

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

**OFFICER INVOLVED SHOOTING – 050-09**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On(X) Off( )</u></b>	<b><u>Uniform-Yes( ) No(X)</u></b>
Newton	08/06/09		

<b><u>Involved Officer(s)</u></b>	<b><u>Length of Service</u></b>
Detective A	19 years, 5 months
Detective B	20 years, 8 months

**Reason for Police Contact**

During a surveillance operation, several subjects committed a robbery. Detectives stopped the subjects involved in the robbery and an officer-involved shooting occurred.

<b><u>Subject(s)</u></b>	<b><u>Deceased (X)</u></b>	<b><u>Wounded (X)</u></b>	<b><u>Non-Hit ( )</u></b>
Subject 1, Female, 19 years of age (wounded)			
Subject 2, Male, 22 years of age (deceased)			
Subject 3, Male, 18 years of age (wounded)			
Subject 4, Male, 18 years of age (wounded)			

**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 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 either male or female employees.

The following incident was adjudicated by the BOPC on July 27, 2010.

## **Incident Summary**

Lieutenant A supervised a robbery surveillance operation, which consisted of Detectives A, B, C, D, E, F, G, H, J, K, L, M, N, O, P, and Q, and Police Officers A and B, and Air Support Division. All involved detectives were in plain clothes, driving plain vehicles.

During the surveillance, Subject 1 picked up Subjects 2, 3, and 4 in a vehicle. The subjects subsequently parked their vehicle, and Subject 3 entered a retail store. While inside, Subject 3 committed a robbery using a handgun. Detective C observed Subject 3 exit the retail store and enter Subject 1's vehicle, which then drove away. Detective C broadcast his observations via his radio.

Detective C entered the retail store and confirmed with Witness A and Witness B that a male subject had taken money from both witnesses, and that the subject had displayed a gun. Detective C broadcast this information over the radio. The subjects drove away from the retail store with the detectives following. Detective E directed units to conduct a vehicle stop when sufficient personnel were available and when air units were in place.

When the subject vehicle pulled over to the curb and parked, Detective F advised the units to conduct the stop. The detectives then surrounded the subject vehicle with their own vehicles, blocking any path of escape.

Detectives A and B exited their vehicle, took cover behind their respective doors and deployed their shotguns. Detective G exited his driver's side door, drew his pistol and twice yelled, "Police. Get your hands up." Detective H exited the passenger side door, pointed his shotgun at Subject 1 and Subject 3 and yelled, "Police officers. Stop, police officers." Detective A observed Subject 4, who was the right rear passenger, turn to his left with a revolver in his right hand. As the barrel of Subject 4's gun was pointed in the direction where Detectives F, G and H were positioned, Detective A fired six consecutive rounds from his shotgun at Subject 4. According to Detective A, after he fired his first two rounds at Subject 4, the rear window shattered and he observed Subject 4 go down in his seat with his pistol still pointed toward the detectives to his left. Detective A fired three to four slug shotgun rounds through the vehicle where he believed Subject 4 would be positioned.

According to Detective A, Subject 4's pistol was visible the entire time he fired his shotgun. After firing all six rounds from his shotgun from a distance of approximately 11 feet, Detective A placed his shotgun on the front seat of his vehicle and transitioned to his pistol.

According to Detective B, he observed either the front passenger or the right rear passenger door open partially and he yelled, "Police. Stay in the car." At the same time, Detective B heard Detective A yell, "Gun." Detective B shifted his attention back to the passenger compartment and observed Subject 4 turning to his left and lowering himself. Detective B observed Subject 4 holding a pistol, which he pointed toward the side of the car and was moving toward Detective A. Detective B heard gunshots,

observed the rear window of the subject vehicle shatter and believed that Subject 4 was shooting at Detective A. In response, Detective B fired what he believed to be four to five rounds from his shotgun at Subject 4 from a distance of approximately 12 feet. According to Detective B, he fired one of his rounds through the trunk of the subjects' vehicle, to where he believed Subject 4 would be positioned. Detective B stopped firing when Subject 4 went out of his view and he no longer saw a visible threat.

According to Subject 3, meanwhile, Subject 2 said somebody was following them. Subject 2 had a black revolver, which he handed to Subject 3. Subject 3 thought about exiting the vehicle and running, but changed his mind and told Subject 2 that he was on probation and would not go down for the gun. Subject 3 threw the gun on Subject 2's lap. Subject 3 initially stated that Subject 2 then placed the gun underneath his seat. Subject 3 later stated that he observed Subject 2 place the gun in the glove compartment, and that he had just slapped it shut when the officers' vehicle bumped into theirs. Officers ordered them to "freeze" and approximately three and a half seconds later started shooting. Subject 3 believed the officers fired approximately 30 to 35 rounds.

Witness C was sitting on her front porch when she observed vehicles pull up and heard several officers yelling, "Freeze. Put your hands up." She then heard an officer state, "Drop the weapon," and then heard five to six gunshots. Witness C stated that she did not see anyone in the subjects' vehicle holding a weapon.

Detective H was monitoring Subject 1 and attempting to monitor Subject 3 and could not clearly see into the back of the subjects' vehicle due to glare reflecting from the window. Detective H observed "some sort of movement" in the vehicle, but "could not see exactly what the movement was." Detective H then heard five to six gunshots and from his peripheral vision observed Detectives A and B firing their shotguns through the rear window of the subject vehicle.

Detective G issued verbal commands and observed "a lot of movement going on in the car." Detective G observed Subject 4 and Subject 1 moving toward the center of the vehicle. Detective G heard five to six gunshots coming from his right side where Detectives A, B and H were positioned, but could not determine who was shooting. Detective G observed the rear window of the subject vehicle shatter. Detective G stated that he did not fire his pistol because his attention was drawn to Subject 1, who was not armed with a weapon and did not pose a threat.

Officers A and B were trailing when detectives conducted the stop. Officer A heard five to six gunshots.

Detective H observed Subject 1's hands on the driver side window of her vehicle and ordered her to come out with her hands up. Subject 1 complied and was directed to walk backward toward Detective H's vehicle. Detective E parked his vehicle behind Detectives A and G's vehicles and was exiting when he heard six to ten gunshots. Detective E took a position of cover until the gunshots ceased. Detective E then moved up and observed Subject 1 being directed by Detective H to walk back toward his

vehicle. Detective E directed Detective K to take Subject 1 into custody and escort her away from the scene. Subject 1 stated her right hand and shoulder were struck by gunfire. Detective F requested multiple ambulances to respond for the wounded subjects.

Detective H then ordered Subject 3 to exit the left rear passenger door of the vehicle and directed him to assume a prone position on the ground. Detective H ordered Subject 2 to exit the vehicle, but Subject 4 yelled that Subject 2 had been shot and could not come out. Detective H ordered Subject 4 to exit the vehicle through the left rear passenger door and directed him to prone out on the ground. Detective H ordered Subject 2 out of the vehicle, again with negative results.

Meanwhile, Detectives L and M had parked their vehicle behind Detective G and H's vehicle. Detective M handcuffed Subject 4, escorted him away from the scene and searched him with negative results. Detective M monitored Subject 4 while waiting for an ambulance. Detective L handcuffed Subject 3 and escorted him away from the scene. Detective L searched Subject 3 and recovered currency from Subject 3's pocket. Detective L advised Detective E of the currency and placed it in a money envelope, which he then secured inside his vehicle. Detective L asked Subject 3 if he was injured. Subject 3 advised that he had been shot in the back and on the face. Detective L observed that Subject 3's lower lip was bleeding and that he had a gunshot wound to his left lower back.

Detective E assembled an extraction team consisting of Detectives A, B and D. Detective B advised Detectives A and D that he would pull Subject 2 out and handcuff him on the sidewalk. Detective B grabbed Subject 2's wrists, pulled him out of the vehicle, placed him on the ground face down, and handcuffed the subject.

Los Angeles Fire Department personnel responded and treated all 4 subjects at the scene, then transported them to a hospital. Subject 2 was pronounced dead by Emergency Room personnel.

### **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 unanimously found Lieutenant A, Detectives A, B, C, D, E, F, G, H, J, K, L, M, N, O, P and Q's, and Officers A and B's tactics to warrant a tactical debrief.

## **B. Drawing/Exhibiting**

The BOPC unanimously found Detective A, B, D, G, and J's drawing and exhibiting of a firearm to be in policy.

## **C. Use of Force**

The BOPC unanimously found Detective A's use of lethal force, as to rounds 1 and 2, to be in policy. The BOPC found, by a vote of 3-2, Detective A's use of lethal force, as to rounds 3 through 6, to be out of policy.

The BOPC found, by a vote of 3-2, Detective B's use of lethal force to be out of policy.

## **Basis for Findings**

### **A. Tactics**

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

#### 1. Communications

In this instance, the proper notification to the required reporting agency was not made. In order to maintain officer safety during plainclothes surveillance details and to prevent the potential of conflicts with other plainclothes operations, such a notification should be made.

#### 2. Securing weapons inside of police vehicles

The investigation of this incident revealed that it was common practice for the involved detectives to carry various weapon systems unsecured in the rear seat area of their vehicles. Current Department policy states that, generally, the shotgun is stored in the gun rack; however, the detectives were driving unmarked vehicles that did not have gun racks. Additionally, due to the fluid nature of their assignment and the unpredictability of the subjects they encounter, the detectives need to have immediate access to various weapons systems and may not have an opportunity to stop and recover their weapons from a secure location such as the vehicle's trunk.

#### 3. Driving while maintaining control of loaded shotgun

In this instance, Detectives A and B loaded their shotguns, placed them in the front seat with the barrels pointed downward toward the floorboard. As the driver of the

vehicle, Detective A had a limited ability to maintain control of the shotgun as he performed various tasks associated with driving and maneuvering the vehicle. It would be tactically sound for Detective A to concentrate on driving and utilize a weapon system that he had secured to his person upon initial contact with the subjects. If necessary, once the vehicle had stopped, Detective B could provide cover as Detective A retrieved his shotgun.

#### 4. Vehicle Stop

Based on the nature of the crimes being investigated, it was determined that it was appropriate to stop the subjects by containing their vehicle with plain police vehicles, as opposed to using uniformed officers to effect the stop.

#### 5. Simultaneous verbal commands to the subjects

After the vehicle stop was initiated, multiple detectives gave commands to the subjects. The detectives are trained to utilize the concept of contact and cover in which one detective gives the verbal commands while the others provide cover. By doing so, the chance of causing confusion in the mind of the subjects and the other personnel at scene is minimized.

The BOPC found Lieutenant A, Detectives A, B, C, D, E, H, J, K, L, M, N, O, P and Q's, and Officers A and B's tactics to warrant a tactical debrief.

### **Drawing/Exhibiting**

In this situation, Detectives A, B, G, H and J exited their vehicles and drew their respective weapons in preparation to confront armed attempt robbery suspects. It was reasonable for Detectives A, B, G, H, and J to believe that the situation could escalate to the level where the use of lethal force might become necessary.

Also, Detective D was directed to act as cover officer of the extraction team assembled to remove an injured subject from the vehicle. It was reasonable for Detective D to have a tactical weapon in a position of readiness, to provide for the safety of the other members of the team, and for himself.

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

### **Use of Force**

#### Detective A

Detective A observed Subject 4 raise a revolver in his right hand, and point the weapon in the direction of other detectives. Detective A believed that Subject 4 presented a direct threat and immediate threat to the other officers. Based on his observations, the BOPC found the first two rounds discharged by Detective A to be in policy. However,

the BOPC noted that the preponderance of the available evidence did not support Detective A's account that he fired the following four rounds at Subject 4 as he continued to brandish a handgun. As such, Subject 4 did not present a threat warranting the use of lethal force at that time. Therefore, the BOPC found the discharge of the subsequent four rounds by Detective A to be out of policy.

#### Detective B

The BOPC noted that the preponderance of the available evidence did not support Detective B's account that he fired in response to his observation of Subject 4 turning toward other detectives while holding a handgun in his right hand. As such, Subject 4 did not present a threat warranting the use of lethal force at that time. The BOPC found the three rounds discharged by Detective B to be out of policy.