

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

**OFFICER-INVOLVED SHOOTING – 080-15**

**Division**                      **Date**                                      **Duty-On (X) Off ( )**      **Uniform-Yes ( ) No (X)**

Mission                                      9/10/15

**Officer(s) Involved in Use of Force**                                      **Length of Service**

Detective A    25 years, 9 months

**Reason for Police Contact**

Detectives A and B were following a suspect wanted for an assault with a deadly weapon when the Subject made a U-turn and drove toward the officers. According to Detective A, as the Subject drove by his partner, the Subject raised his arm in a manner consistent with someone raising a firearm, and an officer-involved shooting (OIS) ensued.

**Subject**                                      **Deceased ( )**                                      **Wounded ( )**                                      **Non-Hit (X)**

Subject: Male, 28 years old.

**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 August 16, 2016.

## Incident Summary

The Subject drove his vehicle to a residence to confront Witness A, and Witness B. During the incident, the verbal confrontation escalated. The Subject produced a semiautomatic pistol and pointed it in Witness B's direction, but did not fire. The Subject then began to drive away, stopped, and while still seated inside the vehicle, pointed the pistol at the ground and fired one round.

Later that day, Witness B was outside his residence when he heard the sound of loud music emanating from a vehicle. Witness B entered his residence and looked out his bedroom window, which faces the street. Witness B observed the Subject sitting in the same vehicle, which was stopped on the street in front of the location. According to Witness B, the Subject looked at him, raised his right hand, pointed a pistol in his direction and fired one shot. Witness B fell to the floor, heard the vehicle speed off and then heard two additional gunshots. After the Subject left, Witnesses B and C called the police to report the incident.

Over the next 30 minutes, CD continued to broadcast updated information regarding the incidents. The broadcasts, over several Area base frequencies, advised officers of the Assault with a Deadly Weapon/shots fired incidents, the Subject's description, and the description and license plate of his vehicle. Additionally, CD informed the officers that the suspect was suffering from a terminal illness and should be considered armed and dangerous.

Plainclothes Detectives A and B were traveling in their vehicle when they heard several radio broadcasts regarding the ADW incidents, including the Subject's vehicle and license plate number. As this information was broadcast, Detective A wrote the last three digits of the Subject's vehicle's license plate number on his hand.

**Note:** According to Detective B, he and Detective A talked about what they would do if they observed the Subject's vehicle, stating they would follow it at a distance and broadcast a request for uniformed officers to respond to initiate a traffic stop.

As they continued traveling, the detectives observed a vehicle traveling east that matched the Subject's vehicle. Detective A conducted a U-turn, followed the vehicle, and confirmed the license plate.

According to Detective B, he attempted to broadcast the Subject's location; however, there were multiple broadcasts regarding the Subject's vehicle at the time Detective B attempted to broadcast their location. Detective B attempted to broadcast twice, but was unsuccessful and advised Detective A. By the time Detective B was able to broadcast, the detectives were following the Subject's vehicle, staying approximately eight to 10 car lengths behind his vehicle.

As Detective B began to broadcast, the Subject suddenly moved his vehicle to the right and stopped at the curb. In an attempt to ascertain the Subject's intentions, Detective A

pulled over to the curb and came to a stop behind a large trailer, south of the Subject's position. Detective A positioned his vehicle so that he was still able to see the Subject as he was stopped at the curb.

The Subject pulled away from the curb and approached the next street. The detectives believed the Subject intended to turn east. The Subject suddenly made an abrupt U-turn and started driving in the detectives' direction. The detectives believed that the Subject was aware of their presence and had identified them as police officers.

**Note:** Following this incident, the Subject was interviewed by detectives. During the interview, the Subject stated that he did not know who was following him, but believed it could have been Witness B.

According to Detective A, as the Subject drove toward them, he did not want to be in a position where, if a shooting occurred, the Subject's vehicle could stop next to his driver's side door. Detective A's first thought was to get out of the vehicle and create some distance between the detectives and the Subject. He realized if he exited the vehicle where he had parked, however, he would have been standing in the middle of the street as the Subject approached. For these reasons, Detective A immediately turned and pulled into the driveway to his left.

**Note:** According to the detectives, there was no communication between them prior to Detective A moving the vehicle. According to Detective B, seconds passed between the time when the Subject made the U-turn and reached the detectives' location.

Detective B immediately exited the vehicle and looked into the Subject's vehicle as it approached. He observed the Subject's head and shoulders through the Subject vehicle's front windshield. Based upon the information he had received, Detective B believed that the Subject was armed and the situation could rise to the level of deadly force. Detective B unholstered his pistol and moved toward a vehicle that was parked along the curb, for cover.

As the Subject continued south, Detective B lowered his body and lost sight of the Subject as he continued to move to cover. As he moved, Detective B heard the sound of four consecutive gunshots emanating from his location.

**Note:** Detective B never made it to the parked vehicle for cover, but instead utilized trash cans that were near the curb.

**Note:** There was no evidence that the Subject fired rounds at this point in the incident.

Detective A immediately exited the police vehicle. As he exited, Detective A turned in a counter-clockwise motion and unholstered his pistol. As he looked into the street, he observed the Subject's vehicle stopped parallel to where Detective A believed his partner was standing. Detective A observed the Subject through the windshield and

passenger side window of the vehicle. The Subject turned in Detective B's direction and raised his right arm extended from his shoulder with his hand canted to the left and sideways.

According to Detective A, "It was at that point again as -- as I'm making my turning motion I believe that based upon the other shootings that he already had and going back to it, one of the things that they were broadcasting was that there was some sort -- that this guy has [a terminal illness] and that to be on the mindset that this might be like a suicide by cop thing."

Due to tint on the front passenger side window, Detective A could not see what the Subject had in his right hand. Detective A believed that the Subject was pointing a pistol in his partner's direction and intended to shoot him. "I'm basing that on the actions of what were described by the officers previous to -- to his actions about two separate shootings, his actions in attempting to -- to flee us and then when he sees us to then turn and come back and -- and challenge us or -- or confront us... We had numerous violent felonies being committed and so the only assumption that I can make is he's stopped and that arm is coming up is that he's coming up to shoot us because there's no -- we had and there's no reason to stop."

In response to this threat, Detective A gripped his pistol with two hands, pointed it at the Subject's upper body and fired four rounds from a distance of approximately 23 feet.

**Note:** According to Detective A, at the time he fired his pistol, he was unsure if the Subject's vehicle was stationary, or if the vehicle began to move as he was firing. According to the ballistic evidence, the Subject's vehicle was moving at the time of the OIS.

**Note:** During his interview, the Subject stated that as he drove down the street, both of his hands were holding the steering wheel of the vehicle and remained there during the OIS. The Subject admitted having the pistol in the vehicle but denied pointing it at the detectives. The pistol was subsequently found in a nearby street.

After the shooting, the Subject accelerated and drove out of the detectives' sight. Detective B holstered his firearm after the Subject's vehicle was no longer in sight. Detective B looked back and observed Detective A standing next to the vehicle with his pistol unholstered. Detective B walked over toward Detective A and they both inquired if the other was okay. Once the Subject was out of sight and Detective A believed that the Subject was not returning, he holstered his pistol.

**Note:** Detective B indicated that when the Subject's vehicle was approaching, he could only see the Subject's head, shoulders and chest area through the front windshield of his vehicle. He did not recall seeing him through the passenger window.

Detective B broadcast the detectives' status and location, that there had been shots fired, and the Subject's last direction of travel. The Subject was subsequently apprehended by responding units.

### **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 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 found Detectives A and B's tactics to warrant Administrative Disapproval.

#### **B. Drawing/Exhibiting**

The BOPC found Detective A and B's drawing and exhibiting of a firearm to be in policy.

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

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

### **Basis for Findings**

#### **A. Tactics**

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

1. Equipment (Body Armor)

Detectives A and B did not have their Department approved body armor in their vehicle at the time of the incident.

Although in this circumstance the detectives were not required to have their body armor on at the time of the incident, it would have been tactically prudent to have their body armor in their vehicle in the event that it was needed.

2. Status and Location Broadcast

Detectives A and B did not advise CD of their location when they exited their vehicle.

The purpose of going Code Six is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

In this case, Detective B advised CD that they located the shooting suspect and then proceeded to tell CD to standby instead of providing them with a current location. Detective B's decision to not broadcast the detectives' Code Six location was a substantial deviation without justification from approved Department tactical training.

Additionally, Detective B had incorrectly broadcast their location and then broadcast their correct location shortly thereafter. Detective B is reminded of the importance of maintaining constant awareness and broadcasting the correct location to ensure responding units arrive in a timely manner.

### 3. Tactical Communication/Vehicle Deployment

Detective A did not advise his partner of his intention to turn into a residential driveway and park their vehicle.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officer, while keeping in mind officer safety concerns.

Positioning of a police vehicle is critical in order to provide the officers a tactical advantage should the incident escalate. In this case, Detective B was unaware of his partner's intent to pull into the driveway and park their vehicle, placing him in a distinct tactical disadvantage without the benefit of cover.

Detective A's actions in this specific circumstance was a substantial deviation without justification from approved Department tactical training.

- 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 that the tactics be evaluated based on the totality of the circumstances.

In conducting an objective assessment of this case, the BOPC found that the overall tactics utilized by Detectives A and B unnecessarily jeopardized their safety and

were a substantial deviation without justification from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to discuss the incident and review the individual actions that took place during this incident.

In conclusion, the BOPC found Detectives A and B's tactics to warrant Administrative Disapproval.

## **B. Drawing and Exhibiting**

- While conducting a follow-up investigation in Mission Division, Detectives A and B observed the Subject, who was wanted for an ADW with a handgun that occurred earlier in the day. As the detectives began following the Subject, he turned onto a residential street, then made a quick U-turn and started driving back in their direction. Believing that they were about to be confronted by an armed suspect, Detectives A and B deployed from their vehicle and drew their respective service pistols.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Detectives A and B, while faced with a similar circumstance would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

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

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

- Detective A – (pistol, four rounds)

According to Detective A, he observed the Subject stop in the roadway adjacent to the area where he believed Detective B was standing and then observed the Subject coming up in a manner which could only be consistent with carrying a handgun. Believing that the Subject was about to shoot at his partner, Detective A fired four rounds at the Subject to stop the deadly threat.

Detective A recalled, "...I see the car stopped...I'm un-holstering my gun as I'm turning. I see the arm come up and in fear for my partner's life and my life then...I begin shooting at the driver of the vehicle...I believe I shot probably...three to four rounds...into the car but I'm not shooting at the car as a weapon. I'm shooting at him because I believe he's trying to shoot at us."

"I'm basing that on the actions of what were described by the officers previous to -- to his actions about two separate shootings, his actions in attempting to -- to flee us and

then when he sees us to then turn and come back and -- challenge us or -- or confront us...at the very least we had an attempt murder...We had numerous violent felonies being committed and so the only assumption that I can make is he's stopped and that arm is coming up is that he's coming up to shoot us because...there's no reason to stop."

"I had absolutely no doubt in my mind that after...my previous shootings that I've been involved with, 25 years of experience, that there was absolutely no reason whatsoever to point that arm in that manner if he was not holding a firearm."

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Detective A would reasonably believe that the Subject's actions presented an imminent threat of death or serious bodily injury, and the use of lethal force would be objectively reasonable to address this threat.

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