

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

OFFICER-INVOLVED SHOOTING – 018-08

Division	Date	Duty-On (X) Off ()	Uniform- Yes() No(X)
Northeast	02/21/2008		

Officer(s) Involved in Use of Force **Length of Service**

Officer A	12 years
Officer B	3 years

Reason for Police Contact

Officers drove to an area where they suspected gang members involved in a fatal shooting could be heading for. The officers saw a vehicle containing a known gang members and began to follow it. The vehicle stopped and two occupants opened fire on the officers. Both officers returned fire.

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

Subject 1: Male, 22 years (Deceased)			
Subject 2: Male, 18 years (Wounded)			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate the 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 Commission and made itself available for any inquiries by the Commission. 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 02/10/09.

Incident Summary

Victim A was walking while holding a two-year-old child when two vehicles, a compact car and a van, approached. The vehicles suddenly stopped, two or three males armed with handguns exited, approached on foot, and fired several rounds at Victim A, fatally wounding him. The two-year-old fell and struck her head on the ground during the

shooting incident; however, she did not sustain a serious injury and was not struck by gunfire. The subjects then entered their respective vehicles and fled.

At the time of the shooting, plainclothes Officers A and B were leaving the station. Communications Division (CD) broadcast that a shooting had just occurred. Additional information broadcast by CD included that the subjects' vehicle, a sedan, was occupied by four male gang members. Based on the information broadcast and the knowledge that there was an ongoing rivalry between two local gangs, Officers A and B drove their unmarked vehicle to an area they knew to be one gang's territory, in anticipation of the subjects' vehicle returning to the area. Officers A and B's intent was to locate the vehicle, obtain the license plate number and broadcast the information to officers in marked patrol vehicles.

While driving, the officers observed a vehicle approaching a stop sign. The vehicle failed to stop, continued, and drove past Officers A and B. As the vehicles passed one another, Officer A recognized one occupant of the subjects' vehicle as a gang member. Officer A made a u-turn and followed the vehicle. As they made the u-turn, Officer B drew his service pistol and held it between his legs. Officer B displayed his badge, which had been concealed inside his clothing, allowing it to hang from a lanyard on the outside of his shirt.

The subjects' vehicle turned, followed by Officers A and B. Unexpectedly, the vehicle stopped mid-block in the middle of the street. Officer A pulled up and stopped approximately one car length behind the subjects' vehicle.

Just as Officer A was bringing the officers' vehicle to a stop, one of the subjects' vehicle's doors opened and Subject 1 stepped out holding an AK-47 rifle. Subject 1 pulled a ski mask over his face, faced the police vehicle and began firing his weapon.

Prior to the officers' vehicle coming to a stop, Officer B opened his passenger side door in preparation to respond to Subject 1's assault. While seated inside his vehicle, Officer B fired 11 or 12 rounds in rapid succession at Subject 1. Officer B's rounds did not initially appear to affect Subject 1, who stood his ground and continued firing at the officers until finally falling to the ground.

Meanwhile, Officer A observed Subject 1 stepping out of the subjects' vehicle holding an assault rifle and pulling a ski mask over his face. Officer A opened his driver's door as he drew his service pistol. Officer A immediately jumped out of the vehicle onto the street, landing on his left side. Officer A began firing his weapon at Subject 1 and believed he fired two rounds before landing on the pavement. Officer A heard bullets impacting their vehicle and glass shattering. Subject 1's shots were fired in rapid succession and Officer A heard the report of 10 to 20 rounds. Officer A fired six to eight rounds before he stopped firing, reassessed his target and saw that Subject 1 was on the ground.

At the same time Subject 1 was firing rounds at Officers A and B, Subject 2 exited the passenger side of the subjects' vehicle. Subject 2 had a handgun, which he aimed and fired at Officer B.

Once Officer B realized Subject 1 was on the ground, he turned his attention to Subject 2. Officer B exited his vehicle and crouched behind the passenger door as he returned fire at Subject 2. Subject 2 moved along the sidewalk away from the officers. Subject 2 walked three or four paces, turned toward Officers A and B, fired his weapon and then walked further before firing again. Officer B believed Subject 2 fired between five and ten rounds. Officer B fired four rounds at Subject 2.

Meanwhile, Officer A first saw Subject 2 after Subject 1 had fallen to the ground. Subject 2 was armed with a handgun and running on the sidewalk. Subject 2 was holding the handgun in his hand and had his arm pointed in the direction of Officers A and B. Officer A observed Subject 2 fire at least one round at the officers.

Officer A fired two or three rounds at Subject 2. Subject 2 fell to the ground but quickly regained his feet while maintaining possession of his handgun. Officer A fired two or three additional rounds at Subject 2, but these were seemingly ineffective. Subject 2 continued to run, turning down an apartment building driveway and out of the officers' sight. Officer A saw a third subject exit the driver's side of the subjects' vehicle. Subject 3, armed with a handgun, ran into the same driveway Subject 2 had run.

Officer B first saw Subject 3 while he was exchanging gunfire with Subject 2. This subject was running and carrying a handgun. Officer B had a view of the subject for approximately two seconds before the subject ran into the same driveway that Subject 2 had fled to. Neither Officer B nor Officer A saw the third subject fire his weapon, and neither officer fired at Subject 3.

Officer B retrieved his radio from the front seat of his vehicle and broadcast an "officer down, officer needs help, shots fired," call. Officers A and B maintained a position of cover and waited for additional units to arrive.

Note: An Air Support Division Tactical Flight Officer, Officer C, requested that two rescue ambulances (RA) respond to the location.

Officers D and E monitored the "officer needs help" call and responded to the scene. Upon exiting their vehicle, Officer D deployed his shotgun and Officer E drew his pistol. The officers observed Subject 1 on the ground with an assault rifle next to him. A male, Subject 4, was irate and yelling to the officers. Subject 4 began walking toward Subject 1 and the assault rifle. Officer D ordered Subject 4 to back away from the weapon but Subject 4 did not comply. Officer D moved close to Subject 4 and aimed his shotgun at him. Subject 4 stopped his advance. Officer E holstered his handgun, approached Subject 4 from behind and Officer E handcuffed Subject 4 without further incident.

Detectives A and B monitored the “officer needs help” call and responded to the scene. Upon arrival, Detective A saw Subject 1 on the ground with an assault rifle across his shoulder. Officer A observed an unidentified male at an open second floor apartment window, overlooking the area of the shooting. The subject was shouting profanity and taking pictures. Detective A decided to “cover” the window by drawing his service pistol and pointing it in the direction of the window.

Additional officers had arrived and were beginning to manage the incident when an unidentified female advised Officer F that Subject 2 was hiding under a nearby vehicle. Officer F observed Subject 2 under the vehicle, alerted additional officers and drew his service weapon.

Officer F organized a search and arrest team, which included Officers G, H, I and J, and Detective C. All officers had their weapons drawn at the time of the search. The officers located Subject 2 by observing his legs protruding from under a parked vehicle. Officer I ordered Subject 2 to crawl out from underneath the vehicle. Subject 2 complied with the order. Officer G took Subject 2 into custody and handcuffed him without incident. Officer G then searched Subject 2 for weapons, but none were recovered.

Officer L obtained a gurney from paramedics and brought it to Subject 2’s location. Subject 2 was taken to a waiting RA and transported to a local hospital.

Paramedics, under officers’ protection, approached Subject 1. The paramedics determined that Subject 1 was dead.

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, D, E, F, G, H, and I’s, as well as Detectives A, B, and C’s tactics to warrant a tactical debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A, B, D, E, F, G, H, I and J's, as well as Detectives A and C's drawing to be in policy.

C. Lethal Use of Force

The BOPC found Officers A and B's lethal use of force to be in policy.

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

1. Officers A and B did not don their ballistic vests prior to responding to the search for subjects who they believed had just conducted a drive-by shooting. Officer B was not equipped with handcuffs.

Although the BOPC recognized that Officers A and B did not intend to initiate contact with the subjects if located, the officers were driving to an area to search for armed subjects. The wearing of a ballistic vest is vital to officer safety. Officers should have all of their required equipment with them when engaged in a field operation likely to result in contact with subjects.

2. Officers A and B did not broadcast the initiation of their vehicle following, or request additional resources.

Officers A and B's observations and belief that the subject vehicle was potentially involved in a shooting warranted a request for a back-up unit and air unit, along with a detailed broadcast relative to the nature of the request.

3. During the vehicle pursuit, Officer B drew his service pistol.

Not faced with an immediate threat, it would have been safer for Officer B to maintain his service pistol in its holster. By drawing his service pistol while seated in the moving vehicle, Officer B increased the likelihood of having an unintentional discharge.

4. Officer B was unable to broadcast critical information to Communications Division in an emergency situation.

Unable to voice a broadcast, Officers A or B could have activated the emergency trigger on their radios. When circumstances warrant an emergency response of additional personnel, CD requires pertinent information to provide the responding

units, which maximizes their ability to properly respond and make the most appropriate tactical decision.

5. Officer B left his radio inside of his vehicle when he exited.

Although a radio is not specifically listed as required piece of equipment for plainclothes officers by the Department Manual, officers are issued radios for field use, and it mitigates the tactical advantage for personnel to not possess a radio during field operations.

Although a circumstance was created where Officer B had no means of communication to other units or CD, he was confronted with a deadly threat, which required him to take immediate action. Officer B was attired in plainclothes and not equipped with a duty belt; therefore, the radio was not secured in a holster. Given the dynamic and rapidly unfolding nature of this incident, the BOPC did not fault Officer B for inadvertently leaving his radio in the car.

6. Officer D placed his hand on Subject 4 to affect a detention while holding a shotgun.

Officer D did not adhere to the roles of contact and cover. Officers are trained that the cover officer's primary role is to protect the contact officer. This is achieved by the cover officer maintaining a safe distance from the subject, thus allowing the officer time to react to a potential threat. Officer D's transitioning from the role of the cover officer to that of a contact officer, placed the officers at a tactical disadvantage and unnecessarily exposed the shotgun to Subject 4. If Officer D felt that he needed to physically assist Officer E with Subject 4, the BOPC would have preferred that he secured the shotgun prior to doing so.

The BOPC found Officers A, B, D, E, F, G, H, and I's, as well as Detectives A, B, and C's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting/Holstering

The BOPC evaluated the circumstances relevant to Officers A, B, D, E, F, G, H, I and J, along with Detectives A and C's drawing and exhibiting and determined that they had sufficient information to reasonably believe that the situation had escalated to the point where deadly force may become necessary.

The BOPC found Officers A, B, D, E, F, G, H, I, and J's, as well as Detectives A and C's drawing to be in policy.

C. Lethal Use of Force

The BOPC evaluated the circumstances relevant to Officers A and B's lethal use of force and determined that Officers A and B's use of lethal force was reasonable to

protect themselves from the immediate threat of serious bodily injury or death posed by the subjects firing weapons at them.

The BOPC found Officers A and B's lethal use of force to be in policy.