

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

**OFFICER-INVOLVED SHOOTING – 017-11**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes ( ) No (X)</b>
Wilshire	03/02/11		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	4 years, 11 months

**Reason for Police Contact**

Plainclothes officers observed a suspect fire multiple rounds into an apartment building, flee the location and then point a handgun at the officers, resulting in an officer-involved shooting.

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded ( )</b>	<b>Non-Hit (X)</b>
Subject 1: Male, 28 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 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, 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 January 24, 2012.

## **Incident Summary**

Plainclothes Officers A (driver), B (passenger), and C (rear passenger) were conducting narcotics surveillance in a plain police vehicle with tinted windows.

That morning, the officers received information regarding gang members who had been involved in recent criminal activity and that further repercussions and/or violence was expected in a particular area. Officers A, B and C decided to follow potential narcotic subjects in the identified area, thinking that they would lead the officers to other dealers.

While conducting surveillance, the officers' attention was drawn to two narcotics subjects, a male and a female. Officer B recognized the male subject as a known narcotics user and someone he had prior contact with.

The officers followed the subjects and eventually parked their vehicle on a curb, where they had a view of the mouth of an alley. Officer A observed the female subject checking parked vehicles as if she was waiting or looking for somebody and walking in a hurried fashion that led the officers to believe that the subjects were looking to obtain narcotics. The officers did not know whether a crime had occurred.

The female subject walked to the mouth of the alley, turned around, and stopped. The officers then observed a vehicle, with two occupants, drive past them and turn into the alley. Officer A indicated that it seemed like the female subject knew who was in the car. The officers briefly lost sight of the female subject and were not in a position to observe a hand-to-hand transaction. The officers had planned to stop the female subject for purposes of issuing a jaywalking violation.

The female subject exited the alley, but Officer A wanted to wait until she was by herself to inform Communications Division (CD) of where the officers were located. The officers did not want to give their position away, allow the subjects to recognize their vehicle or be able to otherwise identify them.

Officer A next observed the female subject walking quickly out of the alley, as though she had just conducted a narcotics transaction, and the two subjects in the vehicle, subsequently identified as Subjects 1 and 2, walking behind her.

Officer A observed Subject 1 look up at an apartment building and fire three to four rounds at the building. Subject 1 turned around, ran from the apartment building and fired another round as he and Subject 2 ran back toward the alley.

Officer B also observed Subject 1 pull his weapon, a revolver, from his pants and fire approximately four rounds. Officer C also observed Subject 1, the driver of the vehicle, produce a blue-steel revolver and proceed to fire four shots into the apartment complex.

Officer B unholstered his weapon after seeing Subject 1 fire several rounds into the apartment building because Officer B feared that he or his partners could be involved in a shooting.

Upon observing Subject 1 firing his weapon into the apartment building, Officer A advised Officer B to relay to CD the subject descriptions, color of the vehicle, and the subjects' direction of travel. Officer B then broadcast "shots fired."

Officer A observed the subjects run down the alley, re-enter their vehicle and drive southbound down the alley. The officers followed in their vehicle. Officer A observed both subjects exit the vehicle approximately halfway down the alley, while Officer A stopped the officer vehicle approximately 50-60 feet behind the subjects' vehicle, exited while unholstering his duty weapon and remained on the driver's side of the officer vehicle, behind the door.

Officer A pulled his Department-issued badge from inside his T-shirt when he exited the officer vehicle and commanded the subjects to get out of the car, while verbally identifying himself as LAPD and pointing his pistol toward Subject 1. Officer B took a position behind his door and focused on Subject 2. Officer B observed that Subject 2 did not have any weapons but was moving around.

Officer B drew his pistol again as he exited their vehicle because he knew the subjects were still in possession of a firearm, and believed they may have thought that he and his partners were rival gang members or police officers.

Officer A then observed the driver (Subject 1) exit the vehicle and swing around, while looking at Officer A. Officer A also observed Subject 1 swinging a gun in his right hand, in Officer A's direction.

As Subject 1 was turning counterclockwise, the gun was coming toward Officer A. Officer A fired one round from a distance of approximately 163 feet when he saw the gun pointed at him, aiming at Subject 1's head or the front of his face. Officer A indicated that he fired to protect himself and his partners from serious bodily injury or death because he believed Subject 1 was going to shoot him and his partners. Officer A aimed at Subject 1's head because Subject 1 was hunched over as he was turning, and Subject 1's upper torso was not an available target.

Prior to firing, Officer A again yelled, "LAPD," and commanded Subject 1 to drop the gun and show him his hands. Witness B heard a vehicle screeching to a halt and observed a man yelling, "Stop. LAPD," and then saw him shoot twice.

According to Officer B, when Officer A fired, he (Officer B) did not see anything in Subject 1's hands, and Officer A did not tell him what he was firing at.

Meanwhile, Officer C observed Officer A with his gun drawn outside the vehicle and observed Officer A fire one round in Subject 1's direction. Officer C recalled observing Subject 1 exit the vehicle, turn counterclockwise toward the officers, and then Officer C positioned himself down in the vehicle when he saw Subject 1's gun. Officer C unholstered his weapon when he attempted to exit the officer's vehicle, but the officer-involved shooting (OIS) had already occurred. Officer C too believed the subject who exited the driver's side of the subject vehicle (Subject 1) was the same individual who fired rounds at the apartment building. Officer A observed both subjects start running southbound in the alley, climbing a fence and continue running. Officer A holstered his weapon upon firing at Subject 1 because he did not continue to see a gun in Subject 1's hand.

According to Subject 1, he and three of his friends went to purchase some marijuana from a friend who lived at a residence located in the alley. Subject 1 said he heard the shooting, turned back around and ran. Subject 1 did not know how many shots he heard because the incident unfolded rapidly. Subject 1 indicated he did not drive a car that day and never fired a gun.

Subjects 1 and 2 were ultimately located in two separate locations and detained by responding uniformed officers. Officers A and B, along with Detective A, then drove to the location where Subject 1 had been detained by uniformed officers. Upon arrival at the location, Officer A identified Subject 1 as the individual who pointed a handgun at him in the alley.

After the incident, Officer C and responding uniformed officers cleared the subject vehicle, at which point a .38 caliber revolver with a 2 ½ inch barrel was recovered from the driver's seat. Subject 1 denied being in possession of a handgun.

### **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 Officers A, B and C's tactics to warrant a tactical debrief.

## **B. Drawing/Exhibiting**

The BOPC found Officers A, B and C's drawing and exhibition of a firearm to be in policy.

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

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

## **Basis for Findings**

### **A. Tactics**

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

#### **1. Deployment of Personnel, Separation**

In this instance, Officers A, B and C were working as a three-person unit. In an effort to monitor and contain the subjects after the OIS, Officer C exited the police vehicle and took a position at the mouth of the alley to monitor the subjects' vehicle. After dropping off Officer C, Officers A and B drove to a different corner and later continued southbound down the street. This tactic caused Officer C to be separated from his partners and placed him at a tactical disadvantage. While examining this issue, the BOPC gave consideration to the fact that Officer C maintained a position to monitor the subjects' vehicle from a distance and made no attempt to chase, search or confront the subjects. Furthermore, the officers had previously broadcast "shots fired" and had reason to believe that additional units were responding and would arrive within moments. Based on these factors, the BOPC found that though the officers' decision to separate deviated from Department tactical training, that deviation was not substantial.

Accordingly, the BOPC determined the officers' actions did not substantially deviate from approved Department tactical training.

In conclusion, the BOPC found Officers A, B and C's tactics to warrant a tactical debrief.

## **B. Drawing/Exhibiting**

In this instance, Subject 1 produced a revolver from the right side of his pants and pointed it at an apartment building on the east side of the alley. Officer B drew his service pistol because he believed the situation could escalate and he felt he and his partners were in danger. Subject 1 fired several rounds at the second floor apartment. Officer B reholstered his service pistol and utilized his radio to broadcast that shots were fired in the alley.

The BOPC determined that an officer with similar training and experience as Officer B would reasonably believe that the situation had escalated to the point where deadly force may be justified.

Subjects 1 and 2 entered their vehicle and drove away southbound in the alley. Officer A followed Subject 1's vehicle, and both vehicles stopped in the alley. Both subjects' vehicle doors opened and Officer A observed Subject 1 getting out of his vehicle. Subject 1 had the revolver in his right hand and was swinging it toward Officer A. Officers A and B exited the vehicle, stood behind their respective doors, and drew their service pistols.

The BOPC determined that an officer with similar training and experience as Officers A and B would reasonably believe that the situation had escalated to the point where deadly force may be justified.

Once Officer C established a position in the alley from which he could safely observe the subject's vehicle, he drew his service pistol. Based on the prior events, the BOPC determined that an officer with similar training and experience as Officer C would reasonably believe that the situation had escalated to the point where deadly force may be justified.

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

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

After Subject 1 fired his rounds at the apartment, he and Subject 2 entered the vehicle and drove away southbound in the alley, and the officers followed. Subject 1 drove to the middle of the block and suddenly stopped in the alley. In response, Officer A stopped his vehicle as well. Both subjects' vehicle doors opened and Officer A observed Subject 1 getting out of his car. Subject 1 had the revolver in his right hand and was swinging it toward Officer A. Officer A exited the vehicle, stood behind the driver's door, drew his service pistol and pointed it toward A. Officer A observed Subject 1 point the revolver at him, and believed he and his partners were in immediate danger and were about to be injured or killed. Officer A fired one round and due to Subject 1's partially concealed torso, aimed for Subject 1's head.

The BOPC determined that Subject 1's act of firing indiscriminately at an inhabited dwelling as well as pointing his handgun at Officer A would cause an officer with similar training and experience as Officer A to reasonably be in fear for his life and that of his partners. Therefore, the decision by Officer A to utilize lethal force in order to address the imminent threat of death or serious bodily injury presented by Subject 1 was objectively reasonable and consistent with Department policy.

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