

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

OFFICER-INVOLVED SHOOTING – 044-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
-----------------	-------------	----------------------------	-------------------------------

Rampart	5/26/15		
---------	---------	--	--

Officer(s) Involved in Use of Force	Length of Service
--	--------------------------

Officer B	4 years, 5 months
-----------	-------------------

Reason for Police Contact

Officers were flagged down by members of the public who had been threatened by two suspects who pointed a gun at them. Officers attempted to detain the suspects. Subject 2 was ordered to stop and put his hands up. He refused to comply, grabbed for his waistband, and an Officer-Involved Shooting (OIS) occurred.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
----------------	---------------------	--------------------	--------------------

Subject 1: Male, 37 years of age.

Subject 2: Male, 37 years of age.

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 May 10, 2016.

Incident Summary

Subject 1 entered a laundromat in order to remove a laundry cart. He had a heavy duffle bag and wanted the cart to put it in. Subject 2 waited outside while his friend went inside. Witness A, an employee of the laundromat, and his friend, Witness B, were leaving work and had gotten into Witness A's vehicle that was parked in front of the premises.

Witness A exited his vehicle and confronted Subject 1, telling him that he could not remove the cart. Subject 1 relinquished control of the cart. Witness A was preparing to take the cart back into the premise when Subject 2 confronted him. A verbal dispute ensued with Subject 2 threatening to break Witness A's nose.

Witness A became concerned for his safety and returned the cart inside the laundromat. Upon exiting the premise, Witness A was again confronted by Subject 2, who continued to challenge him to a fight and threatened him with violence.

Subject 2 also threatened to take Witness A's vehicle. According to Witnesses A and B, Subject 1 produced a handgun and pointed it at Witness B's head.

At this moment, Witness A observed a black and white police vehicle at the intersection of the street. Officers A and B heard yelling coming from the group. The officers saw Witnesses A and B yelling and waving their hands in an attempt to get their attention.

Officer B turned on the driver's side exterior spotlight and shined it in their direction. The officers did not see Subject 1 in possession of the handgun, but formed the opinion that Witnesses A and B appeared to be scared and intimidated by Subjects 1 and 2. As Officer B turned into the street, Subjects 1 and 2 hurriedly walked southbound on the sidewalk of the street. As the officers proceeded southbound on the street, Witness A pointed toward Subjects 1 and 2 and repeatedly yelled to the officers that the Subjects had a gun. Officers A and B heard this but were not sure whether Subject 1, Subject 2, or both were in possession of a handgun.

Officer B drove past Subjects 1 and 2 to try to cut them off. Both officers yelled to Subjects 1 and 2 to stop and put their hands up. Neither Subject 1 nor Subject 2 complied and continued southbound on the sidewalk. Officer B stopped the police vehicle, angled it toward the sidewalk, and both officers exited their respective doors. The officers unholstered their service pistols as they believed one or both of the suspects to be armed with a handgun. Officers A and B continued to give Subjects 1 and 2 verbal commands, but they ignored them.

Subject 1 continued northbound while Subject 2 slowed and stopped adjacent to a vehicle parked along the curb. Officer A was in the street and momentarily lost sight of Subject 2 as Subject 2 stepped behind the parked vehicle. Officer A turned on the light attached to his pistol and used the vehicle as cover as he moved around the rear of the vehicle.

Officer A observed Subject 2 on the sidewalk facing him with his back against a brick wall. Officer A directed Subject 2 to put his hands up and turn around, but Subject 2 ignored his commands. Officer A observed a slight bulge in Subject 2's right front waistband area. Subject 2 then crouched forward and placed both of his hands to his right front waistband. Witness A stated he heard the verbal command to turn around, but Subject 2 was refusing to cooperate with Officer A. Witness A initially saw Subject 2 with both hands up, however he then observed Subject 2 bring his right hand down toward his right front pants pocket.

According to Officer A, Subject 2 took two to three steps toward him with his hands underneath his clothing around his right waistband area. Officer A could not see his hands because they were fully concealed. Officer A believed Subject 2 was armed and feared he was going to pull out a gun and shoot him. Officer A again ordered Subject 2 to put his hands up and turn around.

Subject 2 ignored the commands and, with his hands at his front waistband, took another step toward Officer A. Officer A fired one round at Subject 2, striking Subject 2 in the lower abdomen.

Subject 2 immediately fell forward onto his stomach on the sidewalk. Officer A approached Subject 2 and handcuffed his hands behind his back. Officer A conducted a pat-down search of Subject 2. Officer A recovered a large cylinder-shaped Bluetooth speaker from Subject 2's waistband area.

Simultaneously, Officer B continued northbound in the street, paralleling Subject 1 with vehicles parked on the west curb between them. Subject 1 was walking at a quick pace on the west sidewalk. Officer B pointed his pistol at Subject 1 and illuminated him with his flashlight as he repeatedly yelled at Subject 1 to stop and show him his hands. Subject 1 ignored those commands. According to Officer B, Subject 1 was hunched over, holding his waistband, as he attempted to conceal himself behind the parked cars.

Subject 1 removed a handgun from his right front pocket and tossed it under a parked vehicle. Subject 1 stated the handgun discharged after he tossed it underneath the vehicle. Officer A did not observe Subject 1 toss the handgun. Officer A believed he heard one gunshot, possibly two coming from his left but did not know who had fired.

Officer B yelled at Subject 1 to get down on the ground and put his hands behind his back. Subject 1 complied, Officer B then holstered his pistol, approached and handcuffed Subject 1. A folding knife was recovered from Subject 1's rear pant pocket. At this point, Officer B could see Officer A standing on the sidewalk, so Officer B stood Subject 1 up and walked him south towards Officer A's location.

Officer A then advised Communications Division (CD) of the officer-involved shooting (OIS) that had occurred and requested a Rescue Ambulance.

Officers A and B advised responding officers to search the area for weapons which may have been discarded by Subjects 1 or 2. A handgun was located underneath a nearby vehicle parked along the west curb of the street.

Los Angeles Fire Department (LAFD) arrived on scene and provided medical attention to the Subject. The Subject was transported to a local hospital where he was treated for his 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 of a firearm 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 and B's tactics to warrant Administrative Disapproval.

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 Officer A's lethal use of force to be in policy.

Basis for Findings

A. Tactics

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

1. Code-Six

Officers A and B did not place themselves Code-Six after they were flagged down by Witnesses 1 and 2.

The purpose of going Code-Six is to advise Communications Division (CD) and

officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

Officers are required to balance officer safety considerations against the need to make a timely Code-Six broadcast. Officers must be afforded some discretion in determining the appropriate time to make their broadcast. Department tactical training allows for officer safety concerns to take precedence over making an immediate Code-Six broadcast.

In this case, Officers A and B were flagged down by witnesses while stopped for a red light and had time to place themselves Code-Six before they turned into the street to make contact with the Subjects.

In evaluating Officers A and B's actions, the BOPC determined that based on the totality of the circumstances, the delay of their Code-Six broadcast in this case was a substantial deviation from approved Department tactical training.

2. Requesting a Back-up

Officers A and B did not request a back-up prior to approaching Subjects 1 and 2, whom they believed to be armed.

In this case, as the officers made their approach, officers observed witnesses pointing toward the subjects yelling that they had a gun. However, neither officer requested a back-up. Although officers are given discretion regarding the appropriate time to request additional resources during an incident. It would have been tactically advantageous for the officers to request back-up when they became aware that the situation may escalate, thus ensuring appropriate resources were responding in the event they were needed.

The BOPC concluded that Officers A and B's decision not to request back-up was a substantial deviation from approved Department tactical training.

3. Deployment of Vehicle

Officer B drove past Subjects 1 and 2, whom he believed to be armed, in an attempt to cut them off.

Positioning the police vehicle is critical to provide the officers with a tactical advantage should the incident escalate.

In this case, Officer B indicated that he intentionally drove past Subjects 1 and 2 and parked their vehicle at an angle in an attempt to get ahead of the subjects and cut them off.

The BOPC discussed Officer B's tactical decision to drive past the subjects and position the police vehicle in a manner that decreased their tactical advantage.

The BOPC concluded that Officer B's actions were not a substantial deviation from approved Department tactical training.

4. Tactical Communication and Planning

Officers A and B did not communicate with each other before deploying from their vehicle and contacting the two possibly armed Subjects.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

The BOPC determined that Officers A and B's lack of communication during this incident was a substantial deviation without justification from approved Department tactical training.

5. Separation/Pursuing Armed Suspects

Officer B separated from his partner and pursued a Subject whom he believed was possibly armed with a gun.

Containment of an armed Subject demands optimal situational awareness. The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, thus ensuring a coordinated effort and successful resolution.

The distance between the two officers at the time of the OIS jeopardized their ability to effectively communicate or render immediate aid to one another. Officer B's decision to separate from his partner and pursue the possibly armed Subject was unreasonable and placed both officers at a distinct tactical disadvantage.

The BOPC determined that Officer B's actions were a substantial deviation from approved Department tactical training.

- The BOPC additionally considered the following:

1. Running with a Service Pistol Drawn

Officer B pursued Subject 1 with his service pistol drawn. Officer B is reminded that there is a heightened concern for an unintentional discharge when running with a drawn service pistol.

2. Equipment Required

Officers A and B were not equipped with their respective TASERs or Hobble Restraint Devices (HRD) on their duty belt or on their person. In addition, Officer B did not have his Oleoresin Capsicum (OC) Spray. Officers A and B are reminded to have all their required equipment on their person while in the performance of their field duties.

3. Help Call Broadcast

Officer A broadcast “shots fired,” however, he did not broadcast a “Help” call. The officers were reminded of the importance of broadcasting the proper emergency request for immediate assistance.

4. Digital In-Car Video System

Officers A and B did not activate their Digital In-Car Video System (DICVS). Officers are reminded that DICVS plays a significant role in increasing officer safety as well as facilitating criminal prosecutions, complaint adjudications, and fostering a positive relationship with the community.

- 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 that the tactics be evaluated based on the totality of the circumstances.

In conclusion, the BOPC found that the tactics utilized by Officers A and B substantially and unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

B. Drawing/Exhibiting

- Officers A and B were flagged down by Witnesses A and B, who pointed to Subjects 1 and 2 as they were quickly walking away and yelled that they had a gun. Believing that one or both the Subjects were possibly armed with a gun, Officers A and B exited the police vehicle and drew their service pistols.

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 a similar circumstance, 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 Officer A and B’s drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- **Officer A** – (pistol, one round)

According to Officer A, he observed Subject 2 bend forward and place his hands near his right front waistband area. Officer A also observed a slight bulge in Subject 2's right front waistband area. Subject 2 then took two or three steps towards him. Officer A ordered Subject 2 to turn around and put his hands up. Subject 2 ignored his commands and took another step toward him.

Believing he was about to be shot by Subject 2, Officer A fired one round at Subject 2 to stop the lethal threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe that Subject 2's actions presented an imminent threat of death or serious bodily injury, and that the use of lethal force would be objectively reasonable to address this threat.

In conclusion, the BOPC found Officer A's use of lethal force to be objectively reasonable and in policy.