

**ABRIDGED SUMMARY OF AN OFFICER-INVOLVED SHOOTING AND FINDINGS  
BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

**OFFICER-INVOLVED SHOOTING – 028-08**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On(X) Off()</u></b>	<b><u>Uniform-Yes(X) No()</u></b>
Harbor	03/13/08		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	4 years, 9 months
Officer B	5 years, 7 months

**Reason for Police Contact**

Officers A and B were in their police vehicle and observed a male subject on a bicycle commit a traffic violation. The officers ordered the Subject to stop, but instead the Subject fled, and then collided with the officers' vehicle. The officers exited the police vehicle and became engaged in a struggle and an officer involved shooting with the Subject who had a handgun.

<b><u>Subject (s)</u></b>	<b><u>Deceased (X)</u></b>	<b><u>Wounded ( )</u></b>	<b><u>Non-Hit ( )</u></b>
Male, 33 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 suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

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 either male or female employees.

The following incident was adjudicated by the BOPC on March 3, 2009.

## **Incident Summary**

Uniformed Officers A and B were assigned to suppress gang activity and were driving a hybrid police vehicle. Officer B was the driver and Officer A was the passenger. Officer A observed a male (the Subject) riding his bicycle on the sidewalk. Officer A also observed that the Subject's bicycle did not have a forward-facing headlamp, and Officer B of his observation. Officers A and B decided to stop the Subject.

The officers caught up to the Subject and paralleled him as the Subject continued to ride his bicycle on the sidewalk. Officer A used the vehicle's spotlight to illuminate the Subject and asked the Subject to stop, but the Subject refused. Officer B momentarily lost sight of the Subject due to a vehicle parked at the curb and Officer B stopped the vehicle to re-acquire a visual on the Subject. The Subject jumped the curb with the bicycle and collided with the rear passenger quarter panel of the police vehicle. Officer A exited the vehicle, but neither officer advised Communications Division (CD) that they were Code 6.

Officer A approached the Subject, who was at the rear of the police vehicle, attempting to stand up. Officer A approached the Subject on his left side, but could not observe the Subject's hands, which were in the area of his waistband. Officer A attempted to grab the Subject's left arm, but the Subject slipped out of Officer A's grip, and both Officer A and the Subject fell to the ground. Officer A repeatedly told the Subject to stop resisting and to show his hands, but Subject did not comply. Officer A felt that the Subject had a weapon because he would not show his hands.

Meanwhile, Officer B exited the vehicle and observed his partner on top of the Subject and noticed that the Subject had his right hand inside his right jacket pocket. Officer B attempted to control the Subject's legs by grabbing him around the waist and attempted to wrap his legs around the Subject's legs. During the struggle with the Subject, he rolled onto his knees and then used his left elbow to strike Officer B in his left ear. Officer A then warned the Subject that he was going to spray him with oleoresin capsicum (OC) spray. Officer A released the Subject, then moved back approximately two feet and sprayed a short burst of OC on the Subject's face, which had no effect. After Officer A sprayed the Subject with OC, Officer A heard three gunshots. During the third gunshot, Officer A observed a muzzle flash which appeared to come from underneath the Subject's body. Officer A unholstered his pistol and fired four or five rounds at the Subject.

Meanwhile, Officer B had control of the Subject's left hand and was attempting to control the Subject's right hand, which was inside his right jacket pocket. As Officer B attempted to pull the Subject's right hand from underneath his body, Officer B saw three rounds fired through the Subject's right jacket pocket. Officer B jumped off the Subject, unholstered his pistol, and fired two rounds at the Subject.

After the shots were fired, both officers covered the Subject at gunpoint. Officer A then used his radio to advise (CD) they were Code 6 at the location, that shots were fired, a subject was down, and that the officers were not injured. Shortly thereafter, Officer A broadcast a request for a rescue ambulance (RA).

After the Subject was handcuffed, Officers A and B observed a handgun inside the right front pocket of the Subject's jacket and two expended shell casings that were recovered from the Subject's pistol by a Department criminalist.

### **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 while 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 a Tactical Debrief.

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

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

#### **C. Non-Lethal Use of Force**

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

#### **D. Lethal Use of Force**

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

### **Basis for Findings**

In their analysis of this incident, the BOPC identified the following considerations:

#### **Tactics**

1. Officers A and B pulled parallel to the Subject as he was riding his bicycle and attempted to initiate a traffic stop.

The BOPC noted it would have been tactically sound to utilize the vehicle's spotlight, emergency lights, siren, or public announcement system while following behind the Subject rather than pulling beside him.

2. Officers A and B did not advise Communications Division (CD) of their status and location.

Once initial contact was made with the Subject and he refused to stop when ordered. It would have been prudent for Officers A and B to broadcast their status and location.

3. Officer B made a right turn in front of the Subject without knowing the Subject's exact location.

Communication between partners is paramount for officer safety. In this instance, Officer B did not know the exact location of the Subject. Officer B should have alerted his partner of his inability to see the Subject and Officer A should have provided updates about the Subject's location and worked as a team.

4. Officer A elected to make physical contact with a subject whom he believed was attempting to conceal a weapon.

Officers are trained to avoid making physical contact with an armed subject or subjects that are believed to be armed until all other means of control have been exhausted. Other means of control include verbal commands, non-lethal tools like oleoresin capsicum (OC) spray, impact devices such as batons and less-lethal tools like the TASER and Beanbag Projectile Shotgun.

5. Officer A warned the Subject that he was going to deploy OC and sprayed the Subject from a distance of approximately two feet.

Officers are trained that while engaged in close quarters combat, the use of OC spray should be avoided. Although it may have the desired effect on the subject, the chance of effecting officers is greatly increased based on the close proximity to the subject and may allow the subject to gain the upper hand.

6. Officer A did not appropriately request "Help" or provide responding units with a safe ingress direction.

The officers are reminded that additional information, such as a direction to approach, would have enhanced the ability of CD to provide the timely and accurate information necessary for responding units to coordinate the most tactically prudent response.

The BOPC found that the tactics utilized by Officers A and B warranted a Tactical Debrief.

### **Drawing/Exhibiting/Holstering**

The BOPC evaluated the circumstances relevant to Officers A and B's drawing and exhibiting and determined that they had sufficient information to reasonably believe that the situation may escalate to the point where deadly force may become necessary.

The BOPC found that the drawing/exhibiting/holstering by Officers A and B was in policy.

### **Non-Lethal Use of Force**

The BOPC evaluated the circumstances relevant to Officers A and B's non-lethal use of force and determined that the force was reasonable to overcome the subject's aggressive actions.

The BOPC found that the non-lethal use of force by Officers A and B was in policy.

### **Lethal Use of Force**

The BOPC evaluated the circumstances relevant to Officers A and B's lethal use of force. The BOPC determined that Officers A and B's use of lethal force was objectively reasonable to protect themselves from the immediate threat of serious bodily injury or death.

The BOPC found that the lethal use of force by Officers A and B was in policy.