

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

**OFFICER-INVOLVED SHOOTING – 022-11**

<b>Division</b>	<b>Date</b>	<b>Duty-On ( ) Off (X)</b>	<b>Uniform-Yes ( ) No (X)</b>
Southeast	03/10/11		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	21 years, 7 months

**Reason for Police Contact**

An off-duty officer was driving his personal vehicle on the freeway when he was confronted by an armed suspect, resulting in an officer-involved shooting.

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded ( )</b>	<b>Non-Hit (X)</b>
Subject: Unidentified Male.			

**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.

In accordance with state law, divulging the identity of police officers in public reports is prohibited, so the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on January 24, 2012.

## **Incident Summary**

Officer A completed his regular duty work shift and had driven away from the Police Station in his personal vehicle, onto the freeway. As Officer A was in the number one lane, he noticed a vehicle behind him driving at a high rate of speed, with its high-beam headlights activated, driven by the Subject.

According to Officer A, the Subject's vehicle began following him at an unsafe distance and speed. When the Subject's vehicle was directly behind him, Officer A was unable to change lanes as there was a vehicle in front of him and to his right.

The vehicle to Officer A's right pulled ahead of him, and the Subject's vehicle moved next to Officer A's vehicle. Suddenly, the Subject's vehicle swerved into the same lane Officer A was in, almost hitting Officer A's vehicle. In order to avoid a traffic collision, Officer A had to cross over into another lane of traffic. Officer A then applied his brakes and honked his horn in an attempt to get the attention of the Subject.

As both vehicles continued driving southbound on the freeway, the Subject's vehicle moved past and then directly in front of Officer A's vehicle. Suddenly, the Subject's vehicle applied its brakes, causing Officer A to apply his brakes to avoid crashing into the rear of the Subject's vehicle.

When Officer A stepped on the brakes, it caused his cell phone and prescription glasses to slide off of the front passenger's seat and onto the floorboard.

Officer A reached down toward the floorboard to retrieve his cell phone so he could call 9-1-1. In doing so, he lost sight of the Subject's vehicle for an estimated period of between five to 20 seconds. Officer A moved one lane to the right and noticed that the Subject's vehicle was now in the far right lane of traffic.

Officer A was able to retrieve his cell phone and attempted to dial 9-1-1. While dialing, Officer A tried to get closer to the Subject's vehicle so that he could read the license plate. As Officer A sped up to get closer to the Subject's vehicle, the Subject's vehicle would in turn speed up making it difficult for Officer A to read the license plate. Officer A continued trying to dial 9-1-1; however, the phone calls did not go through.

According to Officer A, he had intended to move to the shoulder of the freeway or to exit the freeway so that he could call 9-1-1. When the Subject's vehicle pulled up alongside of him, he (Officer A) tried to slow down so that he could get behind the Subject's vehicle and read the license plate. However, the Subject's vehicle kept matching his speed, preventing him from doing so. Officer A tried to speed up in order to go around the Subject's vehicle, but the Subject would in turn speed up and stayed parallel to Officer A's vehicle, preventing him from moving to the shoulder of the freeway or exiting the freeway.

According to Officer A, as the Subject's vehicle continued driving ahead of Officer A's vehicle, the Subject leaned his upper torso out of the driver's window, with his left forearm and elbow leaning on the window sill and looking back toward Officer A's vehicle. According to Officer A, as the Subject looked back toward him, Officer A heard a loud bang and saw a flash coming from the driver's side of the Subject's vehicle. Realizing that he was coming under fire, Officer A armed himself with his handgun and fired at the Subject through his (Officer A's) front windshield.

Following the officer-involved shooting, the Subject's vehicle accelerated and drove away on the freeway. Officer A then drove over to the shoulder of the freeway and called the police department.

The Subject and Subject's vehicle were never identified.

### **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 revolver 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 Officer A's actions to warrant a tactical debrief.

#### **B. Drawing/Exhibiting**

The BOPC found Officer A's drawing and exhibition of a firearm to be in policy.

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

The BOPC found Officers 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. Shooting at or From Moving Vehicles

The BOPC thoroughly assessed Officer A's actions in this case. While Officer A fired his pistol from his moving vehicle and toward another, he did so in immediate defense of life, and directed his fire at the armed threat and not the vehicle. The BOPC also considered the following:

In an attempt to avoid the suspect, Officer A had attempted to exit the freeway numerous times. Each time Officer A attempted to do so, the driver of the suspect vehicle would pull alongside his vehicle and match his speed, preventing him from exiting the freeway.

In his statements, Officer A clearly articulated that when he utilized lethal force, he was addressing the threat posed by the suspect firing an unknown firearm at him.

Based on the totality of the circumstances, the BOPC determined that Officer A fired his service pistol at a lethal threat other than that of the Subject's vehicle and was reasonably acting in immediate defense of his life. Therefore, Officer A's actions were within Department policy and did not represent a substantial deviation from approved Department tactical training.

#### 2. Off-Duty Actions

In this instance, although Officer A took action rather than becoming a good witness and allowing uniformed personnel to handle the incident, based on the Subject's actions, Officer A reasonably took action while acting in self-defense.

The BOPC determined Officer A's actions did not substantially or unjustifiably deviate from approved Department tactical training.

In conclusion, the BOPC found Officers A's actions to warrant a tactical debrief.

### **B. Drawing/Exhibiting**

In this instance, Officer A was confronted by the Subject whose driving threatened Officer A's safety. After multiple attempts to avoid the Subject's vehicle and exit the freeway, Officer A observed the Subject turn in his direction, heard a loud bang and observed a flash coming from the Subject's driver's side window. Officer A believed the

Subject had fired a gun at him. In response to this threat, Officer A removed his service pistol from a holster underneath his right leg.

The BOPC determined that another officer with similar training and experience, upon seeing an aggressive suspect turn in his direction, hearing a loud bang and seeing a flash would reasonably conclude that the suspect was shooting at him and that circumstances had already escalated to the point where deadly force may be justified.

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

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

In this instance, Officer A was confronted by an aggressive driver who attempted to run him off of the road. As the incident continued, Officer A observed the actions by the Subject that lead him to believe that he was being shot at. According to Officer A, the Subject looked from the open window back toward Officer A, when he heard a loud bang and saw a flash coming from the driver's side of the vehicle. Officer A realized that he was coming under fire.

Based on Officer A's observations, an officer with similar training and experience would reasonably believe that they were being shot at by the Subject. Consequently, it was objectively reasonable for Officer A to perceive the Subject's actions as a deadly threat and use lethal force in defense of his life. Therefore, the decision by Officer A to use lethal force was objectively reasonable and consistent with Department policy.

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