

**ABRIDGED SUMMARY OF AN OFFICER-INVOLVED SHOOTING AND FINDINGS
BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

OFFICER-INVOLVED SHOOTING – 048-09

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Mission	07/28/09		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	19 years, 9 years
Officer B	12 years, 10 months
Officer C	13 years, 3 months

Reason for Police Contact

Officers were flagged down by witnesses who reported that a male subject had committed a theft at a grocery store. The officers located the subject and became involved in an officer involved shooting incident.

<u>Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Male, 34 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 suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The 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 either male or female employees.

The following incident was adjudicated by the BOPC on July 6, 2010.

Incident Summary

A male (late identified as the Subject) entered a supermarket and removed various grocery items from the shelves. The Subject placed the items into his shopping cart and exited the store without paying.

A supermarket employee, Witness A observed the Subject walk out of the store at a high rate of speed pushing a shopping cart. Witness A advised the store manager, and Witnesses A and B exited the store and observed the Subject walk across the street and go into an open business at the entrance of an alley. Witness B called 9-1-1 to report the theft, and shortly thereafter, Witness A saw Officers A and B in a marked police vehicle and flagged them down. Officers A and B remained seated in their vehicle as Witnesses A and B approached. Witness A provided a clothing description of the Subject and stated that the Subject had not used force and was not armed. Witness A also told the officers where the Subject had last been seen.

Officer B broadcast to Communications Division (CD) that they had been flagged down by a citizen regarding a burglary. Officer A proceeded into the north-south alley and as the officers approached the entrance to the alley. Almost immediately after the officers entered the alley, Officers A and B observed the Subject walk out from behind a parked white pick-up truck, then walk north in the alley in their direction, pushing an empty shopping cart. Officer A immediately stopped the police vehicle and both officers exited. Officer A instructed the Subject to put his hands up, but the Subject did not comply. Officer A had difficulty seeing the Subject's hands because his view was obscured by the shopping cart. Officer A unholstered his service pistol and pointed it at the Subject, because he believed a felony crime had been committed and the Subject possessed a weapon.

Officer B exited the police vehicle and ordered the Subject to put his hands up. Officer B unholstered his pistol, and pointed it at the Subject's upper-chest area. Officer B observed that Officer A was already out of the police vehicle and issuing commands to the Subject who was not complying. Officers A and B maintained cover behind their respective doors. The Subject stopped and let go of the shopping cart. Officer B then observed the Subject reach with his left hand into his left front pants pocket. Officers A and B ordered the Subject numerous times to get his hand out of his pocket and to put his hands up. Officer A observed a shiny object protruding from the Subject's front right pants pocket. The Subject then began to slowly walk backwards away from the officers and removed his left hand from his pocket. Officer B did not see an object in the Subject's hand after he removed it from his pocket. The Subject then turned and walked around the right rear bed of the white truck.

Officer B could not see the Subject's hands due to his stature and the height of the white truck. Officer B repositioned away from the police vehicle and moved south in the alley toward a dumpster and a parked truck. Officer B moved to the new position to get additional cover and to maintain a visual on the Subject who walked around the truck. Officer B continued to cover the Subject with his pistol and moved south in the alley.

Once the Subject was behind the truck, the Subject took several additional steps away from the officers. The Subject now had his back to the officers and the Subject's hands were in front of his body and out of view. Officer B observed a metallic object in the Subject's left-rear pant pocket, but could not identify the object. Officers A and B again told the Subject to stop and put his hands up. Officer B observed the Subject fidgeting his shoulders, moving forward and backward.

Officer B formed the opinion that the Subject was arming himself, possibly with a handgun. The Subject began to slowly turn right toward Officer B with his hands positioned somewhere between his waistband and thigh area. As the Subject turned, Officer B observed a black object in one of his hands, which she believed was a weapon. As Officer B continued to move south in the alley, Officer B fired one round at the Subject, and then took cover near a storage container. Officer B did not observe any immediate reaction from the Subject and was unsure if the Subject had been struck by the round.

Officer A broadcast a request for a back-up and Officers A and B told the Subject to get down on the ground. Officer C arrived and exited his vehicle. Officer C unholstered his service pistol in response to the back-up request. Officer A advised Officer C that there had been an officer-involved shooting (OIS), and Officer C broadcast a request for a Rescue Ambulance (RA) for a male with unknown injuries, and for a beanbag shotgun. Officer C began instructing the Subject to get down on the ground and the Subject laid face down on the ground, and placed his hands at his sides.

In response to the back-up request, several uniformed officers arrived at scene. Officer C formed these officers into an arrest team, and the team approached the Subject. Officer C observed Officer B's pistol in a low ready position. Officers A, B, and C then holstered their pistols. The arrest team approached the Subject and he was handcuffed without further incident. After handcuffing the Subject, a pat down search of the Subject's waistband was completed. A fork was recovered from the left rear pocket of the Subject's pants and a blue bandana was recovered close to where the Subject was taken into custody. The Subject was transported to the hospital and treated for gunshot wound to his lower right back area.

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 while 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 Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officers A, B, and C's Drawing/Exhibiting to be in policy.

C. Use of Force

The BOPC found Officer B's use of lethal force to be in policy.

Basis for Findings

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

Tactics

1. Pedestrian Contacts

In this instance, the police vehicle came to a stop, Officers A and B remained seated in their police vehicle and allowed the person reporting (PR) to walk up next to the window of the police vehicle, which placed Officers A and B at a tactical disadvantage. In conclusion, Officers A and B are reminded of the tactical disadvantage created when officers make contact individuals while seated in their police vehicle.

2. Code Six

In this instance, Officers A and B made contact with Witnesses A and B at an intersection. After meeting with them, Officer B advised CD they were Code Six at the location. Once the decision was made to proceed southbound in the alley and upon initiating contact with the Subject, Officer B should have updated CD with their status and location. In conclusion, Officers A and B are reminded to notify CD of their updated status and location when conducting field activities.

3. Simultaneous Commands

In this instance, Officers A, B and C were simultaneously giving verbal commands to the Subject in an attempt to gain compliance. In conclusion, Officers A, B and C are reminded that when multiple officers give commands, it may create confusion in the mind of the suspect resulting in non-compliance. Furthermore, the officers are reminded of the importance of coordinating their roles to ensure that the integrity of the contact and cover concept is not compromised.

4. Back up requests

In this instance, the officers made contact with The Subject who they believed was a felony burglary suspect and refused to comply with their commands. Based on the circumstances, it would have been prudent for Officers A and C to request a back-up.

In conclusion, Officers A and B are reminded to be familiar when to request back-up and help and the importance of providing pertinent information to responding units.

5. Utilizing Cover

In this instance, upon making contact with The Subject, Officers A and B elected to deploy away from their police vehicle and position themselves in front of their respective doors, both of which were equipped with ballistic door panels and offered good cover for the officers. Officers A and B's decision to leave cover unnecessarily exposed them to potential gunfire.

In conclusion, Officers A and B are reminded of the importance of using cover.

6. Basic Firearms Safety Rules

In this instance, Officer B allowed the muzzle of the weapon to cover the backs of fellow officers. By doing so, Officer B created a situation where officers were exposed to a greater and unnecessary risk.

The BOPC directed that Officers A, B and C attend a tactical debrief.

Drawing/Exhibiting

In this instance, Officers A and B attempted to detain what they believed to be a felony burglary subject. An officer with similar training and experience would believe that burglary subjects are often armed with items that can be used as weapons and represent a threat of serious bodily injury or death. As a result, it was reasonable for Officers A and B to draw their service pistols in the event the situation was to escalate to the point where deadly force was needed.

Officer C responded to their code six location. Upon his arrival, he drew his service pistol and maintained cover next to Officer A.

In conclusion, the Drawing/Exhibiting of Officers A, B and C was reasonable and within Department guidelines. The BOPC found the Drawing/Exhibiting of Officers A, B and C to be in policy.

Use of Force

The Subject's action of reaching into his waistband, coupled with Officer B's perception that the Subject was turning toward him with what appeared to be a weapon in his hand, caused Officer B to fear for his life.

Therefore, it was objectively reasonable for Officer B to utilize lethal force in defense of his own life based on his perception that suspect was turning toward his with a handgun in his hand. In conclusion, the BOPC found Officer B's application of Lethal Force to be in policy.