

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

OFFICER-INVOLVED SHOOTING – 026-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
77 th Street	03/18/11		

Officer(s) Involved in Use of Force	Length of Service
Officer A	5 years, 8 months

Reason for Police Contact

Officers were approached by a motorist who directed them to a location where a fight was occurring. Upon exiting their vehicle, officers heard gunshots, drew their weapons, and an officer-involved shooting transpired.

Subject	Deceased ()	Wounded ()	Non-Hit (X)
Subject 1: Male, 29 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 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 Chief of Police; and the report and recommendations of the Inspector General. The Department Command staff presented the matter to the BOPC 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 February 14, 2012.

Incident Summary

Witness 1 called 9-1-1 to convey his observations of a large group of males fighting at a location.

Subject 2 was walking outside near the location when he was rushed by a group of people who started a fight with him. The fight progressed as more unknown males, as well as some associates of Subject 2 arrived.

Subject 3 indicated that when he arrived, there were a significant number of people at the location, and it looked like somebody had been fighting. Subjects 4 and 5 arrived at the scene and indicated there were approximately 50 people at the location. Subject 2 tried to get the crowd to move to an alley adjacent to the location.

Meanwhile, Communications Division (CD) issued a broadcast about the fight at the location, indicating, "Subjects are 10 gang members, male[s], wearing all black clothing. No weapons seen."

Officers A and B were driving a police vehicle when they heard the broadcast and responded. As the officers were in the process of responding to the incident and were stopped in the street, an unidentified female motorist heading in the opposite direction captured the officers' attention and told them about a problem at a nearby location. Officer A knew the location was immediately west of the location identified in the radio call, so he believed the woman was likely talking about the same location.

As the officers approached the location, Officer A utilized his Mobile Data Computer (MDC) to advise CD that they had arrived at the location. As Officer A exited the vehicle, he heard five to seven gunshots coming from the alley adjacent to the location. Officer A believed that there was an exchange of gunfire. Officer B indicated that he heard approximately four gunshots as he and Officer A pulled up to the location and exited the vehicle.

Officer A broadcast that he heard several shots fired and requested an air unit. As the officers moved toward the alley, Officer A drew his pistol, as he believed a dangerous and violent situation was occurring that could escalate to a deadly force situation.

Officer A observed three individuals walking north in the alley, one of whom (Subject 1) had a gun in his hand. Officer A stated that Subject 1's legs were apart and his right arm was down as the gun was pointed in a southern direction. The two other male subjects (later identified as Subjects 2 and 3) were approximately two to three feet away from Subject 1.

Officer A told Subject 1 to drop his gun, but Subject 1 turned clockwise in Officer A's direction and pointed his gun directly at Officer A.

Officer A fired two rounds at Subject 1. No subjects were struck by Officer A's rounds.

Officer B, meanwhile, he heard his partner yell to Subject 1 to drop the gun, and then observed Subject 1 with a handgun in his hand pointing that gun in Officer A's direction. Officer B drew his pistol because he knew the situation could escalate to deadly force, and also because he heard Officer A fire approximately two to three gunshots in the direction of Subject 1.

Officer B further observed Subject 1's gun prior to hearing Officer A fire his rounds, and by the time he saw Subject 1, Subject 1's arm was extended with the gun in his right hand, pointing in the officers' direction.

Upon obtaining cover and coming around the corner into the alley, Officer A observed a handgun on the ground, the same gun he had seen Subject 1 holding in his right hand. Officer A indicated that the gun was approximately two feet away from Subject 1, who was lying on the ground in a prone position with his arms by his side. Officer A indicated that the gun was positioned such that if Subject 1 was to extend his right hand, he would have been able to grab it.

When shots were fired, the two subjects who had been standing near Subject 1 proned themselves out on the ground. Officer A indicated that he believed these two individuals were involved in the incident because they were in the alley within close proximity of Subject 1 and were not actively fleeing from the scene. Officer B also noticed these two additional subjects and issued one of them commands to get down.

Officer A observed three to four male subjects, standing around, looking toward where the officers were positioned, who then started running when they saw him and Officer B. Officer A also observed a vehicle in the alley, with three or four males inside, which fled down the alley upon seeing the officers. Officer A did not see any movement from anyone until he made eye contact with several in the group.

Officer A broadcast "shots fired," as well as additional information about the incident, over the radio.

According to Subject 2, when fighting continued in the alley, he heard 5-6 shots being fired, then saw an officer with his gun drawn, and several of the men who had been fighting lay down on the ground.

Subject 2 indicated he did not see the shots, only heard them, because he was cornered against the side of a car and a brick wall. Subsequent to hearing the initial shots, Subject 2 indicated that he observed the officer with his gun drawn shoot one time and say, "Get on the ground." The officers then told everybody to lay down and handcuffed them until more officers showed up.

According to Subject 2, he knew that when Subject 1 was picked up off the ground, a gun was on the ground next to him, but Subject 2 didn't know if Subject 1 had the gun on him, or if somebody else dropped the gun.

According to Subject 3, after exiting his vehicle in the alley, after everyone stopped fighting, there was tension, as though everybody was looking to see what he (Subject 3) was going to do. Subject 3 exited his vehicle to see if Subjects 1 and 2 were okay when he heard some shots. Subject 3 also heard an officer state, "Get on the ground."

Subject 3 indicated that he got on the ground immediately because he didn't know where the shots were coming from, and everybody started running. Subject 3 further stated he could not see who was shooting. Subject 3 observed a gun land on the side of Subject 1, but he didn't know if Subject 1 was shooting or not.

According to Subject 4, he heard shots, started running, looked back and saw Subject 1 shooting in the air. Subject 4 heard approximately three to four shots, and subsequently another two shots, which sounded like they were coming from a different gun.

Subject 4, heard something like, "the police," and then he heard the second series of shots. Subject 4 further indicated that he had already started running down the street when he heard shots being fired, saw Subject 5 driving down the street in his vehicle, waved at him, and Subject 5 stopped to pick him up.

Meanwhile, Officer B indicated there were a lot of people in the area, and he had to yell at them to stay away. Officer A was concerned with the increased pedestrian traffic, so Officer A decided to recover the handgun.

Officer A holstered his own weapon and while Officer B covered him, he recovered the gun, unloaded it, and placed the weapon and ammunition in his back pocket. Officer A then unholstered his weapon a second time and directed Officer B to handcuff the three subjects prone out on the ground while he covered Officer B. Officer A was not sure if the other subjects were armed or not.

Officer B holstered and handcuffed all three subjects, checked their waistbands, placed their hands behind their backs and handcuffed them. Officer B did not recover any weapons.

Meanwhile, Officers C and D heard Officer A's "shots fired" broadcast, as well as the broadcast regarding the vehicle description, direction of travel, and that the vehicle may have contained additional subjects.

As Officers C and D continued toward the scene, they observed a vehicle at a high rate of speed. Officer D activated his vehicle's light bar, stopped the vehicle and ordered the occupants out. Officer D indicated that Subjects 4 and 5 were the occupants of the vehicle and were eventually handcuffed and detained.

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 and B's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

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

C. Lethal 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:

First, Officers A and B exited the police vehicle when they heard four to seven shots fired south of their location. Officer A broadcast his observations to CD and requested an airship while the officers moved through the middle of the parking lot toward the threat.

In reviewing the officers' positioning as they approached the threat represented by the gunshots, the BOPC noted that there were several parked cars in the parking lot, which could have been utilized as cover as the officers tactically deployed toward the threat. While there is no requirement that the officers utilize cover, and their actions did not represent a substantial deviation from approved Department tactical training, Department training establishes that officers should use cover when dealing with armed subjects.

Second, when evaluating the officers' actions during these fluid and rapidly evolving tactical incidents, the BOPC considered several factors, including the training and experience of the involved personnel. Here, Officers A and B had been working together for a short period of time, and had previously discussed tactics, including contact and cover, along with tactical communication.

As the more tenured and experienced officer, Officer A elected to simultaneously conduct the duties of contact and cover officer. Given Officer B's limited experience in the field, the seriousness of the incident, and the speed with which the incident occurred, the BOPC was comfortable with Officer A's split-second decision and found that his actions did not represent a substantial deviation from approved Department tactical training.

Third, Officer A recognized that the officers were outnumbered and that additional personnel were required; however, Officer A directed Officer B to approach and handcuff the three subjects prior to the arrival of additional personnel. Officer A's broadcast to CD included that he needed another unit because three subjects were at gun point.

Officer A also relayed that there were numerous shots fired, and he was not sure if the other subjects were armed or not. He felt as though the situation could again escalate to a deadly force situation because those subjects had not been searched.

While the Department generally trains officers to await the arrival of additional resources before approaching to handcuff felony subjects, fundamental to tactical training is the discretion that is critical to tactical decision making, and is based on specific circumstances.

In this case, Officer A's actions were based on the fact that a group of males, whom he believed to be gang members, started approaching the officers from the entrance of the alley and the parking lot. Additionally, an uninvolved witness attempted to make inquiries about Subjects 1 and 2.

The BOPC found that Officers A and B's decision to approach and handcuff the three subjects prior to the arrival of additional personnel was reasonable and did not represent a substantial deviation from approved Department tactical training.

Finally, Officer A elected to recover Subject 1's handgun prior to the arrival of investigating detectives. When he made his decision to recover the handgun, Officer A had the following information; it was still a rapidly unfolding tactical situation, the location was a known gang location; a group of males, who were believed to be gang members, started approaching the officers from the southern entrance of the alley and the parking lot; an uninvolved witness attempted to make inquiries about Subjects 1 and 2; and additional personnel were responding but had not arrived. Based on the totality of the circumstances, the BOPC found that Officer A's decision to recover and clear the

handgun prior to the arrival of FID personnel did not substantially deviate from approved Department tactical training.

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

B. Drawing/Exhibiting

Officer A believed that a dangerous violent situation was occurring, and that the situation could possibly escalate to a deadly force situation, so he drew his duty weapon as he advanced toward the location.

After the OIS, Officer A holstered his service pistol in order to recover Subject 1's handgun, and then drew his service pistol a second time because there were still three unhandcuffed subjects and his partner was going to have to holster his weapon to effectively handcuff these three individuals, numerous shots were fired, and Officer A was not sure if the other subjects were armed or not.

The BOPC determined that another officer with similar training and experience would reasonably believe that upon hearing gunshots and while advancing toward the location of the gunshots the situation may rise to the point where deadly force may be justified.

The BOPC further determined that another officer with similar training and experience would reasonably believe that unhandcuffed and unsearched shooting subjects pose a continuing threat and the situation may escalate to the point where deadly force may be justified.

Officer B heard Officer A yell out, "Drop the gun," and then observed a subject with a handgun in his hand pointing that gun in the direction of his partner. At that moment, he unholstered. And also at that moment, he heard the gunshots, so he knew the officers were in a situation that could escalate to deadly force.

The BOPC determined that another officer with similar training and experience would reasonably believe that when confronting a subject who was armed with a handgun and pointing it toward a partner officer, the situation may escalate to the point where deadly force may be justified.

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

C. Lethal Use of Force

Officers A and B moved through the location toward the sound of the gunfire. Officer A observed Subject 1 walking backward out of the alley. Subject 1's right arm was fully extending and he was pointing a handgun southbound in the alley. Officer A told him, "Drop your gun." Subject 1 turned clockwise toward his direction and pointed the gun at

him. Fearing that Subject 1 was going to shoot him or his partner, Officer A fired two rounds at Subject 1. Both rounds missed and struck the concrete wall behind Subject 1.

Based on the totality of the circumstances, an officer with similar training and experience would reasonably believe that Subject 1 posed a threat of serious bodily injury or death to both officers and that the use of lethal force would be justified.

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