

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

**OFFICER-INVOLVED SHOOTING – 044-13**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ()</b>	<b>Uniform-Yes (X) No ()</b>
Foothill	5/17/13		

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

**Reason for Police Contact**

Officers were on patrol when they observed two males. When the officers illuminated the two males with their police vehicle's spotlight, the two males ran away while grabbing their waistbands. One of the males produced a handgun, which he then pointed at the officers, and an officer-involved shooting occurred.

<b>Subject</b>	<b>Deceased ()</b>	<b>Wounded (X)</b>	<b>Non-Hit (X)</b>
Subject 1: Male, 21 years old. (Wounded)			
Subject 2: Male, 23 years old. (Not injured)			

**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 April 8, 2014.

## **Incident Summary**

Officers A (driver) and B (passenger) were working uniformed patrol in a marked black and white police vehicle. Officers A and B were traveling in their vehicle when they observed Subjects 1 and 2 walking in the roadway. As Officers A and B drove closer, Subjects 1 and 2 walked to the sidewalk. Officer A observed Subject 1 was wearing gloves and according to Officer A, "He had like, I think, those motorcross gloves, which, you know, it's -- based on my training and experience people in that area or usually they don't really wear gloves unless it's cold at night. The only reason they wear gloves is they're about to commit a crime or they have a weapon on them and they don't want to get their fingerprints on the weapon when they commit a crime."

**Note:** Officer A initially stated he observed Subject 1 on the roadway wearing gloves; however, he later stated it was at the time he illuminated Subject 1 on the sidewalk that he observed the gloves.

**Note:** According to Officer A, he drove toward Subjects 1 and 2 to conduct a pedestrian stop for a vehicle code violation of pedestrian in the roadway. According to Officer B, they decided to initiate a consensual encounter.

Officer A illuminated Subjects 1 and 2 with the driver's side spotlight. Subjects 1 and 2 turned their heads in his direction and then ran away on the north sidewalk. Officer A observed Subject 1 immediately reach for his waistband which caused Officer A to focus on him. As both subjects were running on the sidewalk, Subject 2 ran at a slower pace and could not keep up with Subject 1. Officer A drove his vehicle past Subject 2 and by the time the officers caught up with Subject 1, Subject 2 was approximately 75 feet behind them.

Officer A followed Subject 1 in the police vehicle and yelled through the open driver's side window for Subject 1 to "Stop! Let me see your hands!" Officer A continued to parallel Subject 1 and told his partner, "Keep an eye on his hands... he's going for something."

From a distance of approximately 5 to 10 feet, Officer A observed Subject 1 pull a handgun from his waistband with his left hand. Officer A slowed the police vehicle to create distance and a position wherein Subject 1 would be forced to turn around to engage him with the handgun. Officer B recalled Officer A saying, "Gun. Gun. In his left hand."

While slowing to approximately 5 miles an hour, Officer A drew his gun, held it in his right hand and opened the driver's door with his left hand. Subject 1 turned clockwise with his handgun in his left hand, elbow bent and forearm horizontal to the sidewalk, and pointed it toward Officer A. Officer A yelled, "Gun, gun, gun!" As Officer A brought the vehicle to a stop, Officer B heard his partner's warning as he began to exit the front passenger side door. Officer A used his left foot on the driver's side door to hold it open and his right foot on the brake to stop the vehicle.

While Subject 1 continued to turn his upper body and point his handgun at the officers, Officer A perceived Subject 1 was going to shoot him or his partner. While seated in his vehicle, Officer A fired one round between the driver door frame and the vehicle at Subject 1. As Officer B exited the police vehicle, he observed Subject 1 make a “swinging motion” with his left hand and heard one round fired.

Officer A heard a loud scream and a noise consistent with a metal object striking the sidewalk. Subject 1 continued to move east approximately 10 to 15 feet before he fell to the sidewalk on his buttocks, facing toward the officers. Officer A remained in his vehicle and followed Subject 1 to where he fell to the sidewalk. Officer A placed the vehicle in park and exited the vehicle. Subject 1 rolled over to his stomach on his own accord with his arms underneath his chest.

Meanwhile, as Officer B exited the vehicle, he observed Subject 1 continue running for a short distance before he fell to the sidewalk, and Subject 2 running in the opposite direction holding his waistband area. Officer B drew his pistol and turned his attention toward Subject 1, who was on his stomach with his hands underneath his chest. As Officer B approached Subject 1, he observed a handgun on the sidewalk where it remained until collected as evidence.

**Note:** Subject 1’s handgun was later recovered on the sidewalk where he had dropped it. The handgun was swabbed for potential DNA evidence and the results revealed that Subject 1’s DNA profile matched the major DNA profile obtained from the handgun.

Officer A broadcast a help call on his radio and advised the responding units that there was one outstanding subject. Officer A also requested a rescue ambulance (RA) for Subject 1.

Officer B saw blood on Subject 1’s clothing. After Subject 1 was handcuffed, Officer B drew his pistol a second time because Subject 2 remained outstanding and was believed to be potentially armed with a firearm.

Officers and supervisors arrived at the scene and secured it. Los Angeles Fire Department personnel also arrived and treated Subject 1 for a gunshot wound. Subject 1 was then transported to a hospital.

Numerous units responded to the perimeter to search for Subject 2, including an air unit and several K9 units. As the incident progressed, and prior to a K9 announcement or search, Subject 2 came out of the perimeter and surrendered to officers. He was taken into custody and identified during a field show-up independently by Officers A and B.

## **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 made the following findings.

### **A. Tactics**

The BOPC found Officer A's tactics to warrant an Administrative Disapproval and Officer B's tactics to warrant a Tactical Debrief.

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

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

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

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

## **Basis for Findings**

### **A. Tactics**

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

#### **1. Radio Communications**

Officers A and B did not notify Communications Division (CD) of their intent to conduct a pedestrian stop of Subjects 1 and 2. Officers are given discretion regarding the exact time to conduct a radio broadcast indicating their status. The BOPC recognized there are tactical situations that may impact the timeliness of this broadcast. In this circumstance, Officers A and B decided to drive while illuminating Subjects 1 and 2. It would have been tactically advantageous for Officers A and B to notify CD of their status and location prior to initiating their contact. Nonetheless, the BOPC agreed that Officers A and B's decision was justified based on the fact that the tactical incident was immediately unfolding when Subjects 1 and 2 began running while reaching for their waistbands.

In conclusion, Officers A and B are reminded of the importance of a timely broadcast which will facilitate the response of additional units should they become necessary. This will be a topic for discussion at the Tactical Debrief.

2. Tactical Planning – Deployment of Vehicle – Pedestrian Contacts (Substantial Deviation), Officer A.

Officer A was seated in his police vehicle and initiated a pedestrian stop of Subject 1 while simultaneously driving parallel to him. Officer A observed Subject 1 manipulate his waistband in a manner he believed was consistent with an individual in possession of a firearm prior to making the decision to position himself parallel and in close proximity to Subject 1. In some cases, such a parallel position may be unavoidable; however, in situations where officers initiate contact, they should do so consistent with a tactical plan and always maintain a tactical advantage. In this case, it would have been tactically advantageous for Officer A to have stopped the police vehicle behind Subject 1 and exited, thereby utilizing the police vehicle as cover when they attempt contact.

In this circumstance, the BOPC was critical of Officer A's decision to *drive side-by-side* of a potentially armed suspect. Furthermore, Officer A's decision placed both officers at a tactical disadvantage and decreased the potential of operational success. As the driver of the vehicle, Officer A was in control and responsible for positioning the vehicle in a manner that would afford the both officers with the greatest tactical advantage. Conversely, the BOPC was less critical of Officer B's actions relative to the tactics associated with the vehicle deployment and the subsequent pedestrian stop. It is the responsibility of both officers in the police vehicle to communicate effectively to ensure operational success and there is no indication that Officer B told Officer A to maintain distance from the suspects.

Officer A utilized independent tactics in a situation that was rapidly unfolding thereby hindering Officer B's ability to adjust accordingly. Officer B said it took approximately *two to three seconds* from the time Officer A illuminated the suspects with the spotlight to the time the shot was fired. As such, despite the tactical shortcomings, Officer B responded in a manner that enabled him to adjust to the immediate and ongoing tactical situation.

The practice of closing distance and initiating contact with a possibly armed suspect, regardless of the duration, while seated in the police vehicle is highly discouraged and is counter to approved Department tactical training and best practices. Officer A's decision substantially and unjustifiably deviated from approved Department tactical training and placed both officers at a significant disadvantage.

As the passenger, Officer B did not have immediate control of the vehicle and did not have enough time react to his partner's actions because of the rapidly unfolding situation. As a result, the BOPC determined that Officer B's actions did not substantially deviate from approved Department tactical training.

### 3. Handgun Marksmanship

Officer A utilized exceptional marksmanship skills while confronted by an armed subject presenting a deadly threat. Officer A was confronted by Subject 1 who was armed with a handgun and had pointed it at him and his partner. At the same time, Officer A was seated in the police vehicle and was forced to adjust his shooting platform by placing his left foot on the police vehicle door to hold it open while simultaneously placing his right foot on the brake to stop the police vehicle. Consequently, Officer A fired one round from his pistol at Subject 1. The round caused Subject 1 to subsequently fall to the ground where was taken into custody without further incident. In this circumstance, Officer A successfully utilized the seven elements of handgun Marksmanship to accurately and effectively deploy his service pistol.

Although the philosophy behind a Tactical Debrief is to enhance future performance by discussing areas where improvements could be made, often times, discussions pertaining to positive aspects of the incident lead to additional considerations that would be beneficial in future incidents. Therefore, the BOPC will direct that the topic of Handgun marksmanship be discussed during the Tactical Debrief.

### 4. Handcuffing – Contact and Cover

Officers A and B did not communicate their roles relative to contact and cover. As a result, Officers A and B handcuffed Subject 1 and took him into custody while their pistols were holstered. Officers are encouraged to communicate their roles regarding contact and cover prior to taking a subject into custody. This in turn will enhance their tactical advantage and ensure operational success. In this circumstance, Officer B instructed Officer A to cover him as he approached Subject 1. Subsequently, Officer B holstered his pistol and approached Subject 1. However, while taking Subject 1 into custody, Officer A holstered his pistol and assisted with the handcuffing process. Officers A and B were attempting to take Subject 1 into custody while also tasked with establishing a perimeter to contain Subject 2. Therefore, Officers A and B's ability to effect an arrest of Subject 1 while maintaining an optimal level of tactical awareness was hindered. As such, their actions deviated from approved Department tactical training but were justified.

- 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. Each tactical incident inherently results in considerations for improvement.

In conclusion, the BOPC found that the tactics utilized by Officer A substantially and unjustifiably deviated from approved Department tactical training, requiring a finding of administrative disapproval. The tactics utilized by Officer B warranted a tactical debrief.

## **B. Drawing/Exhibiting**

- Officers A and B followed Subjects 1 and 2 in their police vehicle. Subsequently, Subject 1 removed a handgun from his waistband area and pointed it at Officers A and B, resulting in an OIS. The assessment regarding the Drawing/Exhibiting for the aforementioned personnel are indicated below.

Officer A recalled, *"It was after - - once I was - - I observed the gun at that time I drew out my weapon. You know, believing that the situation is going to escalate to - - to the use of deadly force."*

After Officer A fired his round and struck Subject 1, Subject 1 continued to move a short distance and fell onto the sidewalk. Officer A remained in his vehicle and followed Subject 1 to where he fell to the sidewalk. Officer A holstered his pistol in order to place the vehicle in park, exited the vehicle and drew his pistol a second time.

At the same time, Officer B exited the vehicle, he observed Subject 1 continue running for a short distance before he fell to the sidewalk. Moments later, Officer B observed Subject 2 running in the opposite direction while holding his waistband area. Officer B drew his pistol and assisted Officer A with taking Subject 1 into custody. As Officer A served as cover officer, Officer B holstered his service pistol and handcuffed Subject 1. After Subject 1 was handcuffed, Officer B drew his service pistol a second time due to the fact that Subject 2 remained outstanding and was believed to be potentially armed with a firearm.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B while faced with similar circumstances would reasonably believe that a strong likelihood existed that Subjects 1 and 2 were potentially armed and 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 and B's Drawing/Exhibiting to be in policy.

## **Lethal Use of Force**

- **Officer A** (pistol, one round)

While seated in the police vehicle, Officer A drew his service pistol with his right hand and opened his vehicle door with his left hand. Officer A pointed his pistol at Subject 1's torso as he placed his left foot on the door to hold it open while

simultaneously placing his right foot on the brake. Subject 1 continued running and turned his upper body in a clockwise direction while holding a handgun in his left hand. Subject 1 subsequently pointed the handgun at Officers A and B at which time Officer A fired one round from his pistol at Subject 1 to stop his actions.

The actions of Subject 1 pointing a handgun at Officers A and B represented an imminent threat of serious bodily injury or death. An officer with similar training and experience under the same or similar facts and circumstances would have the same belief and thus the Use of Lethal Force would be reasonable.

In conclusion, the BOPC found Officer A's application of Lethal Force to be in policy.