

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

OFFICER-INVOLVED SHOOTING – 012- 05

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes(X) No()</u>
77 th Street	02/06/05		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	8 years
Officer B	6 years
Officer C	2 years
Officer D	8 years
Officer E	3 years
Officer F	4 years

Reason for Police Contact

Officers observed a Toyota being driven erratically and in violation of traffic laws. Suspecting the driver was under the influence of drugs and/or alcohol, the officers attempted to pull the vehicle over. The driver of the Toyota did not comply, despite the activation of the police vehicle's emergency lights and siren. A pursuit ensued, during which the driver committed additional traffic violations including running red lights and driving at excessive speeds.

Subject

Subject A. Male, 13 years of age (deceased).
Subject B. Male, 14 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 involved officers, the Coroner's report, ballistic evidence, extensive expert scientific analysis by Department personnel, outside expert opinion sought by the Department regarding reaction time ("lag-time") in officers' responses to danger, and other addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations, including a minority opinion; 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 discussed in detail by the BOPC on January 24th and 31st, 2006. The BOPC made its final determination on January 31st.

Incident Summary

On Sunday, February 6, 2005, at 3:45 A.M. Newton Area Patrol Division uniformed Police Officers A and B were patrolling in a marked police vehicle. Officer B was driving the vehicle.

The officers observed a Toyota driving the wrong way on a one-way street. As they continued to observe the vehicle, it ran a red light and turned onto the southbound Harbor Freeway.

The officers followed the Toyota onto the freeway and Officer A ran a check on its license plate. The results of the license plate check indicated that there were no wants or warrants on the Toyota. As they continued to follow the Toyota, the officers noted that it was being driven erratically and formed the opinion that the driver may be under the influence of alcohol or drugs. The officers decided to stop the Toyota to investigate whether the driver was intoxicated.

Although the Toyota had been reported stolen hours earlier, this information had not yet been entered into the relevant databases. During the course of this incident, Officers A and B were unaware that the vehicle had been reported stolen.

Officer B activated the police vehicle's lights and siren. The Toyota continued southbound on the freeway. As it did so, the officers saw that, in addition to the driver (Subject A), the Toyota was occupied by a front-seat passenger (Subject B). Officers A and B were unaware of the ages of the Toyota's occupants during this incident.

The driver of the Toyota did not yield to the officer's activation of the police vehicle's lights and siren and pull over. Rather, the Toyota made a sharp turn and exited the freeway. Officer B broadcast to Communications Division that his unit was in pursuit of a "DUI driver."

During the pursuit, Officers A and B observed the Toyota being driven at excessive speed on surface streets and running red traffic lights at intersections.

Meanwhile, 77th Street Area Patrol Division uniformed Police Officers C and D were monitoring the broadcasts of the pursuit and drove to Western Avenue, where they planned to join the pursuit of the Toyota.

The Toyota drove northbound on Western Avenue. As the Toyota approached the intersection of Western Avenue and 83rd Street, it veered to the right, drove up onto the sidewalk and stopped just short of a fence at the northeastern corner of the intersection. As the Toyota came to rest, Subject B jumped out of the vehicle and ran away.

Upon seeing the Toyota apparently lose control and drive onto the sidewalk, Officer D drove his vehicle towards the intersection of Western Avenue and 83rd Street. Meanwhile, Officer B stopped Officers A and B's police vehicle in the intersection. Officers A and B exited their police vehicle, assumed positions behind the vehicle's doors and drew their pistols.

After exiting the Toyota, Officer A observed Subject B running with one arm swinging and the other at his waistband. Officer A believed that Subject B was armed with a gun. It was later determined that Subject B was holding a cell phone.

Subject A then put the Toyota into reverse gear and accelerated backward toward the passenger side of the police vehicle where Officer A was standing.

After reversing approximately 17.5 feet, the Toyota collided with the front passenger-side area of the police vehicle. Following the initial impact, the Toyota continued backward for approximately 18 feet. The Toyota then changed direction, rolled forward, and stopped.

As the Toyota reversed, Officers A and B moved away from their police vehicle. Officer A moved from the path of the oncoming Toyota and was not struck. As he moved, Officer A considered the safety of Officer B and attempted to establish Officer B's position. Officer A was also concerned about the fleeing passenger.

Officer A fired 10 rounds at Subject A, hitting him 7 times and causing fatal injuries.

The time between Officer A leaving his position at the passenger door of the police vehicle and the beginning of the shooting was determined to be 2.9 seconds or less.

Expert opinion, based on subsequent scientific testing, estimated the maximum speed of the Toyota's reverse movement to be between 10.1 and 12.7 miles per hour. Further, it was established that Officer A fired when the Toyota was close to its rearward-most position, and that the maximum speed of the vehicle at that time was approximately two miles per hour. Trajectory analysis established that Officer A fired all 10 rounds from the passenger side of the Toyota. Six rounds were fired through the window of the Toyota's rear passenger-side door, and four rounds were fired through the vehicle's open front passenger door.

Upon hearing the sound of gunfire, Subject B laid down on the ground. He was subsequently taken into custody without incident.

An ambulance responded to the scene. Paramedics examined Subject A and determined that he had died from his injuries.

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 done in 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.

The BOPC weighed all the evidence and heard presentations by the Chief of Police and his staff, as well as the Inspector General. The resources committed to the Department's investigation and review of this incident were unprecedented. Extensive evidence was gathered, comprehensive scientific analysis was conducted and opinions from outside experts were obtained.

Based on the preponderance of the evidence, the BOPC adopted the following findings:

A. Tactics

The BOPC unanimously found that Officer A requires formal training, and that Officers B, C, D, E and F require divisional training. These findings are consistent with the recommendations of the Chief of Police.

B. Drawing/Exhibiting/Holstering

The BOPC unanimously found Officer A, B, C and D's drawing/exhibition/holstering of a firearm to be in policy, requiring no action. These findings are consistent with the recommendations of the Chief of Police.

C. Use of Force

By a majority of four-to-one, the BOPC found Officer A's use of force to be out of policy, requiring administrative disapproval. This finding is different from the recommendation of the Chief of Police. Additionally, a Use of Force Review Board minority opinion submitted concurred with the recommendations of the Chief of Police regarding the Use of Force, except that it recommended that the last eight rounds fired by Officer A be found out of policy.

Basis for Findings

A. Tactics

Officers E and F were conducting a stolen vehicle investigation of the Toyota driven by Subject A. The officers monitored the pursuit broadcasts and sent text messages to Communications Division and to Officer A and B indicating that the Toyota had been reported stolen. The BOPC would have preferred that the messages had been voiced over the radio to ensure that those messages were received.

The BOPC would have preferred that Officers C and D had positioned their vehicle differently in the intersection of Western Avenue and 83rd Street to prevent a possible cross-fire situation.

The BOPC would have preferred that Officer B had positioned the police vehicle to allow Officer A a better view of the passenger side of the Toyota.

The BOPC found that Officer A will benefit from formal tactical training.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officers A, B, C and D drew their pistols at the termination of a vehicle pursuit and found that they had sufficient information to believe that the situation might escalate to the point where deadly force may become necessary.

C. Use of Force

The BOPC found that Officer A believed that the use of deadly force was necessary. However, the preponderance of the evidence including, but not limited to, expert scientific opinions that when Officer A fired all shots from his weapon he was to the side – and not in the path – of the Toyota and that the speed of the Toyota was no more than approximately 2 miles per hour, demonstrated to the majority of the BOPC that the officer's belief was not objectively reasonable and, therefore, was out of policy.