

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

OFFICER-INVOLVED SHOOTING – 005-05

| Division | Date | Duty-On (x) Off () | Uniform-Yes (x) No () |
|-----------------|-------------|----------------------------|-------------------------------|
| Southeast | 01/24/05 | | |

| Officer(s) Involved in Use of Force | Length of Service |
|--|--------------------------|
| Officer A | 2 years, 1 month |

Reason for Police Contact

The Communications Division received a 911 call for assistance. The Communications Division Police Service Representative (“PSR”) could hear arguing on the open line, but the call terminated before the PSR could speak with anyone.

| Subject | Deceased (x) | Wounded () | Non-Hit () |
|-----------------------------------|---------------------|--------------------|--------------------|
| Subject 1: Male, 36 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 Chief 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.

The following incident was adjudicated by the BOPC on January 10, 2006.

Incident Summary

In the early morning of January 24, 2005, Communications Division (“CD”) received a 911 call from a residence where the line remained open and sounds of arguing were heard in the background before the call was terminated. CD called the number back and reached an answering machine. CD then broadcast a Code-3 (highest priority) “unknown trouble” call to the address. Officers A, B, C and D arrived and approached the call location. Officer A assumed the role of the contact officer and led the group as the officers approached. He saw that the door to the address was open and the interior

lights were on. He also heard voices coming from within the address and communicated this to the other officers. Officers A, B and C took various positions of cover surrounding the door. Meanwhile, Officer D continued to a parking lot adjacent to the location to investigate a vehicle with its parking lights on and engine running. Officer D drew his pistol as he approached that vehicle.

Officer A took a quick look around the doorframe to the interior of the small apartment. He saw a living room, kitchen area and a doorway to an additional room. Officer A did not see anyone, but could hear the sound of arguing from behind the doorway, including a female voice stating, "You're not going to be hitting on me like this." Officer A believed that an act of domestic violence was occurring. Officer A checked the locations of his fellow officers and informed them that there was arguing coming from the apartment. He then knocked loudly on the door using his flashlight and stated "Police."

A male (Subject 1) emerged from the room where the arguing had been heard and walked rapidly across the living room of the apartment, towards the open front door of the apartment and Officer A. Officer A saw that Subject 1 was holding a revolver in his right hand. The weapon possessed by Subject 1 was subsequently determined to be a fully loaded blue-steel .357 magnum revolver with a 6" barrel and the hammer cocked. As Subject 1 crossed the room (in a manner the officer described as "charging"), Subject 1 made eye contact and began to raise the muzzle of his weapon as if to point it towards Officer A. Officer A immediately reacted by stepping back, dropping his flashlight, drawing his pistol and firing three rounds in rapid succession at Subject 1.

Officer A retreated north away from the doorway to a position along the front wall of the apartment. Upon hearing Officer A's gunfire, Officers B and C both drew their pistols and Officer B broadcast a "shots fired, officer needs help" call. Officer A did not know if his rounds struck Subject 1, and warned the other officers that Subject 1 might attempt to escape through the rear of the apartment. The officers then took positions in order to cover both the front and the rear of the building.

Shortly after the shooting, Officer B heard Witness 1 call out from inside the apartment that she was unarmed and was going to come out. Officer A instructed her to exit the apartment. Witness 1 told Officer A that Subject 1 had been shot and needed help. Officer A inquired about Subject 1's location and whether he was still armed. Witness 1 informed him that Subject 1 was on the couch just inside the apartment door and he still had the gun.¹ Witness 1 repeatedly told Officer A that Subject 1 needed help. Officer A, concerned over his and Witness 1's position, told her to move back. When Officer E arrived, Officer E observed Witness 1 waving her arms and yelling at officers. Officer E handcuffed Witness 1 and moved her approximately 20 feet from the apartment door. Officer F and Officer G were next to arrive at the scene. Officer F armed himself with a shotgun and Officer G drew his pistol.

¹ Witness 1 subsequently told investigators that she did not see Subject 1 with, or near to, a gun during this incident.

Officers A, C, and D approached the apartment to establish Subject 1's location. Officer D looked through a window on the south side of the door and saw Subject 1 on the sofa with the gun in his lap. He so informed Officers A and C, and then covered the open apartment door with his pistol and flashlight. Officer E drew his pistol and, along with Officers F and G, joined the other officers near the apartment door. Officer F looked through the door and saw Subject 1 with a weapon in his hand while Officer G also looked through a window and made the same observation. Verbal commands were given for Subject 1 to drop his gun. However, no response was heard from within the apartment.

A plan was made for taking Subject 1 into custody and clearing the apartment. Officer A re-holstered his pistol and, accompanied by Officers C, E, F and G, entered the apartment. Officer A, assisted by Officer C, pulled Subject 1 onto the floor from the sofa and handcuffed him. The apartment was cleared and no additional occupants were located. Officer D requested an ambulance, which transported Subject 1 to a local hospital where Subject 1 died from the gunshot injuries.

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 that Officers A, B, C, D, E, F and G will benefit from additional tactical training.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A, B, C, D, E, F and G's drawing/exhibiting/holstering of a firearm to be in policy, requiring no action.

C. Use of Force

The BOPC found Officer A's use of force to be in policy, requiring no action.

Basis for Findings

A. Tactics

The BOPC determined that Officers A, B, C, D, E, F and G will benefit from additional tactical training.

The BOPC noted that the officers did not adequately communicate with each other at the scene. Officer D did not communicate his intent to clear the vehicle he observed in the parking lot next to the apartment building.² The BOPC also noted the officers were not immediately aware that Subject 1 was armed or that an officer involved shooting ("OIS") had occurred. Fellow officers should have alerted one another once an OIS had occurred. In addition, after the OIS, the BOPC would have preferred that the officers considered alternatives to entering the apartment to take Subject 1 into custody. The officers were unaware if Subject 1 had actually been struck by Officer A's gunfire or if he was possibly faking injury and lying in wait. Had Subject 1 not been wounded, he would have had the tactical advantage in those particular circumstances. The BOPC would have preferred the officers maintain their positions and requested additional resources, such as a supervisor or a Special Weapons and Tactics ("SWAT") Team. Finally, the BOPC noted that Subject 1's revolver was recovered from the floor with the hammer cocked backward directly over a live round within the cylinder. Although the investigation was unable to determine how the revolver fell to the floor, the BOPC would have preferred the entry team plan had designated an officer to safely secure the revolver prior to handcuffing Subject 1. Allowing the weapon to fall to the floor could have caused an accidental discharge and possibly endangered the lives of the officers and nearby residents.

B. Drawing/Exhibiting/Holstering

The BOPC determined that the officers had sufficient information to believe the situation might escalate to the point where deadly force may become necessary, thus, the officers' drawing of their weapons was in policy, requiring no action.

C. Use of Force

The BOPC determined that Officer A reasonably believed that Subject 1 presented an immediate threat of serious bodily injury or death, thus, the use of force was in policy, requiring no action.

Officer A stated he observed Subject 1 rapidly advance toward him, armed with a revolver. When Officer A and Subject 1 made eye contact, Subject 1 began to raise the muzzle of the revolver upward in the officer's direction while continuing to advance. In fear for his life and those of his fellow officers, Officer A fired three rounds at Subject 1.

² It was later determined the vehicle belonged to Subject 1.