

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

OFFICER-INVOLVED SHOOTING 055-09

<u>Division</u>	<u>Date</u>	<u>Duty-On(x) Off()</u>	<u>Uniform-Yes(x) No()</u>
Southeast	08/11/2009		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Officer A	5 years, 1 months

Reason for Police Contact

Officers decided to conduct a pedestrian stop for a possible curfew violation, which resulted in a foot pursuit and in an officer involved shooting incident.

<u>Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (x)</u>
Subject: Male, 25 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, the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

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

Incident Summary

Officers A (driver) and B (passenger) were traveling in a marked police vehicle. As Officer A drove south and approaching a pedestrian walkway, he observed two males walking west on the street. One of the males, subsequently identified as the Subject, wore a bright green shirt, which is the color associated with the area's local gang. Officers A and B decided to conduct a pedestrian stop for a possible curfew violation.

Officer A negotiated a westbound turn and pulled into a parking lot. Officers A and B exited their police vehicle. Officer B approached the two males and directed the males to "come here." When the Subject saw Officers A and B, he grabbed his waistband with his left hand and ran northwest. Officers A and B gave chase. Officer A yelled, "Stop. Let me see your hands. Let me see your hands. Stop. Police." The Subject did not comply and continued running.

According to Officer A, based on his training and experience, gang members often grab their waistband because they have weapons that are not properly holstered. Officer B broadcast a "foot pursuit, 415 man with a gun," as he ran behind Officer A. Officers A and B had not observed a pistol in the Subject's possession at this point. Officers A and B pursued the Subject northwest and then north and as the Subject approached a cinderblock wall on the north side of the housing complex, Officer A observed the Subject remove a pistol from his waistband with his left hand from a distance of approximately 15 to 20 yards. Officer A drew his pistol and yelled, "Drop the gun. Drop the gun." Officer A was aware that Officer B was behind him because he heard Officer B making broadcasts during the foot pursuit.

According to Officer A, as the Subject rounded the corner of the building, he (the Subject) looked over his right shoulder, turned his body toward him (A), raised his left hand with his elbow bent at a 90 degree angle and pointed the pistol at him (A). In response, Officer A raised his pistol, aimed at the Subject's center body mass and fired one round from his service pistol from a distance of approximately 47 feet. The Subject flinched after the gunshot, which led Officer A to believe his round had struck the Subject, but the Subject continued running east. The Subject was not struck by Officer A's gunfire.

Officer B was running approximately 10 to 15 feet offset behind Officer A's right side when he observed the Subject running with a pistol in his left hand. Officer B then heard Officer A yell repeatedly at the Subject to "drop the gun." Officer B looked up at a building to identify a building number to broadcast. As he was looking up, he heard one gunshot from Officer A's pistol. Officer B did not draw his pistol because Officer A would have been in his line of fire. Officer B broadcast, "Shots fired, shots fired, subject a male, green T-shirt, northbound through the apartment complex."

Officer A "pied" the corner of the building and observed the Subject running east along the north wall still holding the pistol in his left hand. Officer A holstered his pistol and continued running after the Subject along with Officer B. The Subject turned southeast at the corner of a building causing Officers A and B to momentarily lose sight of him. When Officer A reacquired visual contact of the Subject, he was running east on the street with both hands swinging freely. Officer A observed that the Subject no longer had a pistol in his hand. Officers A and B did not observe the Subject discard anything during the pursuit.

The Subject then turned southeast in between two building. Officers A and B observed the Subject trip and fall forward to the ground. Officer A drew his pistol, approached the Subject and ordered him to get on his stomach. The Subject complied with Officer A's commands and proned himself out on the ground. Officer B approached the Subject and ordered him to place his hands behind his back. Officer B then handcuffed the Subject without further incident. Officer A holstered his pistol and grabbed Officer B's radio.

The foot pursuit covered a distance of approximately 434 yards. Less than one minute later, responding units arrived at the location followed shortly by Sergeants A and B. Officer A advised Sergeant B that he had been involved in an officer-involved shooting (OIS). Sergeant B separated Officers A and B and directed Sergeant A to monitor Officer B. Sergeant B obtained a Public Safety Statement from Officer A. A K-9 unit was requested to respond to the location to assist with the search for the Subject's pistol. During the search along the path of the foot pursuit, the Subject's pistol was found in the bushes in front of a residence along with a bag of marijuana.

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 unanimously made the following findings.

A. Tactics

The BOPC will direct that Officers A and B to attend a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A's drawing to be in policy.

C. Use of Lethal Force

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

Basis for Findings

Tactics

In this instance, the officers engaged in a foot pursuit of the Subject, whom they believed to be armed with a handgun and continued in foot pursuit after Officer A observed the Subject remove a handgun from his waistband area. Although the Subject was eventually taken into custody without the officers or the Subject being seriously injured, anytime officers engage in a foot pursuit of an armed subject, it is done so with substantial risk of injury to the officers and the subject.

In conclusion, the officers' decision to engage in a foot pursuit of the Subject was consistent with current Department policy and the BOPC commended Officers A and B for their tenacity and attention to duty. The inherent risks associated with engaging in foot pursuit of an armed subject will be a topic for discussion the Tactical Debrief.

Drawing/Exhibiting/Holstering

In this instance, Officer A was engaged in a foot pursuit when he observed the Subject retrieve a handgun from his waistband. Fearing the situation had escalated to the point where lethal force may become necessary, Officer A drew his service pistol.

Additionally, once the Subject fell to the ground, Officer A drew his service pistol and covered the Subject as Officer B took the Subject into custody.

Based on his observations during the foot pursuit and due to the possibility that the Subject may still be armed prior to Officer B taking him into custody, it was reasonable for Officer A to believe that the tactical situation had escalated to the point where lethal force may become necessary.

In conclusion, the BOPC found Officer A's drawing to be in policy.

Use of Force

In this instance, the Subject's action of holding a handgun, coupled with turning, and pointing it at Officer A, caused Officer A to fear for his life. An officer with similar training and experience would reasonably believe that the Subject's actions placed Officer A at risk of serious bodily injury or death. Therefore, it was objectively reasonable for Officer A to utilize lethal force in defense of his life.

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