

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

OFFICER-INVOLVED SHOOTING – 030-07

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes()</u>	<u>No(X)</u>
Wilshire	03/24/2007			

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

Reason for Police Contact

Officers observed Subjects 1, 2, and 3 at a gas station wearing clothing that attracted the officers' attention. The officers believed the subjects could have been gang members. Officers subsequently heard gunshots realized they were being fired upon by one of the subjects. Officer A returned fire.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject 1: Male, 22 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 02/05/08.

Incident Summary

Officer A and Officer B were working as a part of a team looking for robbery suspects. Officers A and B were wearing plain clothes and were driving a plain vehicle. Officer A's police badge was hanging from a chain around his neck. Officer B's badge was clipped to his belt. Also working as a part of the team were Officer C and Officer D, who were in uniform and were driving a black and white police vehicle.

Officer A and B's responsibility was to observe potential robbery suspects in the area. If they saw "a possible suspect or somebody that possibly needs to be detained," Officers

A and B would alert Officers C and D so that they could then stop the suspected individual. The plain clothes officers used either a cellular telephone or a police radio to communicate with uniformed officers.

Officer A observed a group of three males at a gas station. The males wore black and red clothing, which attracted Officer A's attention because he thought they might be members of a local street gang.

Officer A parked his vehicle on the street and continued to observe Subject 1, Subject 2, and Subject 3. The three men walked down the street. As Officer A made a turn, he heard approximately seven to eight gunshots and saw pieces of glass breaking off of some parked vehicles.

Officer A stopped his vehicle, exited, and took cover behind another parked vehicle. Officer A heard shots being fired as he exited his vehicle, and drew his pistol in response. Meanwhile, Officer B also heard glass breaking, and he saw Officer A exit the vehicle. Officer B noticed that the vehicle continued moving at a slow speed, so he shifted the vehicle into park and exited. Officer B drew his pistol as he exited the vehicle.

When Officer A reached the parked vehicle, he switched his grip on his weapon in order to expose less of his body. He then looked down the street in order to see where the subjects were located, saw a muzzle flash and heard another round being discharged. In response, Officer A fired one round from his pistol at the muzzle flash. Officer A saw Subject 1, Subject 2 and Subject 3 running.

Officer B holstered his pistol and used his radio to broadcast a help call and request a perimeter. Officers C and D were parked in a lot close to where the officer-involved shooting took place, when they heard Officer B's help call. Officers C and D responded to the location. Other units also began responding, including an air unit.

Among the units that responded to the scene were Sergeant A, and Officers E, F, G, H, and I. Officer E took a position on the perimeter and deployed an Urban Police Rifle (UPR). Shortly after arriving at the scene, Officers G and I were directed by the airship toward two individuals who met the description of the subjects. Officers F and H also drove toward where the subjects were located, and they, along with Officers G and I, took Subjects 2 and 3 into custody.

Meanwhile, a search continued for Subject 1. Officers J, K, L, and M formed a search team. Officer J was the handler of a Department canine, and Officer M was equipped with a UPR. Officer J indicated that he had received some information from witnesses that the subjects had been seen running through nearby backyards. The team approached and entered a detached structure.

After entering the structure, the Department canine located Subject 1 in an upstairs loft area and alerted Officer J by barking. The Department canine then approached Subject

1 and, according to Officer J, “a fight between the two ensued.” Officer J indicated to Subject 1 that he needed to surrender and stop fighting with the Department canine. Subject 1 complied quickly and was then taken into custody.

Officer J indicated that he requested the response of a Rescue Ambulance (RA) within minutes after Subject 1 was handcuffed. Los Angeles Fire Department personnel treated Subject 1 for canine bite wounds to his right arm, right thigh, and right armpit. They offered to transport Subject 1 to a nearby hospital for additional treatment, but Subject 1 declined.¹

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, B and E’s and Sergeant A’s tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A, B, and E’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.

¹ Later, Subject 1 was transported to a nearby hospital for further treatment of his bite wounds.

Basis for Findings

A. Tactics

The BOPC noted that Officer A determined that the three individuals at the service station were attired in a manner consistent with local gang members. Officers A and B coordinated effectively with uniformed officers throughout the incident.

The officers were not wearing their ballistic vests or raid jackets while deployed in this capacity. The ballistic vests would have afforded them a higher level of safety in their plain clothes capacity. Additionally, Sergeant A, the supervisor, should have ensured that Officers A and B were wearing ballistic vests during operations likely to result in contact with violent and/or armed persons in the performance of their duties.

The BOPC noted that cellular phones were commonly used by personnel assigned to this unit for communication during operational duties. The use of Department radios is more appropriate during ongoing investigations and tactical operations. The use of the radio allows nearby units access to timely knowledge of ongoing incidents.

Officers A and B did not advise Communications Division (CD) of their status or location when they had the intent of monitoring Subject 1 and the other two individuals. The subjects were on foot, and it would have been prudent for the officers to advise CD of their location, should assistance be required.

The BOPC noted that Officer A did not place the vehicle into park prior to exiting. Officer A is reminded that if it is not possible to utilize his hands to place the vehicle into park, the activation of the foot brake could prevent further movement of the vehicle, enhancing officer and public safety.

The BOPC also noted that Officers A and B did not request an air unit for the incident. The request was not made until a responding sergeant advised CD. Officers A and B should request resources as necessary.

Officer E responded to the help request and deployed the UPR on a perimeter position. Due to the spontaneous field activities and the potential for the situation to escalate to an immediate life-threatening situation, Officer E did not obtain prior approval from a supervisor to deploy the UPR for approximately two hours. When this occurred, Officer E needed to report it to a supervisor as soon as practical. This information is vital for ensuring the proper tactical deployment of personnel resources.

The BOPC found Officers A, B and E's and Sergeant A's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC noted that, as the officers followed the group, Officer A heard several gunshots and observed glass breaking from parked vehicles near him. Believing he and his partner were being fired upon, Officer A stopped the vehicle, exited and drew his weapon.

Officer B observed the group looking at him and his partner. Officer B observed muzzle flashes and heard gunshots from the group's location. Officer B exited the vehicle and, fearing that they were being fired upon, drew his weapon.

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

Officer E and his partner responded to assist with the perimeter containment efforts and deployed a UPR.

The BOPC determined that Officer E had sufficient information to believe that the situation may escalate to the point where deadly force may have become necessary and that the criteria for the deployment of the UPR were met.

The Chief found Officers A and B's drawing and Officer E's exhibiting to be in policy.

C. Lethal Use of Force

The BOPC noted that, as the officers followed the group, Officer A heard several gunshots and observed glass breaking from vehicles parked adjacent to him. Fearing that they were being fired upon, Officer A stopped the vehicle, exited and drew his weapon. Officer A looked down the street at Subject 1 and the other two individuals, observed a muzzle flash and heard another gunshot. Realizing that they were being fired upon, Officer A fired one round to stop Subject 1's deadly assault.

The BOPC determined that Officer A reasonably believed that Subject 1 presented an immediate threat of serious bodily injury or death.

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