

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

OFFICER INVOLVED SHOOTING – 062-09

Division	Date	Duty-On (X) Off()	Uniform-Yes(X) No()
Southeast	09/05/09		

Officer(s) Involved in Use of Force	Length of Service
Officer A	6 years, 5 months

Reason for Police Contact

Officers stopped to contact group of individuals to determine whether they were gang members. During the stop, one of subjects fled on foot with a weapon, which resulted in an officer involved shooting incident.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
Subject: Male, 21 years 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.

In accordance with state law, divulging the identity of police officers in public reports is prohibited, so 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 August 31, 2010.

Incident Summary

Officers A (passenger) and Officer B (driver) were assigned to Metropolitan Division and were traveling in an unmarked police vehicle northbound on a street, when they observed several individuals gathered on the street. According to Officer A, the group

numbered between five to eight individuals, consisting of males and females, dressed in gang attire, baggy clothing, and purple coloring.

According to Officer B, the officers did not advise Communications Division of their Code 6 status because their radio frequency was being shared with SWAT and the frequency was extremely busy.

Officer B stopped the police vehicle so that the officers could contact the individuals to determine whether they were gang members. Upon the police vehicle stopping, the individuals began to disperse. Officers A and B then observed one of the males, subsequently identified as the Subject grab a female around the shoulder and walk away from the group. As the Subject grabbed the female, Officer B reported that he could clearly see the outline of the Subject's waistband, and I could clearly see the outline of what appeared to be a handgun. Officer B illuminated the Subject and the female with his flashlight, and ordered them to stop, but the Subject then began to run away.

Officer A, observed the Subject walking with a female. The Subject was holding the female over her shoulder, and looked there direction, pushed the female aside, and began to run westbound on the north side of the street, holding his right waistband. Officer A believed the Subject was holding onto a firearm in his waistband because subjects typically hold onto their firearms because they don't have a proper holster, and to prevent it from falling out when they're being chased by the police or they're running period.

Officer A began to pursue the Subject on foot, while Officer B's attention was diverted to another individual in the group who said that he had a gun. Officer B made eye contact with that individual and clearly saw that he didn't have a gun and he wasn't holding his waistband. Officer B believed the individual said gun as a diversion tactic to get the officers to chase after him instead of the Subject. Officer B then entered the police vehicle, made a U-turn, and attempted to catch up to Officer A, who was still pursuing the Subject.

Officer A continued to chase the Subject and Officer A observed the Subject remove a blue steel revolver from his waistband. Officer A yelled to Officer B that the Subject had a gun and ordered the subject several times to stop. Officer B heard his partner and yelled back that he knew the Subject had a gun. The Subject ran past several homes on the west side, and then ran westbound into the driveway.

Officer A ran to and stopped at a bush on the southwest corner of the driveway because he no longer had sight of the subject. Officer A did not want to turn that corner without his handgun in his hand and because the Subject was armed with a firearm so Officer A drew his weapon. Officer A started checking the corner and could hear footsteps, and was able to see the Subject running alongside the driveway, just north of two vehicles parked on the south side of the driveway, facing eastbound. Officer A shined his light again and could hear a police car. Officer A said his partner parked just a few feet north of the driveway, and he told him "gun, gun, gun". Officer B got out of the car and Officer

A focused on the Subject. Officer A heard Officer B's footsteps, and I could also hear CD broadcasting. Officer A heard CD putting out that a unit was requesting a backup and that the unit was in foot pursuit of a 415 man with a gun at the location. Officer A never looked back to see if Officer B was there, but because he heard the radio and footsteps, he could tell that it was his partner Officer B.

According to Officer B, he observed the Subject "make a left or westbound turn up the driveway. Officer A again said "be careful, be careful. He's got a gun." Officer B looked up the driveway, which was very narrow and dark. Officer B the area to be a danger zone because he was still in the car, and it was dark, and could not really see where he was, so Officer B parked his vehicle one residence north of the driveway just out of the kill zone. Officer B also did this to avoid any type of crossfire situation with Officer A.

Officer A entered the driveway and saw the Subject attempting to climb over a possibly six-foot chain link fence. There was an old pickup truck which Officer A used for cover. Officer A ordered the Subject to stop, but the Subject refused, ignored his commands, and continued to go up the chain link fence, using his left hand and his left foot to pull himself over as he held the revolver in his right hand. The Subject suddenly turned toward Officer A, and extended his right arm in his direction. Officer A heard a click, and in his mind felt that there was no doubt that the Subject actually pulled the trigger. Officer A thought that heard a shot immediately after or the sound could have been his shot, because in defense of his life and his partner's life, Officer A fired at the Subject three times. Officer A fired two shots and reverted to his training. The Subject was over the fence then.

Officer B exited his vehicle, followed Officer A into the driveway and was "directly behind Officer A. Officer A slowed, and Officer B could see the Subject at a chain-linked fence. Officer A was yelling for the Subject to stop and continually [advised] Officer B that the Subject had a gun. The Subject somewhat turned towards his right, and Officer B could see the Subject's back. When the Subject got to the chain-linked fence, that's when Officer B saw the side of the Subject's face, shoulder, and black shirt because the Subject turned toward Officer A and himself.

Officer B unholstered his weapon when he saw the Subject turn toward him and Officer A, but recognized that Officer A was in front and he did not have a clear shot and could have had a crossfire. Officer B then heard three gunshots as the Subject climbed up the fence and once the Subject got to the top of the fence, the Subject just fell off the fence, onto the other side of the fence. The Subject was face down and was moaning and groaning. Officer B further indicated that Officer A then told the Subject to stay face down on his stomach, and not get the gun or he would be shot. Officer B did not see the Subject point the weapon at the officers because he was positioned behind Officer A when the shots were fired. Officer B said that Officer A was obscuring his view of the Subject. Officers A, with his weapon still drawn, advanced toward the fence, while Officer B also advanced toward the fence and also unholstered his weapon to cover Subject . The officers then devised a plan whereby Officer A would continue to cover Subject , while Officer B would holstered his weapon and climb over the fence to

take Subject into custody. According to Officer A, as Officer B climbed over the fence, he could see the same revolver that the Subject had been holding in his right hand, approximately six, seven inches off to the right. Officer B then climbed over the fence and, prior to handcuffing the Subject, he heard the Subject say the gun was underneath him. Officer B handcuffed the Subject and then rolled him onto his left shoulder to search him and saw the gun lying on the ground. Officer B moved it maybe a foot and a half away from the Subject. The gun recovered at the scene was a .22 caliber.

The Subject reported that he reached the fence and jumped. The Subject just heard the gunshot and then I fell off the top of the gate. Witness A was following Officer A and the Subject on foot as they ran down the street when he heard the shots fired. Witness A hid behind a vehicle parked on the street and heard a police vehicle drive past him. Witness B heard the shots fired as he was approaching the driveway on foot, and said that an officer came on foot flying him. Witness C was three to four houses from the driveway when she heard "pow pow." Witness C further indicated that one officer was already in the front and the other officer went back all the way back there.

Officer A contacted CD to upgrade their backup call to a help call and advised that shots had been fired. Officer A also advised CD that the Subject was down and in custody. Officer B contacted CD to request that a Rescue Ambulance (RA) respond to the location.

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

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A and B's drawing and exhibiting to be in policy.

C. Use of Force

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

Basis for Findings

A. Tactics

In this instance, when the officers elected to conduct an investigative stop, they attempted to update their status with CD but were unable to broadcast. Due to the number of Metropolitan Division personnel deployed that night, the frequency was occupied and prevented the officers from transmitting their status and location. In conclusion, although the officers were unable to update their status, Officers A and B are reminded that in order to assist in facilitating the response of additional units should they become necessary, they must advise CD of their updated location as soon as possible.

In this instance, after being distracted by the unknown male, Officer B entered his police vehicle, conducted a U-turn and began to parallel his partner. During a foot pursuit, officers are strongly discouraged from paralleling each other with one officer in a vehicle and the other on foot; however, in this incident, the diversionary tactic used by the unknown male prevented Officer B from remaining with his partner and forced him to adapt. Utilizing the vehicle to catch up to his partner and monitor the foot pursuit was a reasonable tactic. In conclusion, although their action were reasonable in this instance, Officers B and A are reminded of the importance of remaining together during a foot pursuit and in positions which would allow them to assist their partner should the subject(s) change their direction of travel. In this instance, according to Officer A, once he formed the opinion that the Subject was armed, he engaged in a foot pursuit with the intention to track Subject and establish a perimeter for containment. Additionally, knowing that the Subject was possibly armed, Officer A utilized parked vehicles as cover, thereby maintaining a tactical advantage. Simultaneously, Officer B was able to broadcast their status, location and request additional resources. In conclusion, the actions performed by Officers A and B while pursuing the Subject were consistent with current Department training and guidelines relating to pursuing armed subjects. As a general topic for discussion, Officers A and B will be reminded of the importance to evaluate each situation and the appropriateness of when to switch from containment to apprehension mode.

In conclusion, separation is defined as occurring when *"the distance between the two officers is so great that one cannot render aid to the other when confronted by the subject or barriers exist that would unreasonably delay the partner officer from being able to render aid."* Here, according to their positioning as indicated in both officers' statements, they were close enough to render immediate aid had it become necessary.

Therefore, the BOPC found Officer A and B's Drawing/Exhibiting to be in policy.

B. Drawing/Exhibiting

After assessing the situation, Officer B determined based on the close quarters, his partner would be in line of sight should he decide to discharge his firearm. Officer B

then holstered his service pistol and redeployed. Following the OIS, Officer B approached Subject with his partner. Fearing the subject had landed on the handgun and was still armed, Officer B drew his service pistol a second time. In conclusion, the BOPC found that it was reasonable for the officers to believe that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officer A and B's Drawing/Exhibiting to be in policy.

C. Lethal Use of Force

In this instance, Officer A observed the subject armed with a handgun and climbing the fence. After giving numerous commands that were not adhered to. Fearing for his life, Officer A fired two rounds at the Subject's center body mass. After assessing the situation and realizing the rounds were ineffective, Officer A fired a third round at Subject's head. All of the rounds were fired from an approximate distance of 35 feet in a westerly direction. In conclusion, an officer with similar training and experience would reasonably believe that Subject ' s actions of pointing the handgun at Officer A and pulling the trigger represented an imminent threat of death or serious bodily injury and that the use of lethal force would be justified.

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