

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

OFFICER-INVOLVED SHOOTING – 029-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Southeast	03/24/11		

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

Reason for Police Contact

Officers were conducting a consensual encounter when a suspect fled, produced a handgun and then pointed it at an officer, resulting in an officer-involved shooting.

Subject(s)	Deceased ()	Wounded ()	Non-Hit (X)
Subject 1: Male, 20 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 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 Chief and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, 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 March 6, 2012.

Incident Summary

Officers A (passenger) and B (driver) were on patrol in a marked black and white police vehicle. The officers were traveling northbound, when they observed two males (one male was subsequently identified as Subject 1; the second male, Subject 2, was never identified) walking southbound on the east sidewalk. According to Officer B, upon observing the officers, Subjects 1 and 2 said something to each other, and the officers decided to stop and talk to them.

Officers A and B stopped their vehicle along the east curb, in front of Subjects 1 and 2. Officer A opened the passenger's door, and as he did so, Subject 1 began to run southbound while Subject 2 ran northbound, away from the officers. Subject 1 ran toward a large apartment complex that was surrounded by a wrought iron gate. Officer A ran after Subject 1. Subject 1 then ran up a slight lawn embankment toward the gate and attempted to jump over it, and fell backwards. Subject 2 ran northbound on the east sidewalk, and he was never located or identified.

According to Officer A, Subject 1 stood up, grabbed his waistband or right front pocket area and continued to run southbound with one hand holding his waistband area. Officer A, based on his training and experience, believed that Subject 1, by grabbing his waistband, was securing an unholstered firearm.

Officer A broadcast over his radio that he was in foot pursuit of a man with a gun. Officer A continued to pursue Subject 1 on foot, when he heard Officer B moving their vehicle.

Subject 1 continued to run southbound and then he turned eastbound, followed by Officer A. According to Officer A, Subject 1 then made an abrupt right turn into a north/south alley.

As Subject 1 turned into the alley, Officer A saw a gun in Subject 1's hand. Officer A, believing the situation could quickly escalate to a deadly force situation, unholstered his service pistol and maintained it in his right hand in a one-hand, low-ready position.

Subject 1 continued to run southbound in the alley. Subject 1 then slowed down and turned toward a cinder block wall on the east side of the alley. Subject 1 attempted to jump over the wall.

According to Officer A, as Subject 1 came back down off of the wall, he took several steps backwards and stated to Officer A something to the effect of, "It's cool. It's cool. I give up. I give up." Subject 1 then started to slowly move back in Officer A's direction while looking toward the base of the wall, which was to Subject 1's right, and Subject 1 began to reach down into the grass.

Officer A told Subject 1 to put his hands up while maintaining his (Officer A's) pistol at a low-ready position. According to Officer A, Subject 1 reached down, picked up a gun

that Officer A had previously observed Subject 1 carrying while running and, from a semi-crouched position, began to raise the gun up in Officer A's direction. Officer A, fearing for his life, fired one round from his pistol at Subject 1. Officer A believed his round was ineffective. According to Officer A, Subject 1 dropped the gun and jumped over the wall.

Subject 1 was not struck by Officer A's round.

Meanwhile, Officer B turned their vehicle around and began to follow Officer A as Officer A pursued Subject 1. As Officer B turned left, he observed Officer A running south into the alley. Officer B approached the alley and slowed down. According to Officer B, he observed Officer A chasing Subject 1, whose hands were propped up as if Subject 1 was getting ready to jump over the wall.

Officer B continued driving past the alley. Officer B turned right on the next street and heard a gunshot. Officer B broadcast "shots fired, officer needs help," and additional units responded to the location, including Officers C and D. The officers immediately established a perimeter around the area of the incident.

A .38 caliber revolver, loaded with six live rounds, was recovered at the OIS location.

Officer D subsequently located Subject 1 at a nearby residence, and Officers C and D took him into custody without incident.

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 tactics to warrant a tactical debrief and Officer B's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Officer 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. Vehicle Deployment During a Tactical Situation

In this instance, Officer B recalled stopping the police vehicle at the east curb, approximately five feet away from Subjects 1 and 2. As Officer A opened the passenger door and attempted to make contact with the two individuals, Subject 1 immediately ran southbound. Both officers originally began to pursue Subject 1; then Subject 2 fled northbound and out of the officers' line of sight.

In this case, it would have been tactically more advantageous for Officer B to have stopped the police car further from both subjects prior making contact to afford them the greatest safety and tactical advantage; however, tactical training dictates that officers should use discretion when taking tactical action.

The BOPC found that both officers placed themselves at risk; however, their actions did not substantially deviate from approved Department tactical training.

2. Foot Pursuit of Armed Suspect

In this instance, Officers A and B have been involved in previous foot pursuits, in which they have discussed apprehension vs. containment.

Based on Officer A's statements to investigators, both officers, who were regular partners, initiated pursuit of Subject 1 in containment mode. Officer A, who subsequently pursued Subject 1 alone, also did so in containment mode, consistent with approved Department tactical training.

The BOPC found that both officers' decision to pursue Subject 1 in containment mode did not substantially deviate from approved Department tactical training.

3. Separation

In this situation, both officers initiated pursuit together, then Officer B made the decision to return to the car and follow in the police vehicle without communicating to his partner. The BOPC noted that during the foot pursuit, Officer B lost sight of his

partner and was unaware of his location. Officer B later observed Officer A in the alley, but chose to continue driving past Officer A's location instead of joining Officer A. During this portion of the incident, Officer B was not in a position to render immediate aid to Officer A nor did he articulate sufficient justification for not remaining with his partner.

Consistent with Department tactical training, a lead officer in a foot pursuit should maintain the tactical advantage by focusing on the suspect and the threat posed. The secondary officer is then in the best position to broadcast and provide cover and support to the lead officer including coordinating response of additional resources.

In this case, it was reasonable for Officer A to expect and anticipate that Officer B (his routine partner) would remain with him. Conversely, while, the BOPC understood his concern that the car was running and his intent to catch up in the car, Officer B should have remained with his partner. This incident could have resulted in a tragic outcome and exemplifies the significant impact separation can have.

The BOPC determined that Officer B's action unjustifiably and substantially deviated from approved Department tactical training, warranting administrative disapproval.

Based on Officer A's reasonable belief that his partner was behind him in the police vehicle, the BOPC found that Officer A did not knowingly separate from his partner. Therefore, Officer A's unintentional separation from his partner did not substantially deviate from approved Department tactical training.

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

B. Drawing/Exhibiting

In this instance, Officer A went in foot pursuit of a man with a possible gun. During the foot pursuit, Officer A observed Subject 1 holding a gun. Officer A continued pursuing Subject 1 into a north/south alley. Based on Officer A's past experience, armed subjects usually want to get rid of a gun quickly and then try to get away. This was a concern when Subject 1 continued running with a handgun. Believing the situation could escalate to use of lethal force, Officer A drew his service pistol.

The BOPC determined that an officer with similar training and experience as Officer A would reasonably believe that when confronting a suspect armed with a handgun, there is a substantial risk that the situation may escalate to the point where deadly force may be justified.

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

C. Lethal Use of Force

In this instance, Officer A observed Subject 1 attempting to jump over a block wall. As Officer A was closing the distance, Subject 1 pushed off the wall and remained in the alley. Subject 1 leaned over and reached into some grass. Officer A was closing the distance between him and Subject 1 and believed Subject 1 was gauging the distance between them. Officer A ordered Subject 1 to put his hands up, but Subject 1 refused. Officer A, fearing for his life, fired one round at Subject 1. The round did not hit Subject 1. At that point, Officer A heard a "shots fired" radio broadcast by Officer B. Officer A then broadcast that he was okay and the last known direction of Subject 1.

Based on the totality of the circumstances, an officer with similar training and experience would reasonably believe that Subject 1's act of pointing a handgun at Officer A presented a threat of serious bodily injury or death and would have reasonably reacted in the same manner. Consequently, it was objectively reasonable for Officer A to perceive Subject 1's actions as a deadly threat and utilize lethal force in defense of his life.

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