

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

OFFICER-INVOLVED SHOOTING – 018-07

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Newton	02/24/2007		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	16 years, 2 months

Reason for Police Contact

Officers A and B were stopped at an intersection when they observed a vehicle to their right accelerate at a high rate of speed and straddling lanes. The officers conducted a traffic stop for the violations. As the subject's vehicle came to a stop, the rear seat passenger exited the vehicle and ran. The officers observed the butt of a gun in the subject's waistband area. After a short pursuit, the subject pointed a gun at the officers and an officer-involved shooting ensued.

<u>Subject</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 1: male, 25 years.			

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 subject 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.

The following incident was adjudicated by the BOPC on December 18, 2007.

Incident Summary

On the evening of February 24, 2007, Officers A and B were deployed in an unmarked police vehicle equipped with a siren, a forward facing red light in the front, and blue and yellow lights in the rear.

While Officers A and B were stopped in the left lane at an intersection waiting for a red signal light, a vehicle pulled up to their right. Officer A observed three male occupants seated in the vehicle listening to loud music. Officer A believed the occupants of the vehicle were gang members, because of their appearance and demeanor. The three individuals did not appear to notice the police officers next to them. When the signal light turned green, the vehicle accelerated at a high rate of speed, approximately 50 to 55 miles per hour, and straddled the number one and two lanes.

Due to its speed and erratic driving, the officers decided to follow the vehicle and conduct a traffic stop for the observed violations. Officer B requested a Department of Motor Vehicle automobile status from Communications Division (CD) over the radio. CD advised there were no wants or warrants on the vehicle and provided the registered owner's information.

When the officers activated their lights, the vehicle slowed down and negotiated a right turn. The vehicle slowed down to approximately 5 miles per hour for about 50 feet before finally coming to a stop. The officers could see the occupants in the vehicle moving around and looking back at them. Officer A stopped the police vehicle approximately 20 to 25 feet behind the vehicle.

Officer A advised Officer B that he believed the subjects were ready to either take off on foot or in the vehicle, or possibly come out shooting. Officer A exited the police vehicle and took a position of cover behind his opened vehicle door. Officer B broadcast the officers' location and exited the police vehicle and took a position of cover behind his opened vehicle door. The driver of the vehicle stuck his head out the window and looked back at the officers. Officer B ordered the driver to "turn the car off." Officer A advised Officer B, "Get ready. They're gonna run."

Suddenly, the rear passenger, Subject 1, exited the vehicle and ran along the sidewalk. As Subject 1 ran, the officers observed him holding the front of his waist with both hands. Officer A observed what appeared to be the butt of a handgun sticking out from Subject 1's front waist area. The officers advised each other of the gun.

The officers got back inside their police vehicle, drove around the vehicle that was still parked with the two other occupants still inside, and pursued Subject 1.

As Subject 1 ran on the sidewalk, Officer B observed Subject 1 trip and fall to one knee. Subject 1 immediately got up and continued to run. When Subject 1 got to the slight bend on the sidewalk, he fell again; this time Subject 1 was completely sprawled out on the ground with his hands out to the side. Officer B could clearly see what he described as a "stainless steel semi automatic with about a six-inch barrel." From a distance of approximately 12 feet while still seated in the police vehicle, Officer B yelled out, "Police. Stop. Just give up."

Believing that the situation could escalate to deadly use of force, Officer B drew his pistol with this right hand. Officer B advised his partner, "Partner. Gun. Gun. Gun. It's

in his right hand. He's got a gun." Subject 1 got up and continued to run with the gun in his hand.

When Subject 1 reached the intersection, he made a right turn. Officer A followed and made a right turn. Subject 1 ran a few steps past a large metal utility box, backtracked and stood behind it. Officer A stopped the police vehicle approximately 11 feet away from the utility box, exited the police vehicle, took a position of cover behind the vehicle doorjamb and unholstered his pistol.

Subject 1 stayed behind the utility box for approximately five to ten seconds. Officer A believed that Subject 1 would possibly pop out on one of the sides or over the top and start shooting at the officers. Subject 1 then re-emerged from behind the utility box and ran back in the direction where he initially ran from, passing the right side of the police vehicle.

Officer A left his vehicle's doorjamb, moved towards the rear of the vehicle to follow Subject 1. As Subject 1 ran, he looked back over his left shoulder in Officer A's direction, moved his right arm across his chest underneath his armpit and pointed his gun at Officer A. Officer A described this as, "He looks in our direction, and I see the chrome front part of the handgun. And I felt that he was going to kill me or kill my partner." In response to Subject 1's actions, Officer A fired two rounds from a distance of approximately 20 feet, striking Subject 1 and causing him to fall down onto the sidewalk.

Meanwhile, as Subject 1 started running from the utility box, Officer B exited the police vehicle, holstered his pistol, and proceeded to chase after Subject 1. When Subject 1 made a left turn on the intersection, Officer B observed Subject 1 start to turn with the weapon underneath his left armpit and point the gun at them. Officer B unholstered his pistol and as he raised his pistol to take a shot, he heard two rounds go off to his right, and Subject 1 immediately went down to the ground.

When Subject 1 went down to the ground Officer A was unable to see Subject 1's hands because they were underneath him. Officer B ordered Subject 1, "put your hands out in front of you." Subject 1 did not comply, and laid on the ground, moaning. Believing Subject 1's gun was underneath his body, Officer A advised Officer B that they would hold their positions until additional units arrived.

Officer A broadcast a man with a gun, shots fired, requested backup and provided their location.

Officers C and D responded to the scene. Officers C and D exited their vehicle and observed the subject laying on the ground, Officer A taking a position on the corner building, and Officer B taking a position a few feet to the right of Officer A. Officer A advised the responding officers that the subject may still be armed and to handcuff the subject while Officers A and B maintained cover positions.

Note: Officer D unholstered his service pistol as he approached Officers B and A believing the subject may still be armed. Officer D holstered his pistol as he approached Subject 1 to apply the handcuffs. Officer C did not draw his service pistol at any time during this incident.

As Officers C and D approached Subject 1, they observed a handgun lying nearby. Officer D applied the handcuffs on Subject 1. After Subject 1 was handcuffed, Officer C walked over and stood by the handgun in the gutter.

Officer D searched Subject 1 for additional weapons and while doing so, rolled Subject 1 to his backside to check both sides of his waistband and legs. Meanwhile, Officer A informed CD that the subject was in custody.

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 make specific findings in the following areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a pistol by any involved officer(s); the Use of Force by any involved officer(s) and any additional pertinent issues. All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve the 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, by a vote of four to one, the BOPC made the following findings.

A. Tactics

The BOPC found Officers A and B's tactics to warrant formal training.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A, B and D's drawing to be in policy.

C. Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that Officers A and B were stopped in the number one lane of traffic for a red signal, when a vehicle stopped alongside of their police vehicle, in the number two lane of traffic. The officers' attention was directed to the vehicle due to loud music emitting from the vehicle. Once the light changed to green, the vehicle accelerated to a

high rate of speed. Officers A and B decided to conduct a traffic stop on the vehicle and Officer B properly completed a Department of Motor Vehicle and automobile status prior to initiating the stop, via CD.

When Officer A activated the forward facing red light of the police vehicle, the driver negotiated a right turn at an intersection and continued to drive at a slow rate of speed. Officers A and B believed the occupants of the vehicle were going to flee and communicated their observations to one another. Officer B appropriately broadcast their location to CD. Based on their belief that the occupants may flee the vehicle, coupled with the number of passengers, it would have been prudent for the officers to request an additional unit or back-up.

As the vehicle came to a complete stop, Subject 1, who was seated in the rear passenger seat, fled. Officers A and B observed Subject 1 holding onto his front waistband with his right hand. The officers communicated well with each other by simultaneously alerting one another of Subject 1's actions and the possibility that he may be armed with a handgun. After Subject 1 ran from the vehicle, the officers entered their police vehicle and drove around the stopped vehicle that remained occupied with two additional subjects. Although in many instances of spontaneous police action, split-second decisions must be made, the BOPC was concerned that the officers by-passed the still occupied vehicle and in doing so, placed themselves at a tactical disadvantage.

By remaining in their vehicle as they pursued Subject 1, the officers placed themselves at a tactical disadvantage and limited their capacity to immediately respond to any threat the armed subject might have presented to them.

The tactical disadvantage created by remaining in the vehicle was exacerbated by the officers' proximity to Subject 1 during the pursuit. Although Officer A indicated that the officers followed Subject 1 from a distance of 50 feet, Officer B indicated that they were just 12 feet from Subject 1 as he ran on the sidewalk. Furthermore, Officer A stopped the officers' vehicle just 11 feet from the utility box behind which Subject 1 positioned himself during the pursuit. As such, the officers may have unduly exposed themselves to the risk of being shot by Subject 1.

Although the pursuit of Subject 1 was relatively short in terms of distance and duration, neither officer indicated that they attempted to broadcast information in accordance with Departmental training for foot pursuits (i.e., to broadcast the officers' location, number and location of subjects, direction of travel, subject description, type of crime, where additional units should respond and the type of weapon carried by the subject). It would have been preferable for the officers to have sought cover and to have considered initiating a perimeter.

Following the OIS, Officer A updated their status and requested a backup unit. The BOPC would have preferred that an assistance or help call be broadcast to better

inform responding resources to the seriousness of the incident, as well as request for a rescue ambulance.

Finally, Officers A and B appropriately held their positions behind cover until additional officers arrived and only then did they approach Subject 1 to apply the handcuffs.

The BOPC found Officers A and B's tactics to warrant formal training.

Drawing/Exhibition/Holstering

The BOPC noted that as Officers A and B followed Subject 1, they observed Subject 1 fall to the ground. Subject 1 fell again and as he jumped to his feet, the officers observed him armed with a handgun. Believing the situation had risen to the point where deadly force may become necessary, Officer B drew his service pistol while seated inside the police vehicle.

Officer A observed Subject 1, armed with a handgun, stumble behind a utility box. Believing the situation had risen to the point where deadly force may become necessary, Officer A stopped and exited the police vehicle and drew his service pistol.

The BOPC noted that Officer D drew his pistol after he arrived on scene and exited his vehicle believing the subject may have been armed. Officer D holstered his service pistol as he approached Subject 1 to handcuff him while Officers A and B assumed the role of cover officers.

The BOPC determined that Officers A, B and D had sufficient information to believe that the situation had escalated to the point where deadly force may become necessary.

The BOPC found Officers A, B and D's drawing to be in policy.

Lethal Use of Force

The BOPC noted that Subject 1 ran past the officers' location while holding a handgun in his right hand. As Officer A attempted to move to a position of cover, Subject 1 turned his head in a counterclockwise direction, positioned the muzzle of the handgun under his left armpit and pointed it at Officer A. Fearing he or his partner were about to be shot, Officer A fired two rounds from approximately 20 feet at Subject 1 to stop his actions.

The BOPC determined that Officer A reasonably believed that Subject 1 presented an immediate threat of serious bodily injury or death.

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