

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

**OFFICER-INVOLVED SHOOTING – 065-07**

<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>
Mission	06/29/2007		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	10 years, 1 month

**Reason for Police Contact**

Officers responded to a broadcast of a family dispute during which Subject 1 threatened Officer A with a knife. Officer A responded by shooting Subject 1.

<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, 21 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 05/20/08.

**Incident Summary**

On June 29, 2007, while Officers A and B were on duty in a police vehicle, they heard a broadcast from Communications Division (CD) reporting a family dispute. The comments of the call provided the Subject 1's first name and indicated that Subject 1 was drinking and refusing to leave. Officer B advised CD that they would handle the call.

The officers arrived at the call and observed Witness A, Subject 1 and Witness B in the front yard of their residence.

Officers A and B exited their police vehicle and approached the front gate. Subject 1 approached the officers and made contact with Officer B near the opening of the front gate and began to speak with him. Subject 1 indicated that he lived at the residence and should be allowed to drink because he was 21 years old; however, his grandmother was too strict. The officers observed an opened box of beer on the porch and a few beer cans on the driveway. Subject 1's breath smelled of alcohol and his speech was slurred.

As Subject 1 continued to talk, Officer A stated, "You know what? You talk to my partner. I'm going to talk to your grandmother." Officer A approached Witness A, who stood near the front porch of her residence.

Witness A informed Officer A that when Subject 1 starts drinking, he becomes upset, irate and aggressive and that Subject 1 had been involved in physical fights in the past with her husband. Witness A indicated that she wanted Subject 1 out of the house.

Officer A approached and spoke with Subject 1. During the conversation, Subject 1 cried at certain times and made statements to the effect of how he was ashamed of how his life turned out. After several minutes of conversing with Subject 1, Officers A and B were able to persuade him to leave the location.

Subject 1 indicated he would walk to his brother's house located nearby. Subject 1 was allowed to enter his residence to retrieve some of his belongings. On his way out, he picked up the box of beer that was on the porch and placed it inside his bag. Officers A and B observed Subject 1 walking away from the residence. Officer A advised Witness A to lock her doors and if Subject 1 came back to call the police again.

Officers A and B then left the scene and were en route to their next radio call. Approximately two to five minutes after they had left, Officers A and B were notified by CD that the person reporting had requested the police to come back because Subject 1 had returned to the location. Officers A and B returned to the location and observed Witness A in the front yard of her residence. Officer A parked his police vehicle in front of the residence.

Witness A approached their vehicle and advised them that Subject 1 walked into the house and went upstairs to his bedroom. She told him that she would call the cops and he replied, "Call the cops. I'm not leaving." Officer A stated, "I'll follow you into the house and see if I can talk to him again." Witness A led Officer A, followed by Officer B, through the front door and a hallway, stopping at the bottom of a stairway located approximately 10 feet to the right from the front door.

Officer A directed Witness A to go upstairs to get Subject 1. Witness A went upstairs, peered into a bedroom located to the right from the top of the stairs and told Subject 1 that the cops were here to talk to him.

Subject 1 proceeded to come downstairs, followed by Witness A, who stopped midway on the staircase. Subject 1 continued down the stairs holding a can of beer in his left hand.

Officer B made way for Subject 1, stepped back into the hallway that led to the front door, and was approximately five to six feet away from Subject 1. Officer A moved to the left of the stairway and positioned himself in the living room area, approximately four feet away from Subject 1. Subject 1 turned and was facing the stairway as he talked with Officer A. Subject 1 appeared more defensive and stood with his right hand to his side, clenched into a fist, and had his right leg planted back as in a fighting stance.

As Subject 1 talked to Officer A, Subject 1's tone became louder and more aggressive. Approximately two to three minutes into the exchange between Subject 1 and Officer A, Witness A stated, "Hey, he has something in his pocket."

Officer B's attention was drawn to Subject 1's right front pants pocket and he observed the blade of a knife. The handle of the knife was inside Subject 1's pocket and approximately four inches of the blade was protruding out of his pocket. Officer B directed Subject 1 not to grab the knife. Subject 1 then reached into his pocket with his right hand and pulled the knife out of his pocket. In response, Officers A and B stepped back to create distance, drew their pistols and ordered Subject 1 to drop the knife. Witness A also pleaded with Subject 1 to drop the knife.

Officer A took three to four steps back further into the living room. After Subject 1 had taken the knife out of his pocket, he tossed the knife in the air approximately 6 to 12 inches, caught it and held the knife with the blade facing down. Officers A and B and Witness A continued telling Subject 1 to drop the knife. Subject 1 responded raised his hand up to his shoulder with the blade of the knife pointing at Officer A. Subject 1 then took one or two steps toward Officer A. Officer A believed that Subject 1 was already too close and that at any second he would be able to stab him with the knife. Officer A raised his pistol and fired two consecutive rounds from a distance of approximately five to six feet, striking Subject 1.

Meanwhile, Officer B observed that Subject 1's attention was focused on Officer A. Officer B believed this presented an opportunity for him to deploy his Oleoresin Capsicum (OC) spray. Officer B holstered his pistol, and was in the process of removing his OC spray when Subject 1 stepped forward in an aggressive manner toward Officer A. He then observed Officer A fire two rounds at Subject 1.

When the rounds struck Subject 1, he spun to his right, fell down to his knees, and then fell forward onto his stomach and chest. Officer A could not see the knife and believed it was underneath Subject 1's body.

Witness A came down the stairway and ran out toward the front yard screaming, toward Witness B, who was still at the front yard.

Witness B attempted to get into the residence; however, Officer B held him back. Witness B continued to yell at the officers. Officer B broadcast an “officer needs help” call and requested a Rescue Ambulance (RA).

Meanwhile, Officer A continued to point his gun toward Subject 1. Subject 1 turned his body to the right and he ended up on his back. Officer A did not see a knife in his hand anymore and observed that Subject 1 was bleeding profusely from his chest area. Officer A believed Subject 1 was no longer a threat and opted not to handcuff him.

Shortly thereafter, Sergeant A arrived at the scene. Sergeant A entered the residence and observed Officer A with his gun pointed at Subject 1. Sergeant A’s attention was diverted to Witness B who continued to yell and attempted to get inside the residence. Sergeant A was concerned for Officer B’s safety and the control of the situation. Sergeant A directed Officer A to stay near him and not speak to other officers about the incident.

Additional units arrived and were directed by Sergeant A to clear the residence. Witnesses C and D were handcuffed and taken outside.

A Los Angeles Fire Department (LAFD) RA arrived at the scene. As LAFD personnel were about to enter the residence, Sergeant A informed them to wait until the house was cleared. After the house was cleared, LAFD personnel administered medical aid and placed Subject 1 on a gurney. Subject 1 was 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 and Sergeant A’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 Officer A's lethal use of force to be in policy.

### **Basis for Findings**

#### **A. Tactics**

The BOPC noted that Officers A and B were on patrol when they heard CD broadcast the radio call. The officers took the initiative and advised CD that they would handle the call.

The officers responded to the location, advised CD of their status and location and made contact with Witness A and Subject 1. The individual parties were separated and interviewed. Officer A's investigation revealed that when Subject 1 consumed alcohol, he became physically and verbally abusive. Although Subject 1 had been drinking, his behavior had not risen to the level of a criminal offense; therefore, the officers' only recourse was to diffuse the situation. Ultimately, Subject 1 agreed to walk to his brother's residence.

After driving approximately two and one half miles from the residence, CD advised Officers A and B that Subject 1 had returned back to the residence. When the officers returned to the location, they observed Witness A standing alone in the front yard. Officer A parked the police vehicle in front of the location and Officer B talked to Witness A through the open passenger window. Although familiar with the person they intended to contact, officers are trained to park the police vehicle a greater distance from the radio call location and approach on foot, thereby maintaining a tactical advantage.

Witness A advised the officers that Subject 1 was in an upstairs bedroom and proceeded to walk through the front door, followed by the officers. It is imperative that officers obtain the pertinent information to assess a subject's demeanor prior to entering a location. The officers' tactical control continued to diminish when they allowed Witness A to retrieve Subject 1 from his bedroom. If police contact is to be initiated, a third party should not be utilized, as their safety could be jeopardized. In addition, after Subject 1 descended the stairs and walked into the living room, Witness A stood on the staircase, where she remained as the incident unfolded.

Once in the living room, Subject 1 faced Officer A and assumed a fighting stance. While holding a beer can in his left hand, Subject 1 clenched his right hand into a fist. Officer B tactically positioned himself between the bottom of the stairs and the front door. As Officer A continued to verbalize with Subject 1, his demeanor became increasingly aggressive. The volume of his voice increased, his right fist clenched and unclenched and he proceeded to remove a knife from his pocket.

Officers A and B drew their pistols and simultaneously issued verbal commands to Subject 1. Officers are trained that when multiple officers give commands, it may create confusion in the mind of the suspect. They are taught to utilize the concept of contact and cover in which one officer gives the verbal commands while the other provides cover. An additional variable was introduced as Witness A also issued commands to Subject 1 from her position on the stairs.

The officers and Witness A continued to order Subject 1 to drop the knife and Subject 1 ignored their commands. Believing that OC spray would immobilize Subject 1, Officer B holstered his pistol and reached for his OC canister. Faced with a deadly force situation, the BOPC was critical of Officer B's decision to transition to a non-lethal force tool. By holstering his service pistol, Officer B was unable to assist Officer A when he was confronted by Subject 1. Furthermore, the use of OC spray in an enclosed area can lead to the incapacitation of the officers.

After the officer-involved shooting (OIS), Subject 1 turned in a clockwise direction, collapsed to his knees and went down into a prone position. Officer A covered Subject 1 with his pistol as Officer B took a position at the front door to prevent family members from gaining entry. It was not until several minutes after Sergeant A and additional units arrived at the scene that Subject 1 was handcuffed. Due to his aggressive behavior, the officers' inability to definitively determine the extent of Subject 1's injuries and family members attempting to force their way into the residence, Sergeant A should have ensured Subject 1 was handcuffed earlier in the incident.

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

### **Drawing/Exhibition/Holstering**

The BOPC noted that Subject 1 descended the flight of stairs and proceeded to the living room. As Officer A and Subject 1 were engaged in a conversation, Subject 1 reached into his right, front pants pocket and pulled out a knife. Fearing the situation had escalated to the point where deadly force may be necessary, Officers A and B drew their service pistols.

The BOPC determined that Officers A and B had sufficient information to believe the incident had escalated to the point where lethal force may be justified.

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

### **Use of Force**

The BOPC noted that Officer A repeatedly ordered Subject 1 to drop the knife; however, he ignored the officers' commands, raised the knife to shoulder level and took one to two steps toward Officer A. Fearing he was about to be stabbed, Officer A fired two

rounds from his service pistol in an easterly direction at Subject 1 from a decreasing distance of six to five feet.

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

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