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

OFFICER-INVOLVED SHOOTING – 025-07

Division	Date	Duty-On (X) Off()	Uniform-Yes(X) No()
77th Street	03/08/2007		

Officer(s) Involved in Use of Force	Length of Service
Officer A	3 years, 10 months

Reason for Police Contact

Officers A and B observed Subject 1 cross the street against a flashing "Don't Walk" signal and made contact with Subject 1 as a result of this violation. Subject 1 disobeyed officers' commands to stop walking and made a clutching motion with his hand before he took off running. When Subject 1drew an item, which Officer B believed to be a pistol, from which waistband, Officer B shouted a warning to Officer A. Officer A, who saw Subject 1 holding a dark object, then fired his pistol at Subject 1.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
Subject 1: male, 37 years.			

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.

The following incident was adjudicated by the BOPC on 01/15/08.

Incident Summary

Officers A and B were patrolling in a police vehicle when they observed Subject 1 crossing the street against a flashing "Don't Walk" hand signal.

Officer A negotiated a U-turn at the intersection and approached Subject 1 from behind.

Officer B, while seated in the front passenger seat of the police vehicle, told Subject 1 to stop. Subject 1 glanced back at the officers and continued walking. Subject 1 reached toward his waistband with this right hand, making a clutching motion, and continued walking at a slow pace. Officer B asked Subject 1 if he had any weapons and opened his front passenger door to exit the police vehicle. As soon as Officer B opened his door, Subject 1 began to run away. Officer B pursued Subject 1 on foot as he continued to order Subject 1 to stop.

> **Note:** According to Subject 1, when the officers first contacted him, he had his hands inside the front pockets of his sweater and he was holding a glass “crack pipe” in his right hand. He indicated that he did not want to get caught with the pipe and his intention for running was to “run a little bit and throw it.”

Officer A joined the pursuit while still in the police vehicle, driving parallel to Subject 1 and Officer B.

According to Officer B, just before Subject 1 reached an alleyway, Subject 1 removed a blue steel pistol from his waistband area, looked back at Officer B who was approximately 20 to 25 feet behind, and extended his right arm. Officer B yelled out, “Gun! Gun!” Subject 1 was in the process of raising his arm up at Officer B, when Officer B heard shots being fired. Officer B did not observe any muzzle flash coming from Subject 1's direction. According to Officer B, Subject 1 took a few more steps and then threw the gun, possibly into a backyard or the alley area. Officer B then observed Subject 1 go to the ground. Unsure if Subject 1 was still armed, Officer B drew his weapon.

Meanwhile, Officer A, while in the vehicle, observed Subject 1 holding his right waistband. Officer A yelled, “Stop. Stop. Police,” through the open front passenger window of the police vehicle. Officer A observed Subject 1 remove a dark object with his right hand, which he believed to be a firearm based on Subject 1’s movements and the way Subject 1 held the object. Subject 1 then looked toward Officer B, and Officer A heard Officer B yell, "Gun, gun, gun."

Believing that Subject 1 was about to shoot his partner, Officer A, while seated in his police vehicle, unholstered his pistol, pointed it at Subject 1 and fired two consecutive rounds. Subject 1 ran approximately 2 to 3 feet and then fell to the ground.

Officer A exited the police vehicle and approached Subject 1 with his pistol still drawn. Officer B ordered Subject 1 to show his hands and Subject 1 complied. Officer A assumed the role of cover officer as Officer B holstered his pistol and approached Subject 1 to handcuff him. After the handcuffs were applied to Subject 1, Officer A holstered his pistol. Officer B conducted a search of Subject 1, but no weapons were found.

Officer B broadcast a help call over the radio. Officer C and Officer D arrived on the scene shortly after the broadcast. Sergeant A also arrived at the scene and requested a rescue ambulance (RA) for Subject 1, who had been struck by Officer A's gunfire.

An RA responded to the scene. Subject 1 was transferred into the RA, accompanied by Officers D and E.

Sergeant A directed the first arriving officers to search for the weapon. A search of the surrounding area was conducted with the assistance of a K-9 unit, and no gun was recovered.

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 Officer A and B's tactics to warrant formal training.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A and B's drawing to be in policy.

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that after observing Subject 1 commit a traffic violation, Officers A and B appropriately decided to take enforcement action and conduct a pedestrian stop. The officers approached Subject 1 from behind; however, they did not notify CD of their status and location. Officers should advise CD when they conduct officer-initiated activities, making nearby units aware of their location and creating circumstances where such units can respond more rapidly if needed.

Officer B chased Subject 1 on foot as Officer A followed in the police vehicle. The foot pursuit was short lived and the investigation into this incident revealed that there was not a significant amount of separation between the two officers, and that Officer A was in a position to render aid to his partner at all times. In addition, Officer A did not intend to overtake Subject 1 and thus create a crossfire situation with Officer B, but Officer A was looking for a safe location to stop the police vehicle and join his partner on foot.

Officers A and B had discussed other tactical situations and had worked together for approximately four months, yet neither one assumed the responsibility of broadcasting their location or the subsequent foot pursuit. It would have been safer for the officers to advise CD and alert the units in the area of the unfolding tactical situation.

In addition, it would have been preferable that, prior to chasing Subject 1 on foot, Officer B had communicated his intent to pursue Subject 1 with Officer A. It appears Officer B's action caught Officer A off-guard and created the potential for the officers to be separated. Officer A's rationale for staying in the vehicle was that he believed the distance between himself and his partner would have been significant had he exited his vehicle and joined the pursuit on foot.

Officer B broadcast that "officer needs help, shots fired," and provided the officers' location; however, he did not request an RA. After arriving at the scene later, Sergeant A requested the RA. It would have been preferable for the request for the RA to have been made immediately following the help call, given that Subject 1 had collapsed after being shot at by Officer A and, as such, was apparently injured.

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

B. Drawing/Exhibition/Holstering

The BOPC noted that as Officer A followed Subject 1 and Officer B in the police vehicle, he observed Subject 1 remove a dark object from the right side of his waistband and turn clockwise toward Officer B. Simultaneously, he heard Officer B yell, "Gun." Fearing his partner was about to be shot, Officer A drew his weapon and aimed it through the open passenger side window at Subject 1.

As Officer B pursued Subject 1 on foot, he observed Subject 1 turn toward him armed with a handgun in his right hand. Officer B informed his partner of the impending danger and simultaneously moved to a position of cover, where he heard gunshots. Fearing an armed confrontation, Officer B drew his service pistol.

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

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

C. Lethal Use of Force

The BOPC noted that Officer A observed Subject 1 holding a dark object in his right hand and turning toward Officer B. Officer A simultaneously heard Officer B yell, “Gun,” and fearing for his partner's life, fired two rounds at Subject 1 while seated inside the police vehicle.

When Officer A fired two rounds while still seated in the police vehicle, he could not recall if the vehicle was moving or was stopped completely. However, given that his justification for the use of force was the immediate defense of his partner’s life from a subject with a firearm, which would represent a legitimate exigency, his actions did not violate the Department’s policy with regard to shooting from a moving vehicle if the vehicle was in motion at the time of the shooting.

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

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