

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

OFFICER-INVOLVED SHOOTING – 112-11

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

| | | | |
|--------------|----------|--|--|
| Outside City | 12/16/11 | | |
|--------------|----------|--|--|

| Officer(s) Involved in Use of Force | Length of Service |
|--|--------------------------|
|--|--------------------------|

| | |
|-----------|--------------------|
| Officer A | 14 years, 8 months |
|-----------|--------------------|

Reason for Police Contact

Officers A and B were off-duty and attending a birthday celebration. While attending the celebration, the officers were involved in an altercation with other attendees. During the altercation, Officers A and B were being assaulted. During the assault, Officer A's off-duty handgun fell from his waistband and onto the floor. Officer A retrieved his handgun and simultaneously noticed that Officer B was being assaulted (kicked in the head). In an attempt to stop the assault on Officer B, Officer A fired two warning shots into the ceiling.

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

| | | | |
|------------------------|--|--|--|
| Male, 35 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 and addenda items); the 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 Los Angeles Police Department Command Staff presented the matter to the Chief 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 November 20, 2012.

Incident Summary

Officers A and B were off-duty and attending a birthday celebration outside the City of Los Angeles. While at the reception, Officer A's girlfriend and Officer B's wife were in line waiting to have their photo taken. The Subject, who was standing behind the women, bumped up against Officer B's wife's lower back and touched Officer A's girlfriend's hair and hat. When both women returned to their table, they explained what had occurred to Officers A and B, and pointed out the Subject to them.

A few minutes later, Officers A and B, along with the Subject, had entered the men's restroom. While inside the restroom, a fight ensued between Officer B and the Subject. Officer A was able to stop the fight. They all walked out of the restroom and back to the banquet room. Officers A and B intended to leave with the women as soon as possible.

Once back inside the banquet room, the Subject told his family and friends what had occurred in the restroom, and pointed out Officers A and B. Several family members approached the officers and attempted to punch the officers with their fists. This altercation spilled over into the hallway, where Officer B had fallen to the ground and was being kicked and punched by several people in the head and body. Officer A indicated that he feared Officer B could lose consciousness at any time as the Subject was pummeling Officer B in the face and other males punching and kicking Officer B on the body and head as he was on the ground. Officer A attempted to get to Officer B, but he was unable to because some of the people in the crowd, including an unidentified female, were assaulting him.

Simultaneously, Officer A was being confronted by another group of individuals. During this confrontation, Officer A's gun fell out of his holster, which he carried tucked into his waistband, and onto the floor. Officer A picked up his gun and at the same time, he could see that Officer B was being kicked in the head. Fearing that Officer B could be killed or seriously injured, Officer A fired two warning shots from his handgun into the ceiling. Upon hearing the gunshots, the attack on Officer B stopped, and the group disbursed.

LASD deputies responded to the scene and detained the involved officers and the Subject. No one was injured by the gunshots.

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 revolver 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's actions warranted a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found that a finding for this incident does not apply.

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

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

- In conducting an objective assessment of this case, the BOPC determined that due to the nature of this incident and the lack of any type of nexus to law enforcement activity or tactics, no considerations in relation to tactics were identified. The BOPC concurs with the UOFRB; however, current Department policy states that any officer involved in a Categorical Use of Force incident shall be directed to attend a Tactical Debrief. The BOPC will direct that Officer A attend a Tactical Debrief, which included regularly designated topics, in addition to issues involving off duty actions, warning shots, and weapon retention.

B. Drawing/Exhibiting

- In this instance, Officer A was punched in the face and knocked backward. As Officer A fell backward, his off-duty pistol dislodged from the holster that he had clipped to the interior of his waistband and fell to the floor. Officer A retrieved his pistol from the floor and fired the two warning shots.

However, Witness A entered the hallway and observed several males punching and kicking one male on the ground and reported that she observed Officer A reach into his waistband and retrieve his firearm.

The BOPC evaluated the circumstances as depicted by Officer A and Witness A and determined that this discrepancy was unable to be reconciled with the available evidence. However, absent irrefutable evidence to the contrary, Officer A's drawing and exhibiting of a firearm would be evaluated under the circumstances of the

incident as depicted by Officer A. Therefore, since Officer A's pistol was knocked to the floor and retrieved before immediately firing the two warning shots, there will be no formal finding for Officer A, as far as drawing and exhibiting.

C. Lethal Use of Force

- **Officer A** – (revolved, two rounds)

In this instance, Officer A was holding his off-duty revolver and observed Officer B being kicked in the head and punched repeatedly by several unidentified males. Officer A feared Officer B was going to lose consciousness or be killed by the kicks and punches. In the defense of Officer B's life and in an attempt to disperse the mob that was attacking him, Officer A fired two warning shots, in an upward direction, into the ceiling of the hallway.

In assessing Officer A's application of lethal force, the BOPC took into account the statements of Officers A and B, as well as the statements of civilian witnesses and the physical evidence. The information gathered supports Officer A's observation of several males kicking and punching Officer B as he was on the floor. The BOPC has determined an officer with similar training and experience would reasonably believe that the repeated kicks and punches Officer B endured represented an imminent threat of serious bodily injury or death. The BOPC also recognized the building was a single story structure and believed Officer A's firing the warning shots into the ceiling was the best alternative. Considering the flooring of the hallway was ceramic tile, a projectile from the round could have ricocheted and could have injured someone in the immediate area.

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