

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

OFFICER-INVOLVED SHOOTING – 007-09

Division	Date	Duty-On (X) Off ()	Uniform-Yes(X) No()
Southeast	02/19/09		

Officer(s) Involved in Use of Force	Length of Service
Officer A	10 years, 2 months

Reason for Police Contact

An Assault with a Deadly Weapon (ADW) occurred at a park, where subjects in a vehicle shot at two victims. Police Officers A and B were on routine patrol when they heard a crime broadcast indicating that two male subjects, driving a brown or maroon vehicle, were wanted in relation to the ADW. Shortly thereafter, the officers observed a vehicle that matched the subject vehicle description driving in the opposite direction and initiated a pursuit. An officer-involved shooting (OIS) occurred when one of the subjects exited the vehicle with a weapon.

Subject	Deceased ()	Wounded ()	Non-Hit (X)
Subject 2: Male, 29 years.			

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). 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. 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 BOPC 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 January 19, 2010.

Incident Summary

An ADW occurred at a park, wherein subjects in a vehicle shot at two victims. Officers A and B were on routine patrol in a marked police vehicle when they heard a crime broadcast indicating that two male subjects, driving a brown or maroon vehicle, were wanted in relation to the ADW. Officers A and B were driving when they observed a maroon vehicle with two male occupants, Subjects 1 and 2, going the opposite direction.

Officer A made eye contact with the driver and believed he could be the involved subject. Officer A made a u-turn, while the subject turned left and accelerated at a high rate of speed, which caused Officer A to believe it was the vehicle from the ADW. The officers followed the vehicle as Officer B conducted a check of its license plate via the Mobile Data Computer (MDC). The check showed no wants or warrants associated with the vehicle. The officers then observed the vehicle fail to stop at a stop sign. Officer A activated the police vehicle's lights and siren and, when the vehicle failed to yield, initiated a pursuit. Officer B broadcast a request for an Air Unit.

Note: During the pursuit, Officer A followed the vehicle as it drove the wrong way on a one-way street.

After Officer B broadcast the officers were pursuing the vehicle, the vehicle slowed and the front passenger door opened. Subject 2 exited the vehicle holding what appeared to be a rifle and ran as Subject 1 drove away. The officers remained in their vehicle and followed Subject 2.

Officer B ordered Subject 2 through his open window to put the rifle down. Subject 2 continued to run, still holding the rifle, and turned.

Officer A slowed the police vehicle to a near stop and, with his right foot on the brake pedal, opened his vehicle door with his left hand, unholstered his pistol with his right hand and leaned his upper body out to a position between the window frame and the open door. Officer A then fired three rounds at Subject 2 from a distance of approximately 56 feet, missing him.

Fearing that Subject 2 was going to shoot at him and his partner, Officer B unholstered his pistol and opened his vehicle door. Although Officer B saw Subject 2's face and his body turning with rifle in hand, he could not acquire Subject 2 as a target due to the motion of the vehicle, which he estimated was traveling at approximately two miles per hour.

Meanwhile, due to the earlier pursuit broadcast, Officers C and D drove to the area. As Officers C and D drove in one direction, they saw Officers A and B's police vehicle driving the opposite direction and Subject 2 running toward the center median. Officers A and B followed Subject 2, as Officer B continued to order Subject 2 to drop the rifle. As Subject 2 crossed the center median and approached the curb, he turned his upper body toward Officers A and B while holding the rifle, with his right hand near the trigger and his left hand on the barrel.

As Officer C began to make a u-turn over the center median of the street, both he and Officer D heard shots being fired. Officer C then made a three-point turn and drove in oncoming traffic lanes, toward the other officers' vehicle.

Once Officer A's shots were fired, Subject 2 dropped the rifle and continued to run. Both officers reholstered their pistols and Officer A stopped the police vehicle on the center median. Officers A and B exited their vehicle and began to pursue Subject 2 on foot and Officer A broadcast a "shots fired, officer involved" call. Officer A drew his pistol as Subject 2 continued to flee.

Officers C and D pursued Subject 2, while Officer A discontinued his pursuit of Subject 2 and walked back to his vehicle and Officer B, who had stopped to guard the discarded rifle. Officer B broadcast the descriptions and directions of travel for the two subjects.

Meanwhile, as Subject 2 ran, Officers C and D observed him holding his waistband as though to prevent an object from falling out. The officers, believing the object could be a gun, communicated this observation to one another. Subject 2 ran to the entrance of an alley, stopped and raised his hands above his head. Officers C and D parked, drew their pistols and took positions behind the doors of their vehicle. Subject 2 was ordered to the ground, into a prone position and the officers then approached Subject 2. Officer D provided cover as Officer C holstered his weapon and handcuffed Subject 2.

Officers C and D broadcast their location just after Subject 2 was taken into custody. Officer D conducted a pat-down search of Subject 2 and recovered an unloaded semi-automatic pistol from Subject 2's front pants pocket.

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 and D's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

- The BOPC found Officers A, B, C and D'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

In adjudicating this incident, the BOPC considered that:

1. Officers A and B elected to follow the subjects' vehicle in an effort to investigate; however, the driver of the vehicle attempted to evade the officers resulting in a vehicle pursuit. The pursuit continued for approximately one minute forty seconds before the officers advised Communications Division (CD) that they were in pursuit. Although there may be circumstances that prevent officers from immediately advising CD of their updated status, in this situation the officers had adequate time to make such a notification and provide other pertinent information.
2. During the vehicle pursuit, the subjects entered a one-way residential street with no regard for the safety of the citizens in the immediate vicinity.

Current Department standards state that officers generally shall not pursue a subject the wrong way on a one-way street; however by allowing the subjects to proceed without following them, the officers would be placing the safety and welfare of the community in jeopardy.

Officers A and B are to be reminded of the inherent risks and dangers to themselves and innocent citizens in pursuing vehicles the wrong way on a one-way street. Officers should consider their options during vehicle pursuits, which require that officers develop a flexible tactical approach to each incident. Safety is the primary concern for all officers involved in a vehicle pursuit.

3. Officers A and B remained seated in their police vehicle when they initiated contact with Subject 2 as he ran away, thereby placing themselves at a tactical disadvantage. Although Officer A attempted to maneuver the police vehicle into a position where it would provide some cover, absent exigent circumstances, it would have been safer for Officers A and B to monitor Subject 2's movements, broadcast his direction of travel, request additional personnel and establish containment.

Therefore, Officers A and B are to be reminded of the tactical disadvantage created when officers contact armed subjects while seated in their police vehicle, and of the benefits obtained upon establishing containment, especially when confronting subjects armed with rifles.

4. Officers A and B were confronted by Subject 2 who was armed with a rifle. Officer A observed Subject 2 turn toward him and point a rifle in his direction. As Officer A stopped the police vehicle, he drew his service pistol and in defense of his and his partner's lives, fired three consecutive rounds at Subject 2 prior to the vehicle coming to a complete stop.

Officer A, faced with a difficult situation was forced to make a rapid, critical decision. Although it was not an ideal shooting platform to utilize and generally prohibited, under these specific circumstances, Officer A's action of firing from the moving vehicle was reasonable.

5. Officer A should have secured his service pistol prior to pursuing a subject on foot.
6. The officers engaged in a foot pursuit with the intention of apprehending Subject 2, rather than containing him. The investigation revealed that there was no consideration by either officer to establish containment. Therefore, Officers A and B are to be reminded that, by establishing a perimeter, the subject will be contained, and when combined with discontinuing the foot pursuit, this removes the inherent risks associated with pursuing. When an armed subject flees on foot, using a perimeter rather than chasing a subject decreases the likelihood of an ambush or the unintentional splitting-up of partner officers.
7. Officers A and B engaged in a foot pursuit of Subject 2 and did not update CD of their updated status. Additionally, the first broadcast following the foot pursuit was limited in information and failed to include a subject description or the direction that he was fleeing. It was not until approximately 40 seconds later, once Officers A and B had discontinued the foot pursuit and Officers C and D had taken over, when Officer B broadcast the subjects' vehicle description, a description of Subject 2, and his last known location.

Therefore, although the duration of the foot pursuit was relatively short, the officers are to be reminded that it is imperative to broadcast their foot pursuit and provide as much detail as possible related to the incident to afford responding units knowledge of the type of subject and severity of the crime prior to arriving on scene.

8. Officers C and D observed Subject 2 flee from Officers A and B and “inherited” the pursuit of Subject 2, but failed to update their status with Communications Division.

Therefore, Officers C and D are to be reminded that in order to assist in facilitating the response of additional units should they become necessary, they must advise CD of their updated location.

9. As Officers C and D made contact with Subject 2, both officers simultaneously gave commands. Officers are trained to utilize the concept of contact and cover in which one officer gives the verbal commands while the other provides cover.

The officers are to be reminded that when multiple officers give commands, it may create confusion in the mind of the subject, resulting in non-compliance. Furthermore, officers are reminded of the importance of coordinating their roles to ensure that the integrity of the contact and cover concept is not compromised.

The BOPC found Officers A, B, C and D’s tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

Subject 2 brandished a rifle and pointed it in the direction of Officer A. In response to Subject 2’s action, Officer A drew his service pistol. Officer B observed Subject 2 carrying a rifle and turn toward Officer A. In response to Subject 2’s action, Officer B drew his service pistol.

Following the OIS, Officer A holstered his service pistol and placed the police vehicle into the park position. Officer A believed he observed Subject 2 discard the rifle onto the street as he ran after the OIS.

Fearing Subject 2 could still be armed with an additional weapon, Officer A, stopped his vehicle, exited and continued to pursue him on foot. Officer A drew his service pistol and ordered Subject 2 to stop. Subject 2 continued to run and Officer A chased Subject 2 with his service pistol in his hand.

Officers C and D responded to the area once they heard the vehicle pursuit broadcast, observed Subject 2 fleeing from Officers A and B, and engaged in a pursuit of Subject 2. Subject 2 eventually stopped and Officers C and D drew their service pistols and ordered Subject 2 into a high-risk prone position.

It was reasonable for the involved personnel to believe that the tactical situation had escalated to the point where lethal force may become necessary.

The BOPC found Officers A, B, C and D's drawing and exhibiting to be in policy.

C. Lethal Use of Force

Subject 2's action of carrying a rifle, turning, and pointing it at Officer A caused Officer A to fear for his life and the life of his partner. It was objectively reasonable for Officer A to perceive he was in danger of immediate serious bodily injury or death and believe the circumstances warranted the application of lethal force.

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