

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

OFFICER-INVOLVED SHOOTING – 030-06

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No(X)</u>
77 th Street	05/01/2006		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Detective A	16 years, 2 months
Officer A	3 years, 7 months
Officer B	7 years, 6 months
Officer C	6 years, 11 months

Reason for Police Contact

Officers attempted to apprehend Subject 1. They became involved in a struggle, during which Subject 1 obtained one officer's pistol and pointed it at the officers at close range. Officers then shot Subject 1.

<u>Subject</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 1: Male, 42 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 Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on 03/20/07.

Incident Summary

Detective A and Officer A were conducting a narcotics investigation. The detective and officer, who were wearing plain clothes, established an observation post to observe a location where narcotics dealing was suspected – a motor home parked in the street. From the OP they observed an apparent narcotics transaction occur. Detective A and Officer A followed, contacted, and arrested the buyer for possession of rock cocaine. Detective A and Officer A then transported the buyer to jail.

Detective A and Officer A later returned to the area of the motor home and parked their plain police vehicle directly in front of it. Detective A and Officer A used their vehicle's mirrors to observe the motor home directly behind them. Detective A and Officer A did not broadcast to Communications Division (CD) that they were at the location.

Detective A and Officer A then observed Subject 1 arrive at the motor home in a truck. Officer A exited the passenger side of the police vehicle and exposed his police badge hanging from a chain around his neck. Detective A exited the driver's side of the vehicle.

As he approached Subject 1, Officer A identified himself as an LAPD officer and instructed Subject 1 to show his hands. Subject 1 then began to put his hands out to the side. Officer A attempted to grab Subject 1's hand when Subject 1 punched Officer A on the right side of his head. Subject 1 punched Officer A again on the back of his head, although Officer A attempted to duck the punch. Subject 1 then turned and ran from Officer A.

Meanwhile, Detective A observed a second occupant in the truck that Subject 1 had arrived in. Detective A ordered that person out of the truck, but then joined Officer A in a foot pursuit of Subject 1. Officer A requested that Detective A broadcast that the officers were in foot pursuit. As they chased Subject 1, the officers left the person in the truck behind them.

As the foot pursuit continued, Officer A repeatedly yelled commands at Subject 1 to stop. Subject 1 failed to adhere to these commands. At one point, Officer A could not see Subject 1's hands. Officer A drew his service pistol and commanded Subject 1 to lay on the ground. Subject 1 continued to run, and Officer A re-holstered his pistol.

Detective A caught up to Subject 1 and, with his radio in hand, attempted to tackle Subject 1. However, Detective A's attempt failed and he, Officer A, and Subject 1 became involved in a struggle. During the struggle, Subject 1 bit Officer A and hit Officer A in the head an additional two times. In response, Officer A delivered a punch to Subject 1's head.

Officer A removed the radio from Detective A's hand and retreated a short distance away from the struggle. Officer A realized the radio was programmed to the wrong frequency. Officer A re-programmed the radio to the correct frequency and broadcast a help call.

Following the broadcast, Officer A re-engaged in the struggle. Officer A attempted to gain control of Subject 1's arms by utilizing a twist lock or joint lock. As they moved, Officer A again attempted to broadcast two additional help calls. Subject 1 punched Officer A in the back of the head again.

Officer A took a position behind Subject 1 in an attempt to wrap his arms around

Subject 1. Due to the subject's size, Officer A had a difficult time wrapping his arms around Subject 1.

Subject 1 then backed along the sidewalk with Officer A behind him, causing Officer A to collide with a gate. Subject 1 stepped forward and back again, ramming Officer A into the gate at least three times. Detective A grabbed Subject 1's legs to pull Subject 1 to the ground.

The officers and Subject 1 then went down to the pavement. Officer A fell on top of Subject 1 and Detective A fell slightly offset from Officer A. Once on the ground, Officer A felt a hand going towards his gun. Detective A then noticed that Subject 1 was holding his pistol. Detective A stated, "He has my gun."

Subject 1 then pointed the gun at Officer A's neck. Officer A grabbed the top frame of the pistol in Subject 1's hand with his right hand. Detective A grabbed the slide/barrel area of the pistol. Officer A and Detective A were able to move the barrel of the gun away from Officer A's head. However, during the continued struggle, Subject 1 kept trying to point the gun toward Officer A.

Officers B and C heard the help call and responded. Officers B and C observed the struggle on the sidewalk and recognized the two officers struggling with Subject 1 on the ground. Officer B realized that Subject 1 had a pistol in his right hand. Officer B ran towards the struggle.

Officer B noticed that the gun being held by Subject 1 was pointed in his direction and Subject 1 had his finger on the trigger. Officer B drew his pistol because he felt that Subject 1 was going to shoot him. Officer B ordered Subject 1 to drop the gun, but Subject 1 did not comply.

Fearing that he, Detective A, Officer A, Officer C, and/or members of the public were going to be shot by Subject 1, Officer B fired one round at Subject 1's face, striking him.

Meanwhile, Officer C ran towards the struggle. Officer C noticed that Officer A appeared to be dazed. As Officer C was about to join the struggle, he heard someone say, "gun, gun, gun."

Officer C began to look for a gun. He saw a hand holding a gun and other hands trying to point the gun towards the ground. At the time, the gun was parallel to the ground with the muzzle pointed towards Officer C and his partner.

Officer C drew his pistol. The only target Officer C believed he had available without risking injury to the other officers was Subject 1's head. As such, he fired one shot at Subject 1's head. Officer C then noticed that Subject 1 stopped moving and he re-holstered his pistol.

Officer A and Detective A were able to take control and remove the pistol from Subject

1's hand.

Officers G and H heard the gunshots, but did not see who fired. Officer H drew his service pistol and held it at a low ready position toward the crowd that had formed in the area. Officer H ordered the crowd back.

Detective A instructed Officer G to handcuff Subject 1. Detective A and Officers C and H assisted. Officer A realized that he was missing his pistol. Later, Officer A noticed his pistol on the ground.

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 Detective A and Officer A's tactics to warrant administrative disapproval.

The BOPC found Officers B and C's tactics to be appropriate.

B. Drawing/Exhibiting/Holstering

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

C. Non-Lethal Use of Force

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

D. Lethal Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that Detective A and Officer A opted to conduct a narcotics investigation without the assistance of additional officers, while not knowing if there were additional suspects inside of the motor home. While operating with only two officers proved to be accomplished safely during the initial arrest, their subsequent contact with Subject 1 presented a situation that could not be safely carried out with only two officers. The BOPC noted that it would have been tactically advantageous for Detective A and Officer A to request at least two additional officers to assist with the narcotics investigation.

Detective A and Officer A did not advise CD of their location and status, or advise CD of their surveillance activities while conducting their investigation at the initial location. It would have been tactically safer for Detective A and Officer A to advise CD of their status and to initiate a formal narcotics complaint investigation prior to conducting their investigation. The BOPC was also concerned that Detective A and Officer A's initial broadcasts did not indicate that they were in plainclothes.

The investigation revealed that Detective A and Officer A parked their vehicle directly in front of the motor home while observing activity directly behind them. While this rear observing tactic is commonly utilized during surveillance operations, maintaining distance between the observation post and the motor home would have been tactically safer.

Officer A did not carry a radio with him as he exited from their vehicle to confront Subject 1. It would have been tactically safer for both Detective A and Officer A to maintain a radio, allowing more immediate and effective communications. In addition, the BOPC was concerned that Detective A's radio was programmed to a frequency that was not monitored by CD at the time of the incident.

Officer A and Detective A approached Subject 1 from opposite sides. This approach created a potential crossfire. This also created a barrier, resulting in Detective A not being able to see Officer A as Subject 1 physically assaulted him and began running away. It would have been tactically safer for the officers to maintain better tactical positioning with one another and primarily focus their attention on Subject 1. The BOPC would have also preferred that Detective A and Officer A had worn raid jackets in order to ensure their identification as police officers.

Officer A decided to draw his service pistol while in foot pursuit of Subject 1, given that he was unable to see Subject 1's hands as he fled. Although it appears that Officer A reholstered his pistol shortly after drawing it, the BOPC was concerned that Officer A was running with his pistol in his hand for some period of time.

As Subject 1 ran, Detective A tried to tackle him. A preferred tactic in this scenario would have been for Detective A to attempt to push Subject 1 from the rear, placing him

off balance in order to avoid injury from going to the ground during a tackling motion. It would have been preferable for Detective A to have had both hands free when he engaged Subject 1.

Both Detective A and Officer A lost their weapons during the altercation. Weapon awareness and retention is a critical officer safety concern.

The BOPC was critical of Detective A and Officer A's lack of planning and poor decision making during this incident. Detective A and Officer A failed to identify the need for and request additional resources throughout this incident. After having made the initial arrest at the location, Detective A and Officer A returned to effect another arrest on a previously-observed male suspect of substantial size, without first requesting additional officers to assist.

The BOPC found Detective A and Officer A's tactics to warrant administrative disapproval and formal training.

The BOPC found Officers B and C's tactics to be appropriate.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officer A believed that Subject 1 was arming himself with a handgun and drew his service pistol. Once Subject 1 faced forward again and continued running, Officer A holstered his service pistol and continued pursuing him.

Upon Officers B and C's arrival at the help call, they observed Detective A and Officer A fighting with Subject 1 on the sidewalk. Officers B and C observed Subject 1 holding a pistol in his hand while pointing it at Detective A and Officer A. Officers B and C approached the struggle and drew their service pistols, believing that the situation had risen to the level where deadly force was necessary.

Officer H arrived as the shots were being fired. Officer H was initially unsure of the origin of the gunshots and drew his service pistol, believing that deadly force may become necessary. After observing that Subject 1 was no longer a threat, Officer H holstered his service pistol.

The BOPC determined that Officers A, B, C and H had sufficient information to believe that the situation may necessitate the use of deadly force.

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

C. Non-Lethal Use of Force

The BOPC noted that Detective A unsuccessfully attempted to tackle Subject 1 from behind. Officer A then joined the altercation and grabbed Subject 1's arms and torso. As Subject 1 continued to struggle to get away from Detective A and Officer A, he swung his fists, striking Officer A on his head. Subject 1 also bit Officer A on both arms.

Officer A again grabbed Subject 1's upper body with both hands to control his arms. Subject 1 rammed Officer A against a gate. Simultaneously, Detective A grabbed Subject 1's legs. Ultimately, Detective A and Officer A were able to bring Subject 1 to the ground in a continued effort to detain him.

Subject 1 fell to the sidewalk on his back. Detective A and Officer A observed Subject 1 holding Detective A's service pistol. Both Detective A and Officer A were able to grab Subject 1's hand and push the pistol downward several times. Subject 1 continued to overpower Detective A and Officer A and pointed the pistol directly at Officer A's neck and face.

The BOPC determined that Detective A and Officer A were initially attempting to effect an arrest on Subject 1 for assaulting Officer A. Subject 1 fled from Detective A and Officer A, and continuously used force against them to prevent them from detaining him. Detective A and Officer A reasonably believed that Subject 1 presented an immediate threat of bodily injury.

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

D. Lethal Use of Force

The BOPC noted that, upon Officers B and C's arrival, they observed Detective A and Officer A struggling with Subject 1 on the sidewalk. Officers B and C feared for their and the other officers' lives, as Subject 1 pointed the pistol at them. Officers B and C had no other portion of Subject 1's body to fire upon to stop his actions due to Detective A and Officer A lying on top of him in an effort to control him and prevent the gun from being pointed at them.

There were various witness accounts regarding the time frame from the firing of the first gunshot to the second. The BOPC noted that the preponderance of the evidence supported the determination that both rounds were fired very close in time to one another. Given that four officers indicated that Subject 1 was holding a gun in his hand and that this account was supported by at least three independent witnesses, the BOPC believes that the totality of the available evidence supports the officers' actions.

The BOPC determined that Officers B and C reasonably believed that Subject 1 presented an immediate threat of serious bodily injury or death.

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