, 18 years of age.			

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate the 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 and addenda items); the 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.

The following incident was adjudicated by the BOPC on 06/10/08.

**Incident Summary**

Officers A and B were completing reports at the Northeast Community Police Station parking lot. After finishing their reports, and with approximately 20 minutes to spare before their end of watch, Officers A and B decided to resume their patrol duties. While stopped at an intersection in the left turn lane for a red light, Officer B observed an individual, Subject 1, to their right, walking northbound on the crosswalk.

The officers observed that Subject 1 limped slightly on his right leg as he walked. Subject 1's left arm swung freely; however, his right arm stayed straight down. Officer B observed that the right side of Subject 1's clothing was bulging out, giving the appearance that he was concealing an unknown object. It appeared to Officer B that if Subject 1 were to move his right arm, something would fall out. Officer B stated, "What's up with this guy?"

Officer A saw Subject 1 as he finished crossing the street. Officer A believed Subject 1 was partially paralyzed and thought nothing of it; however, at one point Subject 1 raised his right arm toward his body.

**Note:** According to Subject 1, he had left his residence nearby to get a pack of cigarettes. Prior to going to the store, he proceeded to the train tracks and retrieved a pistol grip shotgun that his friend had stowed there for him. Subject 1 stated that he had been shot at before and carried the shotgun for protection. Subject 1 placed the barrel of the shotgun inside his right front pocket and pulled his shirt over the protruding portion of the shotgun. Subject 1 positioned the pistol grip of the shotgun under his armpit and held his pants as he walked.

Subject 1 glanced at the officers and proceeded to move at a faster pace toward a gas station convenience store. Subject 1 continued to look back at the officers as he approached the gas station store. When Subject 1 reached the entrance, the officers observed Subject 1 use his right hand to open the door.

**Note:** According to Subject 1, he noticed the officers but avoided making eye contact with them. Subject 1 believed the officers knew he had the shotgun because one of the officers continued to stare at him. From their position, the officers had a clear view of his right side. Subject 1 indicated that he "probably looked obvious."

Officer A believed the convenience store was already closed. Officer A decided to conduct further observation and told Officer B, "You know what? Let's sneak up on him. Just kind of watch. See what he does."

Officer A drove into the gas station lot. Officer A parked approximately 10 feet away from the southeast corner of the gas station convenience store. Officer A immediately exited his vehicle and positioned himself on the southeast corner of the structure, where he was able to observe Subject 1 through the store windows.

Meanwhile, Officer B exited the police vehicle, unholstered Officer B's pistol and stood behind the vehicle door frame for cover. Officer B had a clear view of the front entrance but was unable to see Subject 1 because of merchandise that blocked the view. Officer B asked Officer A, "Do you have eyes on the suspect?" Officer A responded, "Yeah. I see him."

**Note:** Officers A and B did not update Communications Division (CD) regarding their location and status.

Looking through the window, Officer A was able to see Subject 1 from the waist up behind the cash register paying for cigarettes. The cashier's back was toward Officer A. When Subject 1 noticed the police vehicle outside, he appeared extremely nervous and continued to look in Officer B's direction. Officer A believed that Subject 1 was going to rob the cashier but had backed down when he saw the police vehicle. After Subject 1 paid for the cigarettes, he proceeded toward the exit. Believing Subject 1 was possibly armed with a bat or a gun, Officer A drew Officer A's pistol.

**Note:** According to Witness A, when Subject 1 walked in, he observed a "bulky item" under Subject 1's shirt, which he believed was a gun. Subject 1 asked for cigarettes, paid for them and walked out. As soon as Subject 1 walked out, he was confronted by the officers.

Officer B observed Subject 1 looking through the glass doors as he made his way toward the exit. Subject 1 stepped outside with his hands in his pockets and stopped. From the corner wall approximately 10 feet to Subject 1's right, Officer A stated, "Hey buddy, let me see your hands." Subject 1 appeared startled and looked at Officer A. Officer A then yelled, "Take your hands out of your pocket." Before Officer A finished his sentence, Subject 1 took off running in a northeasterly direction, passing by the gasoline pumps and going through the gas station parking lot.

Officers A and B began to give chase, running with their guns drawn. Officer A ran directly behind Subject 1 as he yelled, "Stop. Stop right there." Officer B ran offset behind Subject 1's left side. As Subject 1 ran, Officers A and B observed Subject 1 tugging at his right side and struggling to take out the object from under his shirt. Subject 1 also continued to look back at Officer A. Subject 1 used his left hand to pull his shirt up. He then used his right hand to grab and remove the shotgun.

Officer A then observed Subject 1 turn his body to his right and saw the barrel of the gun "coming up toward" him. Believing he was about to be fired upon and realizing he was exposed without any cover nearby, Officer A aimed for Subject 1's center mass and fired one round using his pistol from a distance of approximately 25 feet while still running, striking Subject 1 in his right leg. Subject 1 immediately fell to the ground face-down and the shotgun landed approximately five feet away, in front of him.

**Note:** According to Subject 1, he intended to throw the shotgun away and was reaching for it as he ran. Subject 1 indicated that he was shot before he removed the shotgun from his clothing and had barely placed his hand toward the pump when he heard a gunshot. When he felt the impact, he flew forward and the shotgun fell out of his pocket.

Officer A observed Subject 1 moving around on the ground looking at the shotgun. Officer A moved up toward Subject 1 closing the distance between them to

approximately 10 to 15 feet. Officer A warned Subject 1 not to move. Officer A then directed Subject 1 to “put your hands out like an airplane.” Subject 1 complied and then began screaming, “It hurts.”

Officer B broadcast an “officer needs help” call.

Meanwhile, Officer A reached down to retrieve his radio and realized it had fallen out of its holster approximately five feet behind him. While keeping his gun pointed at Subject 1, Officer A moved backward and retrieved his radio. Officer A broadcast, “I need a back-up. Officer needs help.”

Within seconds of the broadcast being made, Sergeant A arrived at scene, followed shortly thereafter by Officers C and D. Officer A informed Sergeant A that there was only one subject and that the subject had been shot .

Sergeant A directed Officers C and D to assist with taking Subject 1 into custody.

Meanwhile, Officer D had exited his vehicle armed with a shotgun. Officer D assumed the role of cover officer and pointed his shotgun at Subject 1 as Officer C approached Subject 1 and applied handcuffs. After Subject 1 was handcuffed, Officers A and B holstered their pistols.

A rescue ambulance arrived at the scene and Los Angeles Fire Department (LAFD) personnel provided medical treatment to Subject 1 for a gunshot wound to his upper right leg. Subject 1 was then transported to a hospital.

### **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 divisional training.

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

The BOPC found Officers A and B’s drawing to be in policy.

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

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

### **Basis for Findings**

#### **A. Tactics**

The BOPC noted that a review of this incident revealed several positive tactical aspects. Officers A and B had worked together in the past and have had discussions regarding tactics, including officer involved shootings. Officers A and B demonstrated a proactive work ethic by continuing their patrol duties just prior to completing their shift. The BOPC also noted that after the officer-involved shooting (OIS), Officer B was able to calmly broadcast a request for help. Lastly, Officers A and B maintained their positions on the prone subject until the arrival of additional units. Once additional units were at scene, Sergeant A appropriately formulated an arrest team to safely take the subject into custody without further incident.

The investigation also identified areas where improvements could be made. Once Officers A and B committed themselves to drive into the gas station parking lot to further investigate Subject 1's unusual behavior, they should have advised CD of their status and location and requested a back up. These additional resources may have provided them necessary personnel and force options to resolve the incident. Officer A parked the police vehicle at the southeast corner of the convenience store. It would have been tactically safer for him to park the vehicle a greater distance from the convenience store and approach on foot, thereby maintaining a tactical advantage.

Subject 1 exited the store and was confronted by Officer A who told Subject 1 to take his hands out of his pockets. Subject 1 did not comply with Officer A's commands and fled. With their firearms in hand, Officers A and B pursued Subject 1 whom they reasonably believed to be armed with a firearm. Officers A and B should be reminded that running with a firearm in hand can increase an officer's chance of having an unintentional discharge. Additionally, officers are also reminded of the inherent risks in pursuing a subject who is reasonably believed to possess a firearm into an open area without cover. A reasonable balance must be maintained between personal safety and a duty to protect the public. Based on the totality of the circumstances, Officers A and B's decision to follow Subject 1 was appropriate. In the interest of personal development, the concept of containment versus apprehension merits discussion with the officers. Lastly, after the OIS, Officer B prematurely broadcast that the incident had been brought under control. At this point during the incident, the subject was not handcuffed and was in close proximity to a loaded shotgun.

The BOPC found Officers A and B's tactics to warrant divisional training.

## **Drawing/Exhibition/Holstering**

The BOPC noted that as Officer A parked the police vehicle, Officer B exited and, believing Subject 1 was concealing a weapon, drew a pistol.

Officer A exited the police vehicle and monitored Subject 1 through the convenience store window. Subject 1 appeared to be nervous at the sudden appearance of a police vehicle and his attention was focused on Officer B. Officer A believed Subject 1 planned on robbing the convenience store and was possibly armed with some type of weapon. Subject 1 exited the convenience store with both hands in his pockets and was confronted by Officer A, who drew a pistol. The BOPC determined that Officers A and B had sufficient information to believe that the incident may escalate to the point where deadly force may become necessary.

The BOPC found Officers A and B's drawing to be in policy.

## **Use of Force**

The BOPC noted that as Subject 1 exited the convenience store he was confronted by Officer A who told him to take his hands out of his pockets. Subject 1 turned and ran, followed by Officers A and B. As Officer A pursued Subject 1 he observed that Subject 1 was having trouble running and was holding a long object under his shirt and pants. As Subject 1 ran, he looked over his shoulder at Officer A, utilized his left hand to lift his shirt and was able to remove a shotgun from his pants with his right hand. Officer A observed the gun barrel moving in his direction. Believing that Subject 1 was going to start shooting at him, Officer A fired one round at Subject 1 from a distance of approximately 25 feet.

The BOPC determined that Officer A had sufficient information to believe the subject presented an immediate threat of serious bodily injury or death.

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