

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

OFFICER-INVOLVED SHOOTING – 050-10

| Division | Date | Duty-On (X) Off () | Uniform-Yes (X) No () |
|-----------------|-------------|----------------------------|-------------------------------|
| Southeast | 06/22/10 | | |

| Officer(s) Involved in Use of Force | Length of Service |
|--|--------------------------|
| Officer A | 5 years |
| Officer B | 14 years, 6 months |
| Officer D | 5 years, 5 months |
| Officer E | 9 years, 6 months |

Reason for Police Contact

Officers were conducting crime suppression when they observed an armed suspect who fled and pointed a gun at an officer, resulting in an officer-involved shooting.

| Subject(s) | Deceased () | Wounded () | Non-Hit (X) |
|---------------------------------|---------------------|--------------------|--------------------|
| Subject: Male, 25 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 Chief and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on May 24, 2011.

Incident Summary

Officers A and B were assigned to work a crime suppression detail, while driving a marked black and white police vehicle. The detail was in response to several recent shootings between rival gangs.

Officers A and B coordinated with Officers C, D, E and F, who were in undercover police vehicles. From their location, Officers C, D, E and F conducted surveillance.

Meanwhile, Officers A and B positioned their vehicle to respond to any situation that required an identifiable police presence, so as not to compromise the undercover vehicles.

Officers C and D then observed several males walking southbound toward their position. Three of the males were holding their waistbands, as if they were armed. Officer C believed that the males had observed the officers and were advancing towards them.

Officer C was concerned for his and Officers D's safety and requested that Officers A and B respond to intercept the males. As Officers A and B proceeded, they observed the males on the north side of the street. Officer C then observed the Subject walking ahead of the group and proceeded to direct Officers A and B toward him. The Subject was holding his waistband as if to prevent a weapon from falling out.

Meanwhile, Officers A and B proceeded northbound toward the males. Officer A saw the Subject holding his waistband and walking away from the officers at a rapid pace. As Officer A exited his vehicle, the Subject ran westbound. Officer A ordered the Subject to stop but he did not comply, continuing to run while holding his waistband.

The Subject unsuccessfully attempted to gain entry into an apartment. The Subject then ran around a building and turned southbound. Officer A ran around the corner and observed the Subject still running, but now holding a firearm in his left hand.

The Subject then ran eastbound between some apartment buildings. Officer A observed the Subject's head reappear around the southwest corner of an apartment building and Officer A believed that the Subject was trying to position himself to shoot Officer A. Officer A then made a wide turn around the building and observed that the Subject's body was bladed, and the firearm was pointed in Officer A's direction. Officer A then fired two rounds at the Subject and assessed the situation. Officer A determined that the Subject was still holding the gun in his left hand so Officer A fired another round. Officer A believed he fired four to five rounds in total. Officer A then observed that the Subject was face down on the ground.

Officer A then continued to cover the Subject with his weapon, approached to detain him and observed a gun on the ground a few inches away from the Subject's body. Upon reaching the Subject, Officer A placed his left knee on the left side of the Subject's

back and ordered the Subject to put his hands on his head. The Subject failed to comply with the order. Officer A kept his knee on the Subject's back until other officers arrived, at which time he backed away from the Subject, holstered his weapon and recovered the Subject's handgun.

Meanwhile, Officer B parked the police vehicle and began to follow Officer A, who was already in pursuit of the Subject.

While focusing his attention on another male behind the officers, Officer B heard a gunshot, turned around and observed that Officer A had his weapon drawn. Officer B heard approximately three more shots coming from the area of Officer A. Officer B caught up to Officer A and saw the Subject on the ground. Officer B then advanced towards the Subject, placed his knees on his back and grabbed the Subject's left arm for handcuffing. While attempting to handcuff the Subject, Officer B observed a handgun approximately two feet away from the Subject's body. The Subject yelled that the gun was not his and started to resist the officers.

Officer B saw the Subject trying to get up, using the ground as support, to assist him in rolling to his right side. At that time Officer B administered three knee strikes to the Subject's chest area and left shoulder area. Officers D and E then arrived to assist and collectively they were able to handcuff the Subject.

Officers E and F saw the Subject running southbound, followed by Officer A, who had his pistol drawn. Officer E then heard two shots and then an additional two shots. Officers E and F ran to assist the other officers and saw the Subject on the ground. The Subject was not complying while officers attempted to handcuff him. The Subject kept placing his hands under his body. Officer E believed that the Subject was possibly still armed, so he delivered several open palm heel strikes to the Subject's shoulder and cheek area, at which time he complied.

Meanwhile, Officers C and D observed the Subject flee from Officers A and B. Officer D then exited his vehicle, ran in the direction of where Officer A had broadcast that he was pursuing the Subject, and located Officers B and E trying to subdue the Subject. As Officer D approached the officers and the Subject, he observed a gun lying a few feet away from the Subject.

As further described by Officer D, he ordered the Subject to stop resisting but the Subject did not comply and continued to resist. Officer D was concerned that the Subject could reach the weapon, given that it was in such close proximity to him, and so Officer D proceeded to strike the Subject in the face with a closed fist, two to three times, to gain his compliance.

Officer C deployed his shotgun and he pointed it at the crowd that was advancing toward the location where the officers were taking the Subject into custody. Officer C did not witness the officers take the Subject into custody, as he ran past their location to control the crowd that was advancing toward the Subject and the officers. Officer C

further stated that he had deployed his shotgun and chambered a round, upon initially exiting his vehicle, to prevent the crowd from advancing on the officers. Witnesses A and B observed Officer A chase the Subject. Moreover, according to Witness A, the officer fired his weapon five to six times at the Subject while chasing him.

Witness A and Witness B also indicated that they ran to where the officers were taking the Subject into custody and observed officers punching and kicking the Subject after he was handcuffed.

Witness C observed Officer A run and fire his weapon four to five times. Witness C did not observe at whom Officer A fired the shots.

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, B, C, D, E and F's actions to warrant a tactical debrief.

B. Drawing/Exhibiting

The BOPC found Officers A, C, E and F's drawing and exhibition of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC found Officers A, B, E and D's use of non-lethal force to be in policy.

D. Lethal Use of Force

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

Basis for Findings

A. Tactics

In their analysis of this incident, the BOPC identified the following tactical consideration:

1. Written Tactical Plan

In this instance, it appears a written tactical plan was not completed; however, the intent of a written tactical plan is to ensure that a sufficient level of supervisory and managerial oversight is maintained. Here, Captain A was aware of the operation and authorized the vehicle use exception and the watch commander was advised of the operation. To that end, the desired level of oversight was achieved and was consistent with expectations.

In conclusion, the BOPC found the lack of a written tactical plan did not substantially deviate from approved Department tactical training or oversight expectations.

2. Broadcasting on Simplex

In this instance, the involved personnel utilized the area simplex radio frequency. The use of a simplex frequency has inherent limitations. It has a reduced effective communications range; is neither monitored by Communications Division (CD) nor heard by personnel operating on the area base frequency; and does not capture communications for later review. Most importantly, officer safety can be compromised as none of the area patrol officers would hear an emergency broadcast made on the selected simplex frequency and would be unable to effectively communicate with the involved personnel. Furthermore, since simplex frequencies are not monitored, CD would not be able to direct additional resources to respond in the event an emergency broadcast was made.

However, this was a pre-planned, self-contained tactical operation with sufficient personnel resources to handle the initial events of nearly any conceivable eventuality. In addition, Sergeant A provided direct supervisory oversight of the operation and monitored both the simplex frequency and area base frequency in order to make requests for additional personnel, if needed.

In conclusion, although the use of a tactical frequency is preferred, the BOPC found that the use of simplex frequency did not substantially deviate from approved Department tactical training.

3. Foot Pursuit Tactics

In this instance, Officers A and B were in foot pursuit of what they believed was an armed suspect. Officer B was the secondary officer in the foot pursuit and was

responsible for broadcasting pertinent information. However, Officer A made the initial broadcast and subsequent updates.

Although it is tactically advantageous for the secondary officer to broadcast the foot pursuit, Officer B's attention was divided between the foot pursuit and the potential suspect that was following behind them. Therefore, in this circumstance, it was appropriate for Officer A to assume the broadcast responsibilities. Officers are trained to work as a team and recognize that tactics are conceptual and flexible in nature with the focus on that certain actions take place, not necessarily by which officer.

In conclusion, the BOPC found the Officers A and B's actions did not unjustifiably deviate from approved Department tactical training.

4. Contact and Cover

In this instance, Officer A approached before additional personnel resources arrived to assist. Officers are trained to use extreme caution when taking an armed suspect into custody and are encouraged to enhance officer safety through the utilization of additional personnel resources when practical. However, each tactical scenario has unique circumstances to consider. The Subject was prone with his handgun on the ground and within reach. Although tactical best practices encourage that an officer act as a cover officer while the other officer approaches to take the suspect into custody, Officer A was reasonable in his concern that the Subject has the present ability to again pose a lethal threat. Officer A had to make a split second decision that balanced the potential that the incident could again require the use of lethal force with the inherent risks associated with the decision to approach.

In conclusion, the BOPC found Officer A's action did not unjustifiably deviate from approved Department tactical training.

In conclusion, the BOPC found Officers A, B, C, D, E and F's actions to warrant a tactical debrief.

B. Drawing/Exhibiting

Officer A

In this instance, Officer A made the decision to draw his service pistol when, while engaged in a foot pursuit, he observed the Subject holding his waistband in a manner consistent with being in possession of a handgun. This observation in conjunction with the Subject's overt actions to avoid arrest and the knowledge of the previous shootings created a circumstance wherein an officer with similar training and experience would reasonably believe that there was a substantial risk that the situation may escalate to the point where lethal force may be justified.

Officer C

In this instance, Officer C heard Officer A broadcast that he was in a foot pursuit. Officer C observed the Subject holding his waistband in a manner consistent with being in possession of a handgun and directed Officers A and B to detain him. Officer C deployed the Department shotgun as he exited his vehicle. An officer under the circumstances with similar training and experience would reasonably believe that there was a substantial risk that the situation may escalate to the point where lethal force may be justified.

Officers E and F

In this instance, Officers E and F, who were partners, both heard an unknown officer broadcast that a suspect was running with a gun and observed Officer A in pursuit of the Subject with his service pistol drawn. Officers E and F then heard shots fired and drew their service pistols. An officer under the circumstances with similar training and experience would reasonably believe that there was a substantial risk that the situation may escalate to the point where lethal force may be justified.

In conclusion, the BOPC found Officers A, C, E and F's drawing and exhibition of a firearm to be in policy.

C. Non-Lethal Use of Force

Officer A: Bodyweight.

Officer B: Bodyweight; firm grip; three knee strikes to the Subject's chest/shoulder area.

Officer E: Bodyweight; three palm heel strikes to the Subject's shoulder/cheek area.

Officer D: Two to three punches to the Subject's face.

In this instance, Officers A, B, E and D attempted to take the Subject into custody after he fled on foot and pointed a handgun at Officer A. The Subject resisted verbal commands and physically resisted arrest when he attempted to push himself into a standing position. The escalation of force began with verbalization and progressed to bodyweight and strikes in direct correlation with the level of resistance presented by the Subject. The application of force was within Department policy and consistent with the legal authority to use force to overcome resistance and effect an arrest.

In conclusion, the BOPC found Officers A, B, E and D's use of non-lethal force to be in policy.

D. Lethal Use of Force

In this instance, as Officer A proceeded around the corner with his radio microphone in his left hand and service pistol in his right hand, he observed the Subject standing with his arm extended and a handgun pointing in his direction. Officer A, in immediate defense of his life, fired two rounds at the Subject. Officer A then assessed the situation and observed that the Subject was still pointing a handgun at him and was still a threat. Officer A then fired two to three more rounds at the Subject.

Officer A reacted as any reasonable officer with similar training and experience when he fired two rounds, assessed and fired two to three more rounds at the Subject.

The BOPC determined Officer A's decision to use lethal force was objectively reasonable in that an officer with similar training and experience would have reasonably perceived the Subject's actions to be an imminent threat of death or serious bodily injury.

In conclusion, the BOPC found Officer A's use of lethal force to be in policy.