

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

OFFICER-INVOLVED SHOOTING – 040-13

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
Wilshire	5/1/13		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer C	7 years, 4 months
Officer D	8 years, 6 months

Reason for Police Contact

Plainclothes officers observed a vehicle that had several equipment violations. A patrol unit was requested to conduct a vehicle stop. When the police vehicle attempted to conduct the stop, the subjects' vehicle pulled into the driveway. Subject 1 exited the vehicle armed with a gun and an OIS occurred.

<u>Suspect</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
Subject 1, male, 18 years old.			
Subject 2, 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 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 Chief of Police; and the report and recommendations of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

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 18, 2014.

Incident Summary

Plainclothes Officers A and B were assigned to work surveillance and observation for uniformed officers on a pre-planned operation. Sergeant A approved an Operation Plan completed by Officer A and the specialized unit was deployed in the defined area. Sergeant A was present for direct supervision and to monitor his officers' activities.

During the surveillance, Officers A and B's ballistic vests and raid jackets were on the rear seat where they were readily accessible. As Officer B was driving, he observed a vehicle driving south. As the vehicle passed the intersection, the passenger, thought to be a possible gang member, later identified as Subject 1, stared and appeared to be very nervous and suspicious of the plainclothes officers.

The officers believed that Subject 1 was "mad dogging" them, or staring them down, a common method gang members use to intimidate people. The vehicle, driven by Subject 2, had no front license plate, had a modified exhaust, tinted windows and tinted rear tail lights, all of which are equipment violations of the CA Vehicle Code.

Officer B followed Subject 2 and Officer A queried the license plate for wants and warrants on the radio. Officer A requested uniformed officers to stop the vehicle for the equipment violations. Communications Division (CD) responded there were no wants or warrants and that the vehicle was registered to Subject 2.

In response to Officer A's request, uniformed Officers C (driver) and D (passenger) broadcast that they were responding.

Officer B believed that Subject 2 was aware he was being followed because he would drive very slowly and then speed up, possibly trying to determine if the officers' car would follow him. Subject 2 stopped at the west curb to allow the officers' car to pass, but Officer B did not want to get closer and stopped at the west curb, approximately 200 yards behind Subject 2's vehicle. Subject 2 remained at the curb for approximately 20 to 25 seconds and no one entered, exited or approached the vehicle.

When Officers C and D drove past Officer A and B's stopped car, Subject 2 pulled away from the curb at a high rate of speed, accelerating to an estimated 35 miles per hour (MPH). Subject 2 turned right and failed to stop for a posted stop sign and accelerated to an estimated 30 to 35 MPH.

When Officer C negotiated a right turn onto another street, Subject 2 was already one block ahead at the next intersection. Subject 2 then turned right and failed to stop for another posted stop sign. The officers believed Subject 2 observed their police car and was possibly attempting to flee.

For a few seconds, Officers C and D lost sight of the vehicle after it had turned. As Officer C turned at the intersection, Subject 2 was turning right into the driveway of a residence. As Subject 2 slowed to a stop in the driveway, the passenger door started to open. Officer C stopped his vehicle angled behind the vehicle at the driveway apron,

activated the overhead emergency lights and briefly activated the siren to conduct a traffic stop.

Officer D reached for the microphone to broadcast their location, but when the passenger door opened prior to the vehicle coming to a complete stop, he decided not to broadcast because he thought there might be a foot pursuit and did not want to be seated in the police car when Subject 1 exited the passenger door. Officer D believed that Officers A and B were following closely behind, and they would broadcast their location.

Subject 2 braked sharply, and the passenger door flew open as the vehicle stopped in the driveway. Immediately, Subject 1 jumped down out of the vehicle and faced toward the officers. Subject 1's right arm came out of the vehicle last and both officers observed that he was holding a pistol in his right hand. Both officers yelled, "Gun!" to alert their partner.

Officer D drew his pistol with his right hand as he exited the police car and used the ballistic door as cover. Subject 1 brought his right hand across his chest to aim the pistol at Officer D, but due to the abrupt stop, the vehicle's passenger door recoiled backward and struck Subject 1, causing him to momentarily lose his balance. Subject 1 held the pistol in his right hand and he canted it sideways to where the pistol was held parallel to the ground.

When Subject 1 regained his balance, his knees were flexed and he was leaning toward Officer D. With his finger on the trigger, Subject 1 raised the canted pistol in his right hand and aimed at Officer D. In defense of his life, Officer D aimed at Subject 1's center torso, and from an approximate distance of 20 to 25 feet, fired twice. Subject 1 spun quickly to his left, then ran to the front of the vehicle. Subject 1 turned his head back to observe the officers' positions while holding the pistol at chest level. Officer D feared that since Subject 1 did not drop the weapon and had checked for the officers' positions, Subject 1 was moving to a position of advantage, in front of the vehicle.

While moving toward the front of the vehicle, Subject 1's body was bladed to where Officer D could observe his left side and the pistol was still being held at chest level in his right hand. To stop Subject 1 from reaching a barricaded position of cover from where he could re-engage the officers, Officer D aimed his pistol at the left side of Subject 1's torso, and fired once in an easterly direction. Subject 1 ran north around the front of the truck, turned to his right, ran east in the driveway and out of Officer D's sight. Officer D then heard seven to eight gunshots and believed that Subject 1 was firing the pistol.

Note: There was no physical evidence to indicate that Subject 1 had discharged his weapon during this incident.

As Officer D exited the police car, Officer C observed Subject 1 exit the passenger door while holding a pistol in his right hand, then take a step forward, facing Officer D. Officer C drew his pistol as he exited the police car. Because his police car was angled

behind the vehicle, Officer C did not have a clear line of fire toward Subject 1. Officer C heard gunfire and believed that Officer D was being shot at, so he moved in front of the driver's door to a position of cover behind the engine block. Subject 1 moved north behind the vehicle and out of Officer C's sight. Officer C covered the driver's door, because Subject 2 was still in the driver's seat.

As he covered the driver's door, Officer C observed Subject 1 reappear very quickly as he moved north in front of the vehicle. Subject 1 was four to five feet in front of the truck with the pistol pointed at the ground. When Subject 1 made eye contact with Officer C, he began to raise the pistol and aim it toward him. To protect his life, Officer C aimed at Subject 1's upper abdomen as the pistol was being raised. Officer C fired one round from an approximate distance of 25 to 30 feet. Officer C immediately fired a second and third time as Subject 1 fully raised the pistol to chest level, aimed it at Officer C and moved sideways, north and to his right. Officer C believed that Subject 1 fired at him or was attempting to fire.

Subject 1 reached the north side of the driveway, turned, and ran east with the pistol concealed in front of his body. It appeared that Subject 1 was attempting to manipulate the pistol, but Officer C could not observe exactly what he was doing. While running, Subject 1 turned to his left and pointed the pistol over his left shoulder back toward Officer C. Officer C raised his pistol, aimed at Subject 1's left upper torso and fired once. Subject 1 stopped running, continued turning his body to the left and faced Officer C.

Subject 1 raised and extended the pistol out in a two-handed shooting stance and aimed at Officer C. Officer C aimed at Subject 1's upper torso and fired two or more times at him in an easterly direction. Subject 1 immediately fell to the driveway near a gate across the east end of the driveway. Subject 1 fell onto his left side, then rolled onto his stomach. Officer C went to a low-ready position to reassess. Subject 1 was on his stomach for three to four seconds before he stood up and jumped over the gate, possibly landing face first on the opposite side. Officer C could see Subject 1 through the chain link gate, but did not observe the pistol. Subject 1 laid on his stomach looking back at Officer C for approximately five to 10 seconds, then got up and ran north behind the house and out of Officer C's view. Officer C moved back behind the driver's door for cover and guarded Subject 2, who was still seated in the driver's seat. Officer D requested help on the radio and provided the officers' location.

Officer B arrived and immediately went to the driver's side of the police vehicle, unholstered his pistol, and covered east down the driveway. Officer A exited, unholstered his pistol, and remained behind his car for cover. Officer C asked Officer B to cover him while he conducted a reload, and proceeded to place the original magazine into his right rear pants pocket. Officer C issued commands directing Subject 2 out of the vehicle, but another unidentified officer continued with the commands. Subject 2 exited the driver's door and was placed into a prone position near the curb, where he was handcuffed without incident by responding officers.

Officer A broadcast additional information concerning Subject 1's physical and clothing descriptions, that he was armed with a pistol, and that he was last seen running east between houses.

Sergeant A arrived at the scene approximately one minute after the help call and approached Officer C, who was standing behind his driver's door and obtained a Public Safety Statement (PSS) from him.

Officer D walked to Sergeant A at the driver's door and to be alone, they stepped back and away from Officer C, at which time Sergeant A obtained a PSS from Officer D.

Since Subject 1 was outstanding and the situation was still tactical, Sergeant A did not immediately separate and remove Officers C and D from the scene. Officer C received permission from Sergeant A to deploy his police rifle from the trunk of his vehicle. During the ongoing tactical portion of the incident, Sergeant A was in proximity to both officers to ensure they did not discuss the OIS.

Sergeant A observed a ballistic impact on the front of the residence and formed a team of officers to check the residence for Subject 1 or injured victims inside. After clearing the residence, an officer informed Sergeant A the residence was clear, but it was a rehabilitation facility with several bed ridden patients. Sergeant A posted an officer to protect the patients from Subject 1 if he appeared, and he also posted an officer to guard Subject 1's pistol that was lying in the driveway. After approximately 20 to 25 minutes, Sergeant A removed Officers C and D from the OIS scene. Officers C and D were then monitored by other supervisors who had arrived at the scene.

Metropolitan Division K-9 units were subsequently requested to respond to search for Subject 1. Upon their arrival, a search of the area was conducted. During the K-9 search, Subject 1 was located inside a rear detached house. Subject 1 voluntarily exited the residence and was taken into custody without incident. Subject 1 was not injured during the OIS and did not require medical treatment.

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 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 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

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

C. Lethal Use of Force

The BOPC found Officer C and D's lethal force to be in policy.

Basis for Findings

A. Tactics

- In its analysis of this incident, the BOPC identified the following tactical considerations:

1. Tactical Planning

Sergeant A could not recall if he had specifically notified the Area's Watch Commander of the operational plan. Additionally, the watch commander box on the operation plan was not checked, and the notification was not documented on the Watch Commander's Daily Log.

Additionally, the Operation Plan was also incomplete. In this instance, the Operation Plan ensures the management component of the operation is completed and identifies the duties of each individual officer to ensure the enhanced likelihood of a successful operation. Although, not thoroughly completed, the Operation Plan was not a substantial deviation from Department policy.

In conclusion, the BOPC determined that Sergeant A and Officer A would benefit from a review of the basic concepts associated with effective tactical planning and documentation when deploying officers for an operation.

2. Chase/Arrest Team

The officers who were designated in the Operational Plan to assist Officers A and B were unable to immediately respond to their request to conduct a traffic stop.

The personnel involved in this incident were working a specified crime suppression detail that consisted of two supervisors, a plain clothes unit and uniform contingency.

The BOPC noted that the officers deviated from their mission by responding to an additional unit request by other officers that were conducting a traffic stop on a vehicle containing four possible gang members. Consequently, Officers A and B were left without an assigned uniformed chase team. However, the investigation reflects these officers knew there were additional uniformed officers in the area available to assist the plainclothes officers with any enforcement request. Nonetheless, it is the BOPC's expectation that the assigned chase team remain available to support the surveillance unit throughout the duration of the operation. Consequently, the chase team's decision to leave their designated assignment created a circumstance where the plainclothes officers were working without the active support of their assigned uniformed chase team.

The BOPC determined that given the totality of the circumstances, although the officers' actions deviated from approved Department Tactical Training, their deviation was not substantial, and corrective action was taken immediately upon discovering the tactical deployment concern without delay. In an effort to enhance future tactical performance, the BOPC will direct that this topic be addressed during the Tactical Debrief.

3. Radio Communications/Code-Six

Upon initiating the traffic stop on the truck, Officer D did not broadcast the officers' Code-Six location. According to Officer D, he did not broadcast their Code-Six location since the truck stopped without warning. Officer D intended to broadcast the officers' Code-Six location, when the front passenger door suddenly opened up. Officer D believed the subject intended to flee on foot and opted to quickly exit the police vehicle for a possible foot pursuit instead of initially broadcasting their location. In addition, Officer D knew that Officers A and B were in the immediate vicinity and would be in a position to broadcast their location.

While evaluating Officer D's actions, the BOPC took into consideration his initial observations, coupled with the incident rapidly unfolding from a traffic stop to a lethal force situation requiring Officer D to make split-second decisions. Department tactical training allows for immediate officer safety concerns to supersede a broadcast to CD. Therefore, the BOPC determined that based on the totality of the circumstances, Officer D's actions were reasonable and did not represent a substantial deviation from approved Department tactical training. The BOPC also appreciated the pre-planned team work that was displayed when the secondary unit broadcast the officers' Code-Six location.

Nevertheless, advising CD of the status and location is imperative in order to ensure officer safety and maintain a tactical advantage. The BOPC will direct that this topic be addressed during the Tactical Debrief.

4. Body Armor

Officers A and B, plainclothes officers, were specifically tasked with conducting surveillance in a designated area. The officers were assigned a uniformed chase team to conduct investigative stops and complete any enforcement actions. Officers A and B were directed not to conduct any enforcement activity, unless tactically necessary. Accordingly, the Department policy required the officers to have their body armor or tactical vests readily available in the field. Based on the equipment requirement for plainclothes/surveillance officers, the decision to wear their vests was at the discretion of the officers.

In this case, the officers opted not to wear their body armor and had their vests in the back seat of their vehicle. However, their roles as surveillance officers unexpectedly changed, given that they responded to an "Officer Needs Help" call, which led to assisting the involved officers with setting up a perimeter for Subject 1, as well as the detention and arrest of Subject 2. Although Officers A and B were not wearing their body armor during their initial arrival and contact with one of the subjects, when the situation was tactically feasible the officers donned their body armor.

Officers A and B did not deviate from the Department policy related to tactical considerations for body armor on plainclothes and surveillance officers. As such, a Tactical Debrief to enhance their future tactical performance would be the preferred forum to discuss body armor usage.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

The BOPC determined that the tactics used by the involved personnel did not substantially deviate from approved Department tactical training. Therefore, a Tactical Debrief is the appropriate forum to review and discuss the incident and individual actions that took place during this incident with the objective of improving overall organizational and individual performance.

In conclusion, the BOPC determined that Officers A, B, C and D's tactics warrant a Tactical Debrief.

B. Drawing/Exhibiting

- Uniformed Officers C and D were directed by plainclothes Officers A and B to conduct a traffic stop on a vehicle for equipment violations. Officers C and D were following the vehicle when it suddenly turned into a driveway and stopped. Officers C and D deployed their vehicle offset and at an angle directly behind the truck. Officers C and D observed Subject 1 exit the passenger door, reach back into the

vehicle and remove a firearm. Subsequently, Subject 1 pointed the firearm at Officer D resulting in Officers C and D drawing their weapon. Officers A and B heard the shots and arrived at the scene immediately following the OIS and subsequently also drew their respective firearms.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, C, and D, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Officers A, B, C, and D's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- As Officers C and D followed the subjects' vehicle in an attempt to initiate a traffic stop, the officers were unexpectedly faced with the truck turning into a driveway. Officers C and D deployed their vehicle offset on an angle directly behind the truck, when the passenger door suddenly opened. Officers C and D observed Subject 1 exit the passenger door with his right hand still in the vehicle compartment. Subject 1 removed his right hand from the vehicle with the firearm in his possession. Subject 1 pointed the firearm at Officer D, resulting in an OIS involving Officers C and D.

- **Officer D** – (pistol, three rounds)

Subject 2 abruptly stopped the truck as the passenger door opened. Subject 1 jumped down out of the raised vehicle and faced toward the officers. Subject 1's right arm came out of the truck last with a 9 firearm in his right hand. Both officers yelled, "Gun!" to alert each other.

Officer D drew his service pistol with his right hand as he exited the police vehicle and used the ballistic door as cover. Subject 1 brought his right arm across his chest and began pointing it in the direction of Officer D, when the truck's passenger door bounced backwards, striking Subject 1, which caused him to momentarily lose his balance. Subject 1 remained in possession of the firearm in his right hand and canted it sideways and parallel to the ground. When Subject 1 regained his balance, he leaned toward Officer D with his finger on the trigger of the firearm. Subject 1 raised the canted firearm in his right hand and aimed at Officer D. In defense of his life, Officer D aimed at Subject 1's center torso and fired twice in an easterly direction from an approximate distance of 20-25 feet.

Subject 1 spun to his left and ran to the front of the vehicle. Subject 1 turned his head back toward the officers' direction with the firearm still in his possession at chest level. Since Subject 1 was moving toward cover in front of the vehicle and appeared to look in the officers' direction to check on their positions, Officer D aimed at the left side of Subject 1's torso and fired an additional round at Subject 1. Officer

D feared Subject 1 was attempting to reach the front of his truck to gain a tactical advantage of the officers by maintaining cover in front of the vehicle with the pistol.

Subject 1 ran northbound around the front of the truck, turned to his right and ran eastbound in the driveway and out of Officer D's sight. Shortly thereafter, Officer D heard seven to eight gunshots and concluded it was Subject 1 discharging his firearm.

- **Officer C** – (pistol, seven rounds)

As Officer D exited the police vehicle, Officer C observed Subject 1 exit the passenger door while holding a firearm in his right hand. Subject 1 took a step forward as he faced Officer D. Officer C drew his service pistol to a left hand, low-ready position, as he exited the police vehicle. At the time, Officer C did not have a clear line of sight on Subject 1, due to the angle of the vehicle. Officer C heard gunfire and believed that Officer D was being shot at. Officer C repositioned himself in front of the driver's side door of his police vehicle for cover behind the engine block. Subject 1 moved northbound behind the vehicle and out of Officer C's sight. Officer C refocused his attention on the driver's side area where Subject 2 was still seated in the vehicle.

As he covered the driver's side door, Officer C observed Subject 1 reappear, as he moved northbound in front of the vehicle. Subject 1 was approximately five feet in front of the truck with the firearm pointed at the ground. When Subject 1 made eye contact with Officer C, he began to raise the firearm and aimed it toward him. To protect his life, Officer C aimed at Subject 1's upper abdomen area, as Subject 1 raised the firearm. Officer C fired his first round in an easterly direction from an approximate distance of 25 to 30 feet.

Officer C immediately fired a second and third time as Subject 1 raised his firearm to chest level and aimed it at Officer C. Subject 1 ran to the north side of the driveway, turned, and ran eastbound with the firearm concealed in front of his body. It appeared that Subject 1 was attempting to manipulate the firearm, but Officer C could not see what he was doing. While running, Subject 1 turned to his left and pointed the firearm over his left shoulder back toward Officer C. Accordingly, Officer C believed that Subject 1 was attempting to fire at him. Officer C fired a round in an easterly direction.

Subject 1 stopped running, continued turning his body to the left, and faced Officer C. Subject 1 raised and extended the firearm in a two-handed shooting stance, aiming it at Officer C. Officer C believed he fired at least two more times, if not more, at Subject 1 in an easterly direction. Subject 1 immediately fell in the driveway near the front gate. Subject 1 rolled onto his stomach, as Officer C lowered his firearm to assess the situation. Subject 1 remained on his stomach for approximately four seconds before he stood up, jumped over the front gate and ran out of the officers' view.

Based on Subject 1 being armed with a firearm and continuously brandishing the firearm in the officers' direction, Officers C and D's decision to discharge their respective service pistols to protect themselves and the lives of one another was objectively reasonable.

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