

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

**OFFICER-INVOLVED SHOOTING & K-9 CONTACT REQUIRING HOSPITALIZATION- 019-09**

<b>Division</b>	<b>Date</b>	<b>Duty-On(X) Off()</b>	<b>Uniform-Yes(X) No()</b>
Mission	03/26/09		
Outside	03/27/09		

<b>Involved Officer(s)</b>	<b>Length of Service</b>
Officer A	2 years, 2 months
Officer B	3 years, 11 months
Officer D	23 years, 8 months

**Reason for Police Contact**

While on patrol, officers heard shots being fired, and responded to the area. They observed a vehicle fail to stop for a stop sign, and, while following the vehicle, heard shots coming from the vehicle.

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit (X)</b>
Subject 1: Male, 29 years		(Wounded during K-9 contact.)	
Subject 2: Male, 32 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). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject 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 March 2, 2010.

### **Incident Summary**

Officers A and B were patrolling in a marked police vehicle when they heard between three and seven gunshots, which they believed came from west of their location. Officers drove to the area and observed a vehicle fail to stop for a stop sign. As the officers followed the vehicle, they heard five gunshots coming from the vehicle. Later, five expended casings were found at the location.

Officer B broadcasted that shots had been fired and requested help. As the broadcast was being made, the vehicle accelerated, lost control and struck a parked car on the west side of the street. Officer B advised Communications Division (CD) of the collision. The officers exited the police vehicle, drew their weapons and simultaneously ordered the subjects to place their hands out of the windows. Officer A saw no movement from the driver's side of the vehicle and observed that the driver's side window was closed. To increase his view, Officer A moved from behind the cover of the police vehicle door to the passenger side of the police vehicle and took a position close to Officer B. At this time, both officers were standing in the street, away from the cover of their vehicle.

Both officers were giving commands at the same time as Subjects 1 and 2 exited the vehicle and fled, ignoring commands to stop. The officers decided to clear the vehicle to ascertain if any additional subjects were inside. As they approached the vehicle, Officer B saw a muzzle flash coming from a position south of his location, on the west side of the street, where Subject 1 was last seen running. Forming the opinion that one of subjects was shooting at them, Officer B fired one round from his pistol in the direction of the muzzle flash.

Meanwhile, Subject 2 continued to run south toward the east curb. Officer A ordered Subject 2 to stop, but he did not comply. As Subject 2 reached the east curb, he turned his body. Officer A then heard three to five gunshots. Believing Subject 2 was firing at them, Officer A fired three rounds at Subject 2, who ran east, into the houses and out of sight.

After the officers had discharged their weapons, they returned to the cover of their police vehicle, and advised CD that shots had been fired, as well as a description of the subjects. Upon the arrival of additional personnel, the vehicle was searched for additional subjects, but none were found. During the search, a rifle was observed on the front seat of the vehicle. Officer C then directed responding units to specific locations in the area to establish a perimeter.

Sergeant A arrived at the scene, and established a Command Post (CP). Sergeant A directed responding resources, and a request for a K-9 unit was made via CD. Officer D and his K-9 responded to the scene.

After the CP received information regarding a prowler in a rear yard, Officer D and his K-9 assembled a search team to search the yard. Sergeant A later characterized it as a "probe," at that location. The search did not locate any subjects.

After hearing noises in another yard, the K-9 search team opened a gate at the front of a residence and the K-9 performed an off-leash search of the front yard. The K-9 team moved to the latched gate separating the front and rear yards and entered the rear yard. The K-9 moved toward the southeast corner of the yard. At that time, Subject 1 moved from a crouched position and ran west from the east corner of the rear yard. As Subject 1 neared the perimeter of the yard, the K-9 bit him on the right arm. Subject 1 struggled against the K-9's bite and moved approximately nine feet before being brought down to the ground by the K-9. During the K-9 contact, Officer D repeatedly ordered Subject 1 to stop resisting the K-9. When Subject 1 stopped resisting, Officer D called the K-9 back to his side. Subject 1 was kept in a prone position, but not handcuffed, by the remaining members of the K-9 search team until patrol officers, wearing protective gloves, responded and placed handcuffs on him. Subject 1 was transported to the hospital, where he was treated for deep lacerations.

After additional officers arrived at the CP, another K-9 search was made for Subject 2 in the area where he had been last seen by Officer A; however, Subject 2 was not located.

Following the search for the subjects, an additional K-9 search was conducted in the rear yard where Subject 1 had been located. A pistol was found during the search. An examination of the pistol determined that it had malfunctioned, and that it had two live rounds in the magazine.

### **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 that Officers A and B's tactics warranted a Tactical Debrief.

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

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

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

The BOPC found that Officers A, B and D's use of force to be in policy.

### **Basis for Findings**

#### **A Tactics**

In their analysis of this incident, the BOPC noted the following considerations:

1. In this instance, Officers A and B were on patrol when they heard approximately seven gunshots. The officers determined the shots originated west of their location and went to investigate further. The officers observed a vehicle fail to stop for a posted stop sign.

The officers did not advise CD of their status and location. Additionally, when they observed the vehicle they only broadcasted that they were following a DUI suspect and did not advise CD that the subjects were possibly involved in a shooting. It would have been prudent for the officers to advise CD of their location and status once they decided to investigate a possible shooting. Furthermore, other units in the area would have benefited from the additional information of the potential threat in the area. Although there may be circumstances that prevent officers from advising CD of their status and location, in this situation, the officers had adequate time to notify CD prior to searching the area.

2. In this instance, Officer A was following the vehicle when Subject 1 collided with a parked vehicle. Officer A stopped the police vehicle in the middle of the street, preventing both officers from maintaining a clear view of the driver and passenger side of the subjects' vehicle. Additionally, the positioning of the police vehicle caused the officers to adjust their tactics and leave their positions of cover behind the police vehicle's ballistic door panels.

As the driver officer, Officer A is responsible for positioning the police vehicle in a manner that affords the officers a tactical advantage by utilizing the vehicle's ballistic door panels. By doing so, the driver makes it safe to exit and allows the officers to tactically deploy on the suspect(s).

3. Following the traffic collision, both officers both giving commands to the subjects. Officers are trained to utilize the concept of contact and cover in which one officer gives the verbal commands while the other provides cover.

When multiple officers give commands, it may create confusion in the mind of the suspect(s) resulting in non-compliance. Furthermore, it is important to coordinate their roles to ensure that the integrity of the contact and cover concept is not compromised.

4. In this incident, officers were unable to clearly observe the subjects exiting the vehicle which caused them to move away from their position of cover behind the police vehicle's ballistic door panel.

The officers did not seek additional cover, causing them to remain out in the open and vulnerable to further attacks from the armed subjects. Although it was reasonable for the officers to reposition themselves to maintain visual contact with the subjects, it would have been safer for them to move the police vehicle to a position where they could observe the subjects while maintaining a position of cover.

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

The BOPC noted that in this instance it was reasonable for the officers to believe that the tactical situation had escalated to the point of where lethal force may become necessary.

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

In this instance, Officer B attempted to order Subject 1 to submit to arrest. However, Subject 1 fled from the officers and fired a round in Officer B's direction. The BOPC evaluated the circumstances relevant to Officer A and B's lethal use of force and determined that although the subjects were a significant distance away, both officers perceived that they were being fired upon by the subjects. In conclusion, Officer A and B's use of lethal force was objectively reasonable to protect themselves from the immediate threat of serious bodily injury or death.

The BOPC found that Officers A and B's use of Lethal Force to be in policy. The BOPC noted that in this instance, Officers A and B perceived that that they were being fired upon by the subjects. The officers' use of lethal force was objectively reasonable to protect themselves from the immediate threat of serious bodily injury or death.

## **D. Deployment of K-9**

In this instance, Sergeant A responded to the scene and was advised that there were two outstanding subjects who had committed a felony crime where shots had been fired at the officers. Sergeant A determined that the criteria for a K-9 search were met.

1. Sergeant A and Officer D determined an announcement would not be provided prior to beginning the search with the dog because it would place the search team officers at a tactical disadvantage. This decision was made based on the subjects' willful disregard for authority when they fired their weapons at the officers. Additionally, they indicated the announcement would alert the subjects as the officers approached and possibly place the search team in an ambush situation.

In conclusion, the BOPC found that the decision to forgo the K-9 search announcement was reasonable and consistent with established criteria.

2. In this instance, Sergeant A believed the subjects posed a threat to the community, and could force entry into a residence leading to a hostage situation. Sergeant A formed a search team when additional K-9 officers arrived on scene to probe the area prior to the arrival of SWAT officers.

Although the current Department's K-9 policy on search procedures does not use the term "probe," in this instance, it is apparent that there was an urgency to locate subjects and a limited directed search was appropriate. Additionally, K-9 unit officers were well-equipped and trained to handle the initial search until SWAT personnel arrived and additional search teams could be assembled.

In conclusion, the BOPC determined that the deployment of the K-9 was consistent with established criteria.

#### **E. Contact of K-9**

In this instance, the K-9 searched along the corner of the target residence. Subject 1 realized the K-9 was near, and from a crouched position, attempted to run. The K-9 reacted to Subject 1's actions which were consistent with an attempt to flee, and bit Subject 1's right arm. Despite Subject 1's attempts to break free, the K-9 was able to pull him to the ground. Officer D continually ordered Subject 1 to lie on the ground and not to move. Once Subject 1 complied with the orders and ceased his attempts to flee, Officer D ordered the K-9 to his side. The K-9 responded to the commands, immediately released hold of Subject 1's arm and returned to Officer D's side.

The BOPC determined that the contact of the K-9 was consistent with established criteria.

#### **F. Post K-9 Contact Procedures**

In this instance, Sergeant A was well aware that the incident was a Categorical Use of Force and would be investigated by FID detectives. Therefore, Sergeant A conducted a limited interview of Subject 1 prior to Los Angeles Fire Department personnel transporting him to the hospital for treatment.

In this instance, Subject 1 was allowed to remain unsecured while K-9 personnel requested patrol units to respond into the perimeter and apply the handcuffs. Although K-9 officers are customarily armed with long barreled weapons while designated to a search team, it would have been tactically advantageous for an officer to secure or sling their weapon and take Subject 1 into custody while the additional K-9 officers provided cover, rather than waiting on the response of additional officers to handcuff and search Subject 1.

Therefore, in order minimize the opportunity for subject(s) to arm themselves or making movements that may necessitate additional contact by the K-9, the officers are reminded that subject(s) should be handcuffed as soon as practicable.

The BOPC determined that the post K-9 contact procedures were consistent with established criteria.