

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

**OFFICER-INVOLVED SHOOTING – 016-09**

<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>
Southwest	03/11/09		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	6 years, 10 months

**Reason for Police Contact**

Officer observations.

<b><u>Subject(s)</u></b>	<b><u>Deceased (X)</u></b>	<b><u>Wounded ( )</u></b>	<b><u>Non-Hit ( )</u></b>
Male, 25 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**

Officers A and B were on routine patrol when they observed an individual standing in the roadway leaning into the driver side window of a vehicle. The vehicle was parked at the curb in front of a residence.

**Note:** The vehicle the officers observed was driven by Subject 1, with Subject 2 in the front passenger seat, Subject 3 in the rear passenger seat behind Subject 1, and Subject 4, in the rear passenger seat behind Subject 2.

The officers decided to conduct a pedestrian stop based upon the belief that the individual standing in the roadway was engaged in a possible narcotics transaction with the vehicle's occupants. Moreover, the area was known to be frequented by gang members and a vehicle matching the parked vehicle had earlier been involved in a homicide incident in area.

Officer B, who was driving the police vehicle, pulled alongside Subject 1's vehicle and stopped in the roadway. Officer B made contact with the individual standing alongside Subject 1's vehicle and directed him onto the sidewalk to begin a field interview. In the interim, Officer A exited the police vehicle, leaving the passenger door open. Upon approaching Subject 1's vehicle, Officer A observed an open beer can in a cup holder located in the center console of the vehicle. To better observe the occupants of the vehicle, Officer A requested that Subject 1 lower the front driver and rear passenger windows, which were tinted. Subject 1 complied with the request.

**Note:** Neither Officer A or B informed Communications Division (CD) of their location and status prior to initiating contact with the subjects.

According to Officer B, Officer A alerted him to the fact that there were four occupants in Subject 1's vehicle by the use of hand signals. Once aware of the number of suspects in the vehicle, Officer B handcuffed the individual he was interviewing because he and Officer A were outnumbered. Officer B then continued with his interview of the individual.

Officer A then requested that Subject 1 exit his vehicle because of the open beer container and stepped away to allow Subject 1 room to open the door. Officer A then observed a silver colored semi-automatic pistol on Subject 1's lap with his left hand over the slide and his right hand on the grip. Subject 1 also appeared to be pulling back the slide on the pistol to place a round into the chamber.

Officer A, fearing for his safety, drew his service pistol. Subject 1 then turned his head and shoulders toward Officer A and pointed the pistol in the direction of Officer A, who responded by firing five rounds at Subject 1. As he fired, Officer A moved toward the rear of the vehicle, crossed behind it and took cover on the sidewalk alongside a parked vehicle.

Upon hearing the shots, Officer B drew his weapon and moved the individual he was interviewing to a covered position alongside the parked vehicle, where they were joined by Officer A.

Subsequent to Officer A firing his weapon, Subject 1's vehicle backed up and hit the parked vehicle. Subject 1's vehicle pulled forward and hit the open passenger door of the parked police vehicle, forcing the door past its normal open limit. Subject 1 then drove out of the area. Officer B contacted immediately Communications Division and broadcast a help call. Officers A and B then went to their police vehicle intending to pursue the fleeing, but were unable to do so because of the damage it sustained upon being hit by Subject 1's vehicle.

After leaving the area, Subject 1's vehicle crashed after hitting several vehicles and a storage container, as Subject 1, who had been struck by Officer A's gunfire, lost consciousness, and Subject 2 attempted to gain control of the vehicle by grabbing the steering wheel.

**Note:** According to Subject 3, he "threw himself" out of the fleeing vehicle prior it crashing. Subject 3 also indicated that prior to exiting the vehicle, Subject 2 gave him a pistol, which Subject 1 had thrown on Subject 2's lap after leaving the shooting scene. This pistol was not the one initially observed by Officer A.

After coming to a stop, Subjects 2 and 4 exited Subject 1's vehicle and fled on foot. Meanwhile, a security officer (Witness 1) who had had observed the fleeing vehicle being driven at a high rate of speed and crash reported this information to his supervisor. Two other security officers (Witnesses 2 and 3) arrived at the crash scene prior to LAPD officers. Upon arrival at the crash scene, Witness 3 approached the driver's side of Subject 1's vehicle and observed Subject 1 slumped over, non-responsive, in the driver's seat. Witness 3 then opened the driver's door. A chrome semi-automatic pistol, which had been resting on Subject 1's knee, fell to the driver's side floorboard area. Witness 3 noted that the pistol's hammer was in the "cocked" position. Witness 3 immediately retrieved the pistol from the floorboard and placed in on top of the crashed vehicle's trunk lid. The pistol was subsequently secured by a responding LAPD officer.

Subject 1 was subsequently removed from his vehicle by several LAPD officers who had also responded to the location following Officer B's help call, and a Los Angeles Fire Department Rescue Ambulance (RA) was summoned. Upon arrival, paramedics determined Subject 1 was unresponsive. Subject 1 was transported to California Hospital and was pronounced dead.

**Note:** Subject 2 was ultimately located hiding in a tree not far from where Subject 1's vehicle had crashed by K-9 officers, who took him into custody.

**Note:** Subject 4 was also taken into custody by LAPD officers not far from the crash scene.

**Note:** An witness observed Subject 3 exit the fleeing vehicle and discard a pistol. This information resulted in the arrest of Subject 3 and the recovery of the pistol.

## **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 Officer A and B's tactics to warrant a Tactical Debrief.

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

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

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

The BOPC found Officers A'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 observed an individual standing in the roadway, conducting what the officers perceived was a narcotics transaction with the driver of a parked vehicle. Officers A and B elected to detain the individual and the occupants inside the vehicle. However, the officers did not advise Communications Division (CD) of their Code 6 location or other pertinent information until after the OIS.

It would have been prudent for Officers A and B to update their status and advise CD of their location once the determination to make contact with the suspects was made. Although, there may be circumstances that prevent officers from advising CD of their status and location, in this situation, the officers had ample time to notify CD prior to making contact with the subjects.

Therefore, Officers A and B are reminded to notify CD of their updated status and location when conducting field activities. The officers are also reminded that it is imperative to keep CD updated in order to assist in facilitating the response of additional units should the necessity arise.

2. Given the circumstances, the position of the subjects' vehicle coupled with the inherent dangers of traffic on a major thoroughfare, Officer B had to make a tactical decision concerning deployment of the police vehicle. However, the positioning of the police vehicle placed the officers at a tactical disadvantage.

Therefore, Officer B is reminded that as the driver officer, he is responsible to position the police vehicle in a manner that gives officers a position of a tactical advantage.

3. Upon initiating contact with the suspects, Officer A focused on addressing the occupants of the vehicle while Officer B focused on the individual outside of the vehicle. Officers are trained to utilize the concept of contact and cover in which one officer gives the verbal commands while the other provides cover. Officers A and B deviated from the concept of contact and cover when they divided their attention and simultaneously engaged multiple subjects in separate locations.

Therefore, Officers A and B are reminded of the importance of coordinating their roles to ensure that the integrity of the contact and cover concept is not compromised.

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

The BOPC noted that Officer A observed Subject 1 holding a handgun and drew his service pistol. Moreover, Officer B heard a gunshot and was unaware of who fired the weapon. Accordingly, it was reasonable for Officers A and B to believe that the tactical situation had escalated to the point where lethal force had become necessary.

Therefore, the BOPC found Officer A and B's drawing/exhibiting to be in policy.

**Note:** In addition to the above listed personnel, additional officers responded and drew or exhibited their firearms during this incident. This drawing/exhibiting was appropriate and requires no specific findings or action in regard to these officers.

## **C. Use of Force**

The BOPC noted that Subject 1's action of holding a handgun, coupled with the perception of the suspect chambering a round, turning, and pointing it at Officer A, caused him to fear for his life and the life of his partner. Therefore, 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.

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