

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

OFFICER-INVOLVED SHOOTING – 014-09

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes() No(X)</u>
Olympic	03/08/09		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	6 years, 5 months
Officer B	6 years, 8 months

Reason for Police Contact

Officers investigating a complaint of narcotics activity followed a vehicle after it almost collided with them. An occupant of the vehicle produced a handgun and fired at the officers.

<u>Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
Subject 3: Male, 19 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 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 February 16, 2010.

Incident Summary

Plainclothes Officers A and B were monitoring an area for possible illegal narcotics activity based on information they had received from a citizen complaint and a senior lead police officer.

While driving their plain vehicle in the area of the reported narcotics activity, the officers' vehicle was almost struck by another vehicle as it backed out of a driveway. The

officers followed the vehicle and observed Subjects 1, 2, and 3 in the vehicle. Subject 1 was the driver, while Subject 2 was the front passenger and Subject 3 was in the rear seat. While following the vehicle, the officers observed Subject 3 look back in their direction several times.

Note: The vehicle driven by the officers had a radio antenna mounted on the roof and Officer B believed that the antenna was “a dead give-away” that they were police officers.

Officer A obtained license plate number for the vehicle and utilized their police vehicle’s mobile digital computer (MDC) to conduct a Department of Motor Vehicle inquiry check. The MDC status check revealed that the vehicle was not stolen and there were no issues with the vehicle’s registration.

Officer B observed that the right rear passenger window of the vehicle was open and that Subject 3 was staring at the officers as the vehicle turned into an alley. Once back on the main street the vehicle abruptly stopped and the right rear passenger door opened. Officer B next stopped his vehicle behind the vehicle and Officer B observed that Subject 3 had his right hand over the left side of his hip as he walked east toward a green trash bin.

Note: According to Officer A, the officers did not advise Communications Division (CD) of their location because they had no plans of taking any police action regarding the vehicle they were following

While walking away from the officers, Subject 3 turned in their direction and raised a pistol toward them. Officer B immediately unholstered his service pistol and fired two rounds at Subject 3 through the front windshield of his vehicle from a distance of approximately 32 feet. Officer B then heard additional rounds being fired, opened the driver side door of his vehicle and planted his left foot on the ground to exit; however, he noticed that his vehicle was still moving forward. Officer B then observed Subject 3 run away. Officer B returned to the driver’s seat, placed the vehicle in park, and removed the keys from the ignition.

Meanwhile, Officer A observed Subject 3 holding a gun and yelled, “Gun, gun.” Officer A unholstered his service pistol and attempted to open the passenger side door; however, it would not open.

Note: The locking mechanism of the police vehicle’s passenger door was in the locked position, which prevented Officer A from quickly exiting the passenger side door.

Fearing for his and Officer B’s life, Officer A fired two rounds through the closed front passenger window of the police vehicle at Subject 3. Officer A then observed what appeared to be an impact on the front windshield and believed Subject 3 had fired a round at the officers. As a result, Officer A fired five additional rounds in rapid succession at Subject 3. Officer A then observed Subject 3 run out of his view.

As the shooting occurred, the vehicle containing Subjects 1 and 2 proceeded to drive away from the officers. Officer A attempted to broadcast a help call using his hand-held radio; however, the broadcast was inaudible to CD.

Note: The investigation determined that there were a total of two bullet impacts to the front windshield, both of which were caused by rounds fired from within the vehicle.

Note: Evidence recovered at the scene indicated that Subject 3 fired six rounds during his encounter with the officers.

Following the exchange of gunfire, Officer B broadcast a help call. Officer B also requested that a perimeter be established in the area and provided a description of Subject 3 and his direction of travel.

Officers A and B exited their vehicle and walked in the direction where they had seen Subject 3 running. Witnesses advised them that the suspect they were looking for had been picked up by a vehicle that had fled.

Several units responded to the help call, including Detective A, who was flagged down by a crowd of people. The crowd directed Detective A to a juvenile female victim who was sitting on a porch with a gunshot wound to her chest. The crowd advised Detective A that the victim had been playing in her front yard prior to the shooting. Detective A immediately requested a rescue ambulance (RA) and additional units to protect the secondary crime scene.

Note: The investigation determined that the round that struck the victim was fired by Subject 3.

Los Angeles Fire Department (LAFD) personnel next arrived at the location and treated the victim for what appeared to be a through and through gunshot wound to her chest. The victim was subsequently transported to a local hospital for additional medical treatment and survived her injury.

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 a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

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

C. Use of Force

The BOPC found Officers A and B's 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 did not intend to initiate contact with any suspects and were not wearing their ballistic vests; however, the area the officers were monitoring had a history of gang violence and narcotics sales.

Therefore, Officers A and B were reminded that it is imperative to take into consideration the area in which they are monitoring and if the use of the ballistic vest would jeopardize their investigation. Additionally, if the officers elect not to wear their vests, they should consider having their vests in the passenger compartment of the vehicle in order to provide them immediate access should an incident arise where donning the vest would be beneficial.

2. Officer B had to abruptly stop the vehicle in order to avoid being struck by the subjects' vehicle pulling out of a driveway. Officer B then accelerated in order to obtain the vehicle's license plate number and conduct a check via the MDC. As he closed the distance between his vehicle and that of the subjects, the subjects' vehicle negotiated a turn into an alleyway. Officer B then slowed the police vehicle and followed the vehicle into the alleyway. Officer B noted the subject seated in the right rear passenger seat continued to look back toward them, causing Officer B to believe the subject had identified them as police officers; however the officers continued to follow the vehicle.

Officers A and B were reminded that while operating in a plainclothes capacity, their identity as police officers is unknown to the public. Actions such as accelerating toward and/or following a vehicle into an alleyway may be construed by narcotics suspects and gang members as hostile acts by rival gang and/or narcotics suspects, resulting in a confrontation. The officers should consider remaining at a safe driving

distance from vehicles they are attempting to follow in order to maintain their anonymity.

3. Officer B attempted to exit the police vehicle; however, when he opened the driver side door and began to exit, he realized that the vehicle was still moving. Officer B then reached back into the vehicle and placed the vehicle into park. It is the driver's responsibility to ensure that the vehicle is placed in a tactically advantageous position and that the vehicle is placed in park. Additionally, with the vehicle's transmission in gear, the passenger doors locking mechanism remained engaged thereby preventing Officer A from opening the front passenger door and exiting the police vehicle. As such, the officers were reminded of the additional responsibilities placed upon the driver of police vehicles and the potential negative ramifications that may present themselves if these responsibilities are not adhered to.
4. Following the shooting, Officer A attempted to broadcast a help call via his handheld radio; however, the broadcast was inaudible. Officer B then requested that a perimeter be established, but the information contained in Officer B's broadcast was limited. It would have been prudent for Officer B to have included the nature of the incident, a brief description of his and Officer A's attire, and the direction of the fleeing armed subject along with his description.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officer B observed Subject 3 exit the vehicle and turn while armed with a handgun. Officer A observed Subject 3 exit the vehicle holding appeared to be a handgun and that he unholstered his weapon reasonably believing that the situation could escalate to the use of deadly force. Accordingly, it was reasonable for Officers A and B to believe that the tactical situation had escalated to the point where lethal force may become necessary.

The BOPC found Officers A and B's Drawing/Exhibiting to be in policy.

C. Use of Force

The BOPC noted that the officers found themselves in an ambush situation with a subject whose actions threatened to kill them or cause them serious bodily injury. Generally, it is not a recommended practice for officers to shoot through the vehicle's front windshield. Here, however, circumstances arose in which the officers were not afforded the luxury of time to exit the police vehicle prior to taking action. It was objectively reasonable for Officers A and B to perceive they were in danger of immediate serious bodily injury or death and to respond by firing their pistols at Subject 3.

The BOPC found Officers A and B's use of Lethal Force to be in policy.