

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

OFFICER INVOLVED SHOOTING – 040-05

Division **Date** **Duty-On (x) Off ()** **Uniform-Yes (x) No ()**
77th Street 05/20/2005

Officer(s) Involved in Use of Force **Length of Service**
Officer A 9 years, 5 months

Reason for Police Contact

Officer A and several other officers from the Gang Enforcement Detail (“GED”) detained a group of approximately 25 people for loitering in a park. When Subject 1 ran from the officers and pointed a handgun at Officer A, Officer A fired his weapon three times.

Subject **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 Board of Police Commissioners (“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 May 16, 2006.

Incident Summary

On the evening of May 20, 2005, 77th Street Area GED Officers B and C drove through the parking lot of a local park and observed a group of approximately 25 people congregating there. Officer B knew some of these individuals from prior contacts and observed members of the group consume alcohol. When the officers continued to drive through the parking lot, they observed three other individuals a short distance from the larger group. While monitoring these three individuals, Officer B noted that one of them appeared startled by their presence and grabbed the front of his waistband area while walking toward the front door of the park’s gymnasium. Officer C also noted the suspicious movements of this individual and believed that he was attempting to conceal something. Rather than confronting this individual, Officer B advised fellow GED

officers of his observations and requested their assistance. Soon after Officer B made the request, Officers A, B, C, D, E, F, G, and H, all of whom are 77th GED Officers, met nearby and devised a plan to detain the group.

According to the plan, the officers were to detain all members of the group and determine if any of these individuals were on parole or on probation. If any of these individuals had conditions that prohibited them from associating with known gang members, they would be arrested. Although Officer B did not recall if he provided his fellow GED officers with the description of the individual who had earlier reached toward his waist with his hands, he did acknowledge that he advised them that this individual was in the gymnasium. The officers also discussed foot pursuit tactics and agreed that only two officers would actively pursue a fleeing suspect. As the GED units drove toward the park, Officer A used the Mobile Data Terminal ("MDT") to notify the Communications Division ("CD") that all four GED units were at the park.

In accordance with the tactical plan, the officers detained the group of gang members for loitering and for drinking alcohol in the park. Although the majority of those detained by the police complied with their commands, two individuals did not. When Officer A demanded to see one of the individual's (Subject 1's) hands, Subject 1 looked in his direction and produced a handgun. Once the weapon was observed, Officer A yelled, "Gun, gun, gun..." and ordered Subject 1 to stop. Officers A and B then chased Subject 1 on foot while telling him to stop and to put his hands up. Officer H also observed Subject 1 flee on foot and used his police car to parallel the foot pursuit. Officer G also saw Subject 1 flee on foot and joined in the foot pursuit. Having heard "Gun!," the remaining GED officers ordered the remaining members of the group to the ground and drew their duty weapons to guard against the possibility of confronting additional armed suspects.

As Subject 1 ran, he looked over his shoulder, extended his right arm, and pointed a handgun at Officer A. Officer A then drew his service pistol and, while still running, fired one round at Subject 1. Officer B, who was running behind Officer A, also observed Subject 1 turn and raise his right hand toward Officer A while holding a small black object he believed to be a gun. According to Officer A, Subject 1 was unfazed by the gunfire and continued to run. Upon hearing the gunshots, Officer D retrieved a Department issued shotgun from his police car and covered the members of the group. When Officer A again saw Subject 1's gun, he fired a second round at Subject 1. When the threat continued, Officer A fired a third round at Subject 1. Although Officer A's third round did not strike Subject 1, it caused him to fall to the ground. Officer A then covered Subject 1 with his service pistol while Officer B holstered his service pistol and handcuffed Subject 1 without further incident.

When Officer B handcuffed Subject 1 and rolled him over, he observed a .25 caliber handgun lying on the street near Subject 1 and secured it in his police car. After the Officer Involved Shooting ("OIS"), Officer G advised CD that an officer needed help and that shots had been fired. He later reported that Subject 1 was in custody and that they had a large group of gang members in the park. Several minutes later, Sergeant A, 77th Patrol Division, advised CD that there were sufficient units at the scene.

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 the following areas: Tactics of the involved officer(s); Drawing/ Exhibiting/ Holstering of a weapon by any involved officer(s); the Use of Force by any involved officer(s), and any additional pertinent issues. 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, C, D, E, F, G, and H's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A, B, C, D, E, F, G, and H's drawing/exhibition/holstering of a firearm to be in policy.

C. Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that Officer B assembled six other GED officers and a Deputy Probation Officer and developed a tactical plan to coordinate an approach to the suspected gang members. Although the planning of a coordinated approach was a sound tactical decision, the BOPC noted that the plan was not followed as initially conceived. The BOPC would have preferred that a supervisor had been advised and been present during both the planning and operational aspects of the incident. The BOPC would have also preferred that an air unit had been requested and was overhead to assist the officers on the ground. Additionally, the BOPC noted that during the planning, Officer B designated himself as the communications officer to advise CD of any developments. Although Officer B was in foot pursuit, the BOPC would have preferred that Officer B had broadcast the foot pursuit and that he had adhered to the plan and communicated with CD. The BOPC also noted that several of the officers did not remain with their assigned partners. The BOPC noted that the plan appropriately included details of how a foot pursuit would be handled, including only two officers pursuing any fleeing suspects, to allow the remaining officers to maintain control of the large gang group. However, the BOPC noted that when Subject 1 ran from the officers,

some officers did not remain with their partners and assisted in the pursuit of Subject 1 (Officers A, B, G and H). As a result of multiple officers pursuing Subject 1, fewer officers were available to guard the larger group.

As the officers deployed on the group, Officer A notified the CD of the location by use of the MDT instead of the radio. The BOPC also noted Officer C requested help after the shooting on the tactical frequency and not the 77th Street base frequency. Officer B also made a broadcast but he gave the wrong location when he requested help. The BOPC determined that the officers should have advised CD by radio when they arrived at the location, that they should have provided the correct location, and that the broadcasts should have been made on the base frequency. This, the BOPC determined, would have helped to eliminate confusion regarding the location when the help call was broadcast.

The BOPC also was concerned that during the foot pursuit, Officers A and B believed Subject 1 had a handgun, but did not utilize cover and did not broadcast that they were in foot pursuit. The BOPC determined that Officers A and B should have used cover or discontinued the foot pursuit and utilized available resources to set up a perimeter.

The BOPC noted that Officer A fired all three of his rounds at Subject 1 while running. Further, the BOPC noted that while officers are trained to shoot on the move, they are not to shoot while running due to the difficulty of shooting accurately.

The BOPC found Officers A, B, C, D, E, F, G, and H's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC noted that as the officers approached the group of gang members, Subject 1 refused to comply with their orders to stop and show his hands and ran in a southeast direction while holding the front pocket area of his sweatshirt. Officer B formed the opinion that Subject 1 was possibly armed with a handgun and shouted, "Gun!" Officer A also shouted, "Gun!," while pursuing Subject 1 on foot. Officers C, D, E, and F heard the officers' warning that someone had a gun and drew their service pistols in anticipation of confronting an armed suspect. Officers A and B continued to pursue Subject 1 on foot, with Officer A being closest to Subject 1. Subject 1 removed a handgun from his sweatshirt pocket with his right hand and pointed it at Officer A, while continuing to run from the officers. Fearing that Subject 1 would shoot him, Officer A drew his service pistol. Officer B also observed Subject 1 retrieve a dark object with his right hand from his front sweatshirt pocket and point it at Officer A. Officer B heard three gunshots, slowed his pace and drew his service pistol. Officer G ran to intercept Subject 1 when he heard two gunshots. Although unsure of the source of the gunfire and fearing for his life, Officer G drew his service pistol. As Officer D continued covering the additional suspects, he heard gunshots. Fearing that others may be armed, Officer D also retrieved a Department shotgun from a nearby police vehicle and chambered a round, placing his index finger on the safety button. Once additional officers arrived in response to the "help call," Officer D unloaded the shotgun and returned it to a patrol ready condition and secured it inside the police vehicle.

The BOPC found Officers A, B, C, D, E, F, and G's drawing and exhibition of a firearm to be in policy to be in policy.

C. Use of Force

The BOPC noted that as the officers were deploying in the park, Officers A and B observed a male, subsequently identified as Subject 1, running in a southeast direction. As he ran, Subject 1 held the front pocket area of his sweatshirt. Officers A and B formed the opinion that Subject 1 was possibly armed with a gun and pursued him on foot. Subject 1 then removed a handgun from his sweatshirt pocket with his right hand and pointed it at Officer A while continuing to run from the officers. Fearing Subject 1 was going to shoot him, Officer A fired one round in a southeasterly direction from approximately 38 feet, while continuing to pursue Subject 1 on foot. Apparently unaffected, Subject 1 continued to point the handgun at Officer A. Officer A fired a second round at Subject 1, as both continued running. Still unaffected by the gunfire, Subject 1 continued to point the handgun at Officer A. Officer A fired a third round at Subject 1 as he continued to run. Subject 1 immediately went down to the ground in a prone position uninjured. The BOPC determined that Officer A reasonably believed that Subject 1 presented an immediate threat of serious bodily injury or death and found Officer A's use of force in policy.