

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

**OFFICER-INVOLVED SHOOTING – 057-13**

| <b>Division</b> | <b>Date</b> | <b>Duty-On (X) Off ( )</b> | <b>Uniform-Yes (X) No ( )</b> |
|-----------------|-------------|----------------------------|-------------------------------|
|-----------------|-------------|----------------------------|-------------------------------|

|             |        |  |  |
|-------------|--------|--|--|
| West Valley | 7/8/13 |  |  |
|-------------|--------|--|--|

| <b>Officer(s) Involved in Use of Force</b> | <b>Length of Service</b> |
|--|--------------------------|
|--|--------------------------|

|           |                   |
|-----------|-------------------|
| Officer A | 5 years, 5 months |
| Officer B | 5 years, 5 months |

**Reason for Police Contact**

Officers responded to a radio call of a robbery in progress. The air unit observed a vehicle that matched the subjects' vehicle and a pursuit was initiated. Subject 1 exited the vehicle and fired his handgun at the officers, resulting in an OIS.

| <b>Suspect</b> | <b>Deceased ( )</b> | <b>Wounded (X)</b> | <b>Non-Hit ( )</b> |
|----------------|---------------------|--------------------|--------------------|
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|  |  |  |  |
|--|--|--|--|
| Subject 1: Male, 27 years old (1 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 June 17, 2014.

## **Incident Summary**

On July 8, 2013, Communications Division (CD) broadcast a robbery in progress at a clinic. The broadcast indicated Subject 1's name and described Subject 1 as a male, armed with a handgun, wearing a brown hat, an open shirt with a vest, and dressed as a cowboy.

Uniformed Officers A and B responded to the location. Uniformed Officer C arrived at the scene and broadcast that the robbery subject had fled the location and provided a vehicle description. Upon arrival at the location, Officer A observed that numerous units were already on scene, and he decided to search the area for the outstanding subject vehicle. Air Support Division Pilot Sergeant A and Officer D broadcast they had a possible subject vehicle. The Air Unit continued to update the location of the vehicle while awaiting the arrival of a black and white police unit.

Officers A and B began following the vehicle, which was being driven by Subject 2. Subject 1 was the right front passenger. Uniformed Officers E and F joined as the secondary unit. Shortly thereafter, Uniformed Sergeant B joined as the third police vehicle and monitoring supervisor.

In addition, Officer F advised CD that he was assuming the broadcasting responsibilities for the incident. Officer A, aware that he had an additional unit and a supervisor with him, advised Officer B that he was going to attempt to stop the vehicle. Officer A activated the police vehicle's overhead emergency lights and manipulated the manual siren in short bursts. The vehicle failed to yield. Officer A then turned the siren on continuously. The vehicle began to accelerate. Officer F advised CD that officers had initiated a vehicle pursuit. Officers A and B were the primary unit, Officers E and F were the secondary unit, and Sergeant B was the third unit.

A two and one half mile pursuit ensued through residential neighborhoods. As the subject vehicle drove west toward an intersection, Officers A and B observed the right front passenger door of the vehicle open slightly. Officers A and B formed the opinion that Subject 1, in the front passenger seat, was preparing to exit the vehicle and flee on foot.

Officer F broadcast, "Stand by. We're going to be bailing out." As the vehicle entered the intersection, it came to an abrupt stop, and the right front passenger door opened. Subject 1 quickly exited the vehicle, turned to his right and faced Officers A and B, who were seated in their police vehicle, which was stopped east of the Subjects' vehicle.

The Air Unit advised via radio, "Foot pursuit. Heads up. He's got something in his right hand. Use caution guys." Officers E and F stopped their vehicle to the rear of Officers A and B's vehicle. Sergeant B stopped his vehicle to the rear of Officers E and F's vehicle. Subject 1, who was armed with a handgun, began firing his weapon at Officers A and B. Officer A indicated seeing a gun in his right hand coming up towards him. Subject 1 was looking at the officers. Officer A exhibited his weapon because there were two unknown subjects who had a gun, and Officer A believed Subject 1 was going

to shoot. Officer A punched his hand straight out, holding his weapon, and shot through his front windshield.

Officer A used his right hand to unholster his pistol while simultaneously trying to release the buckle of his seatbelt with his left hand. Officer A, while seated and still seat belted in the police vehicle, fired five rounds through the front windshield of the police vehicle at Subject 1. After firing this volley of rounds, Officer A was able to remove his seat belt. He then exited the police vehicle and took cover behind the open driver's side door. Officer A stepped out and observed Subject 1 shoot a round off. In response, Officer A believed that he fired one additional round at Subject 1.

**Note:** Although Officer A believed that he fired six rounds, the investigation determined that he actually fired seven. There were five documented back to front ballistic impacts to the driver's side of the windshield of the police vehicle, which was consistent with Officer A's shooting position while seated in the vehicle. Officer A fired the rounds at Subject 1 in a west/northwesterly direction from a distance of approximately 69 feet.

Officer B remembered thinking the Subject had the advantage on him, and it seemed like in his body movement of how quickly he got out of that car and how fast he had his sight aligned, that if he didn't move, he was going to be shot and killed. Officer B immediately sought cover behind the dashboard of the police vehicle by leaning over to his left. He heard loud noises which he believed to be gunshots. Officer B sat up and used his right hand to unholster pistol; however, he could not recall if he fired his pistol.

**Note:** During his FID interview, Officer B had no independent recollection of firing his pistol at Subject 1 at this time. According to Officer A, he believed Officer B returned fire.

Eight expended cartridge casings, later determined to have been fired from Subject 1's pistol, were recovered from the roadway near the northeast corner of the intersection. The ballistic evidence was consistent with Subject 1 firing his pistol at Officers A and B in an east/southeasterly direction from the northeast corner of the intersection.

Officer F contacted CD via ASTRO radio and advised, "Shots fired. Shots fired." The vehicle then negotiated a right turn and fled north. Simultaneously, Subject 1 ran north in the roadway. Officer A holstered his pistol, re-entered the police vehicle, and he and Officer B followed Subject 1 in their police vehicle. As Officer A negotiated a right turn and proceeded north, Officer B observed Subject 1 running in the roadway. Officer B stated that he saw the Subject running eastbound like he was trying to get to the sidewalk. The Subject had a gun in his hand, and he raised it in his direction. Officer B again thought that Subject 1 was trying to kill him.

From a seated position, Officer B engaged Subject 1, who was running north on the east sidewalk, still armed with the handgun. Officer B indicated that Subject 1 was

moving his arms, and he remembered recoiling his weapon and shooting the Subject. Officer B fired several shots from inside the car and remembered holding the gun in front of him and kind of turning to his left. Investigators asked Officer B what the subject was doing at the time he fired his pistol, and he stated, "He did, he did something that I was in fear of my life and I had to use deadly force."

**Note:** Although Officer B believed that he fired a few rounds, the investigation determined that he actually fired nine rounds. Officer A heard Officer B fire his pistol; however, he did not observe Subject 1's actions because he was focused on his driving.

**Note:** During the armed confrontation, Officers A and B's police vehicle sustained three ballistic impacts. The primary impacts were to the front license plate, the right front quarter panel, and the front plastic undercarriage guard. The impacts were consistent with Subject 1 firing rounds at Officers A and B.

Subject 1 then ran east into a driveway and jumped over the chain link fence. Officers A and B observed Subject 1 holding his handgun toward the ground in his right hand prior to jumping over the chain link fence. Officers A and B exited their vehicle and took positions of cover, where they reloaded their pistols. A perimeter was set up in the area to contain Subject 1.

In the interim, Officers E and F and Sergeant B proceeded to the northeast corner of the intersection on foot. While en route, Officers E and F heard between five and nine gunshots in rapid succession; however, they did not see who was shooting. Upon arrival at the corner, they looked north and observed Officers A and B running from their police vehicle to the front of a residence. Officers E and F, followed by Sergeant B, then proceeded north on foot to assist Officers A and B.

The Air Unit continued to track the vehicle as it fled north. The officers in the air unit observed the vehicle become involved in a traffic collision at an intersection. They observed Subject 2 exit the driver's side of the vehicle. Uniformed officers arrived on scene and ordered Subject 2 to the ground, and he was taken into custody.

Sergeant B assumed the role of IC, deployed arriving units to the perimeter, and checked on the wellbeing of Officers A and B. Uniformed Sergeant B obtained a Public Safety Statement (PSS) from Officer B, while uniformed Sergeant D obtained a PSS from Officer A.

Metropolitan Division K-9 personnel responded to the scene and searched for Subject 1. Subject 1 was found hiding near outbuildings in the rear yard of a residence. A K-9 contact occurred. Subject 1 was transported to a hospital, where he was treated in the emergency room for dog bites to his upper arms and a through-and-through gunshot wound to his left flank. After receiving medical treatment, Subject 1 was cleared for booking and discharged from the hospital. Subject 1 waived his Miranda Rights and

was interviewed by investigators. He admitted to firing between nine and 10 rounds at the officers in an attempt to get away.

## **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 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 and B's drawing and exhibiting of a firearm to be in policy.

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

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

## **Basis for Findings**

### **A. Tactics**

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

#### 1. Follow-up

Officers A and B utilized sufficient resources in the area of a robbery in progress. Subsequently, Officers A and B demonstrated a steadfast work ethic to search the surrounding area for the suspect's vehicle.

Officers are encouraged to remain vigilant while involved in the search of persons involved in criminal activity. The overall safety of the community is enhanced when officers effectively utilize their resources to locate and apprehend individuals that remain at large and pose a threat to the officers and community alike. In this circumstance Officers A and B arrived at the location of

the incident and observed adequate resources effectively handling the investigation. Consequently, Officers A and B remained vigilant and began a search of the area for the subject.

In conclusion, although the philosophy behind a Tactical Debrief is to enhance future performance by discussing areas where improvements could be made, oftentimes, discussions pertaining to positive aspects of the incident lead to additional considerations that would be beneficial in future incidents.

- 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 the tactics be evaluated based on the totality of the circumstances. After a thorough review of the incident, the BOPC determined that the identified areas for improvement neither individually nor collectively substantially deviated from approved Department tactical training. Therefore, a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident with the objective of improving overall organizational and individual performance.

In conclusion, the BOPC determined that Officers A and B's tactics warrant a Tactical Debrief.

## **B. Drawing/Exhibiting**

- Officers A and B responded to a robbery in progress call. Upon their arrival they received information that additional subjects were seen fleeing the location in a vehicle. Officers A and B were in the process of attempting to locate Subjects 1 and 2 after they had committed an armed robbery and fled the location in a black vehicle. Officers A and B located Subjects 1 and 2, and a brief vehicle pursuit occurred. At the termination of the pursuit, Subject 1 exited the vehicle, fired a handgun in Officers A and B's direction. Subsequently, Officer A drew his service pistol. Officer A recalled unholstering his weapon as soon as he identified the handgun in Subject 1's hand, with his hand fully extended. Officer A was involved in an OIS while seated in the police vehicle and after he exited the police vehicle. Moments later, Subject 1 fled on foot, at which time Officer A entered his police vehicle and gave chase. Subject 1 continued running and discharged his handgun at Officers A and B as they were following in the police vehicle. Consequently, Officer B drew his service pistol. He knew the situation could escalate to deadly force. The man had a gun on me. He's using deadly force against me."

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 Subject 1's action of pointing and firing a handgun in their direction posed a substantial risk wherein the situation had escalated to the point where deadly force was justified.

In conclusion, the BOPC found Officers A and B's drawing and exhibiting of a firearm to be in policy.

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

- **Officer A** - seven rounds in a northwest direction an approximately 69 feet.

Officers A and B observed Subject 1 exit his vehicle at the culmination of a vehicle pursuit. Subsequently, Subject 1 pointed and discharged a handgun in Officers A and B's direction as they sat in their police vehicle. Officer A experienced difficulty removing his seatbelt from its locked position. As a result, Officer A drew his service pistol and fired five rounds from his service pistol at Subject 1 through the police vehicle's front windshield.

Moments later, Officer A unfastened his seatbelt and exited his police vehicle and assumed a position of cover behind the police vehicle ballistic door panel. Subsequently, Officer A observed Subject 1 fire one round from his handgun in his direction. Consequently, Officer A fired two additional rounds from his service pistol at Subject 1.

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 1's action of pointing a handgun and firing in his direction posed an immediate threat of serious bodily injury or death. As a result, the BOPC determined that Officer A's application of lethal force was reasonable and within Department policy.

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

- **Officer B** - nine rounds in a northeast direction from an unknown distance.

Immediately following Officer A's OIS, Subject 1 ran northbound while still armed. As a result, Officer A holstered his service pistol and entered the police vehicle. Officer A followed Subject 1 in the police vehicle while Officer B remained in the passenger seat. While running, Subject 1 raised his handgun and pointed it in the direction of Officers A and B. As a result, Officer B drew his service pistol and fired six rounds at Subject 1 through the police vehicle windshield.

Subject 1 continued to run northbound, at which time Officer A slowed or stopped the police vehicle. Subsequently Officer B opened the passenger door of the police vehicle door and fired three additional rounds from his service pistol at Subject 1.

Officers A and B made the decision to enter their police vehicle and follow Subject 1 as he fled on foot. In this circumstance, Officer A was the driving officer and opined that Subject 1 posed an immediate threat to the community. Moreover, Subject 1 was armed and had already demonstrated a lack of reverence for human life.

Officer A recalled that the Subject was running into a residential area where there could be families outside.

The BOPC determined that it was objectively reasonable for Officer B to believe that Subject 1 was armed with a handgun and posed an immediate threat of death or serious bodily injury. Accordingly, an officer with similar training and experience under like circumstances would reasonably perceive the manner in which Subject 1 pointed and discharged his handgun at his partner and himself was consistent with a subject preparing to engage an officer. Therefore, the lethal use of force was objectively reasonable and within Department policy.

When assessing Officer B's actions regarding his use of lethal force, the BOPC took into account and determined the following:

- Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and in the immediate defense of life.
- Moving to cover, repositioning and/or waiting for additional responding units to gain and maintain a superior tactical advantage maximizes officer and public safety and minimizes the necessity for using deadly force.
- Shooting accurately from a moving vehicle is extremely difficult and therefore unlikely to successfully stop or prevent a threat to the officer or other innocent persons.

In this circumstance, Officer A utilized his police vehicle in an attempt to ensure the safety of the community as Subject 1 continued to fire in the officers' direction. Additionally, Officer B was the passenger officer as Officer A followed Subject 1. Officer B, while seated in the police vehicle, observed Subject 1 point a handgun in his direction. As such, the BOPC determined that Officer B's decision to fire his service pistol at Subject 1 while seated in a moving vehicle was in an exigent circumstance and in immediate defense of life.

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