

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

OFFICER INVOLVED SHOOTING 098-08

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Rampart	11/11/08		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Police Officer B	8 months
Police Officer C	5 years, 4 months

Reason for Police Contact

Officers responded to a radio call of an assault with a deadly weapon.

<u>Subject(s)</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 1: Male, 47 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 suspect 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 BOPC of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

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 October 6, 2009.

Incident Summary

Subject 1 was inside a retail store and got into a verbal argument with Subject 2. Subject 2 called 9-1-1, and advised that Subject 1 was armed and was threatening to kill Subject 2. Communications Division (CD) broadcast the incident as an Assault with a Deadly Weapon.

Uniformed Police Officers A and B responded to the parking lot of the store in a marked police vehicle. An Air Unit orbiting over the parking lot in response to the ADW radio call, advised Communications Division that Officers A and B were Code-6 and requested a back-up.

The Air Unit directed Officers A and B to Subject 1, who was standing near the entrance to the store. Officers A and B stopped 15 to 25 feet from Subject 1 who was holding a cell phone in his right hand and appeared to be talking on it. Due to the radio call information about the suspect having a gun, Officers A and B drew their service pistols and used the doors of their vehicle as cover.

Officer A ordered Subject 1 to "just put the phone down," but Subject 1 did not comply, and instead ran from the officers through the parking lot and onto the street. Officers A and B holstered their pistols and followed Subject 1 in their vehicle. The Air Unit illuminated Subject 1 and broadcast the direction he was running.

As Subject 1 continued to run, uniformed Officers C and D drove to the area. Officers C and D observed Subject 1 running and broadcast they were Code-6. Subject 1 ran into a small strip mall so Officers C and D parked their police vehicle at the side entrance to the mall. Subject 1 ran with his right hand on his waistband toward Officers C and Officer D. Officers C and D exited the vehicle, and Officer C ordered Subject 1 to stop. Instead, Subject 1 ran westbound past Officers C and D while holding his waistband. Officer C observed several pedestrians in the area of the strip mall, and was concerned for their safety, so he decided to pursue Subject 1 on foot.

Officer A stopped his own police vehicle and from a distance of approximately twenty feet, Officer B saw Subject 1 running. Officer B exited the passenger side of his police vehicle and pursued Subject 1. Officer A secured the police vehicle and then followed behind Officer B.

During the foot pursuit, Officer B was aware that to his right Officer C was also in foot pursuit, so Officer B offset to his left to make sure there would be no cross fire if Subject 1 were to turn around with a gun.

Subject 1 then turned to his right, removed an object from his waistband and pointed it at the pursuing officers. According to Officer B, Subject 1 reached for his waistband and grabbed an object as he turned to a position typical of someone that would point a weapon or a gun. Officer B believed that he observed a metal object in Subject 1's right hand which appeared to be a gun.

Officer C observed Subject 1, running with his right hand in his waistband, and saw Subject 1 turned clockwise toward me with his right shoulder coming towards me and his right hand came out of his waistband with an object that appeared to be a stainless steel handgun. He canted his body and pointed what I believe to be a handgun at me.

Tactical Flight Officer (TFO) A, reported that Subject 1 ran to some nearby newspaper vending machines, and went behind them like he was taking a position of cover. TFO A observed that as the officers closed to within probably 10 to 20 feet, Subject 1 stepped out from the machines and looked like he was going to engage the officers in a gunfight.

As Subject 1 turned toward them and produced the object from his waistband, Officers C and B drew their pistols. As Subject 1 pointed the object at them, the officers fired their pistols at him. Officer C fired six rounds at Subject 1 from a distance of approximately seven feet. Officer B fired three rounds at Subject 1 from a distance of approximately 10 feet. According to Officer B, before he began to fire he heard a round discharge and saw Officer C firing. Subject 1 was struck by the officers' gunfire and immediately fell to the ground. Officers A and B assessed any continued threat from Subject 1, but did not see him make any further movements.

Officer A and D arrived at scene moments after the officer-involved shooting (OIS) occurred. Officer A did not see Subject 1's actions during OIS because his view was blocked by Officer B. Officer D was still inside the police vehicle at the time of the OIS and did not visually witness it. Upon hearing gunshots, Officer D drew his pistol.

No gun was found on or around Subject 1. A silver flip-style cell phone in a black leather case was recovered at the scene. A rescue ambulance responded to the scene and Subject 1 was transported to USC Medical Center where he was subsequently pronounced dead.

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 Officer A, B, C and D's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

The BOPC found Officer A, B, C, and D's drawing and exhibiting of a firearm to be in policy, requiring no further action.

C. Use of Force

The BOPC found Officer B and C's use of lethal force to be in policy, requiring no further action.

Basis for Findings

A. Tactics

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

1. Simultaneous commands

When Officers A and B initially made contact with the subject, both officers gave commands to the suspect. Officers are trained to utilize the concept of contact and cover in which one officer gives the verbal commands while the other provides cover. According to Officer A, he exited his car and immediately gave orders to the subject to put hands up. According to Officer B, he was also issuing commands for the subject to comply.

The BOPC noted that officers were reminded that the cover officer's primary role is to protect the contact officer and that when multiple officers give commands, it may create confusion in the mind of the suspect resulting in non-compliance.

2. Foot pursuit of armed suspects

Department training directs that officers should not attempt to follow a subject who is reasonably believed to possess a firearm. The exception is if the surroundings provided a reasonable amount of cover to allow the officer to move from one position of cover to the next. If sufficient cover is not available officers should stop the foot pursuit and establish a perimeter.

In this instance, the officers engaged in a foot pursuit with the intention of apprehending the subject rather than for containment purposes. Based on the comments of the radio call, an officer with similar training and experience would reasonably believe that the subject may be armed. Although there was a potential for the subject to be armed, none of the involved officers observed the subject actually holding a firearm until the termination of the foot pursuit, at which time, the subject suddenly pulled an object which was perceived by Officers Band C to be a handgun from his waistband area.

In this situation, the officers were confronted with a potentially armed subject fleeing toward innocent community members. Although it is inherently dangerous to chase potentially armed subjects here, it was appropriate to chase this subject in the interest of public safety.

Therefore, the BOPC agrees the officers' decision to engage in this foot pursuit was reasonable, and agreed that it would be in the best interest of the involved officers to discuss this topic and their decision to engage in a foot pursuit at the Tactical Debrief.

Drawing/Exhibiting

In this instance, Officers A and B responded to a report of an armed subject threatening another. Officers A and B deployed on the subject and un-holstered their service pistols. The subject refused to cooperate with the officers' commands and fled on foot through the parking lot. Officer A and B holstered their pistols, and re-entered their police vehicle, and followed the subject. Officer B subsequently drew his service pistol at the termination of the foot pursuit when he believed the subject had drawn a handgun and was pointing it at him.

Officers C and D responded to the radio call heard the foot pursuit broadcast, and deployed in an attempt to contain the subject who was running away from other officers. Officer C did not remember the exact point at which he drew his service pistol; however, according to Officer C, he believed that his life was in immediate danger, and that he was going to get shot. Officer D drew his service pistol upon hearing the gun shots.

Therefore, it was reasonable for the involved personnel to believe that the tactical situation either could, or already had, escalated to the point where lethal force may become necessary. The BOPC found Officer A, B, C and D's drawing and exhibiting to be in policy, with no further action required.

Use of Force

The subject's action of drawing an object from his waistband area, turning, and pointing at Officers B and C, where the officers each perceived the object to be a handgun, caused the officers to fear for their lives. An officer with similar training and experience would believe that the subject posed a substantial risk of serious bodily injury or death. It was objectively reasonable for the officers to utilize lethal force in defense of their lives.

Therefore, the BOPC found the use of lethal force by Officers B and C to be in policy, with no further action required.