

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

OFFICER INVOLVED SHOOTING – 040-06

Division	Date	Duty-On(x) Off()	Uniform-Yes(x) No()
Southeast	05/23/06		

Officer(s) Involved in Use of Force	Length of Service
Officer A	3 years, 1 month

Reason for Police Contact

While on patrol, officers saw Subject 1 loitering in a strip mall with other subjects, and believed that the subjects were involved in criminal activity, so the officers attempted to contact them, but Subject 1 grabbed his waistband and ran. The officers pursued and during the foot pursuit, Subject 1 brandished a pistol, resulting in an officer involved shooting.

Subject	Deceased ()	Wounded ()	Non-Hit (x)
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Subject 1: Male, 22 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, 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 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.

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 male or female employees.

The following incident was adjudicated by the BOPC on April 3, 2007.

Incident Summary

On May 23, 2006, Police Officers A and B were assigned to a bicycle detail to suppress street robberies and burglaries from motor vehicles at the south end of the division. While patrolling, Officer B advised his partner that he wanted to pass through a strip

mall located at the southeast corner. When the officers approached the strip mall, Officer B observed three males standing in the parking lot. The three men looked in the officers' direction, and one of the Subjects tapped the shoulder of Subject 1, and the three walked off in different directions. When Subject 1 walked away from the group, Officer B observed Subject 1 conceal himself behind a wrought iron fence and formed the opinion that Subject 1 was involved in criminal activity. While still mounted on his bicycle, Officer B approached Subject 1 to initiate a "consensual encounter," as Officer A provided cover. Officer B came within six to seven feet of Subject 1 and said, "What's up partner?" Subject 1 grabbed his waistband with his right hand and ran southbound through the parking lot. As Subject 1 ran, Officer B observed Subject 1 grab the butt of a handgun, which was concealed in his waistband. Officer B then yelled in his partner's direction, "man with a gun," and pursued Subject 1 on his bike with Officer A following approximately 10 feet behind him. Officer B also reported that he advised Communication Division (CD) of the pursuit and requested a back up.

Officer B told Subject 1 to stop several times; however, Subject 1 did not comply. During the foot pursuit, Officers B and A followed Subject 1 northbound along an alley east of the strip mall. As the pursuit continued, Officer A passed Officer B, and observed a magazine fall from Subject 1's pocket and also noted that Subject 1 was carrying the handgun in his hands. When Subject 1 reached the street, he turned eastbound, ran along the south sidewalk, and then fell onto the pavement, which caused Officer A to dismount his bicycle, and to draw his weapon. Officer A then ordered Subject 1 to place his hands up. Subject 1 did not comply and ran southbound through a chain link gate. Officer A followed Subject 1 on foot into the yard with his weapon at the low ready position as Officer B dismounted his bicycle, drew his weapon, and followed Officer A through the gate. Subject 1 then looked back at the officers and pointed a handgun in Officer A's direction. In defense of his life, Officer A fired one round at Subject 1 from an approximate distance of 13 feet. Although Subject 1 was not hit, he fell into a prone position with his left hand under his body.

Officer B broadcast, "shots fired, officer needs help," and approached Subject 1, but stopped short when he did not see a handgun in Subject 1's hand. Officer A, who believed the threat had passed, holstered his weapon, placed his left knee on Subject 1's back, and used both of his hands to grab Subject 1's right arm to handcuff him. Officer B then holstered his weapon, placed his right knee on Subject 1's back, and assisted Officer A in handcuffing Subject 1. When Subject 1 resisted and attempted to stand, Officer B struck Subject 1 once below his left shoulder blade with a closed fist, which allowed the officers to handcuff Subject 1 without further incident.

Lieutenant A arrived at scene and ensured that the officers were separated and obtained a Public Safety Statement from Officer A. A rescue ambulance was not requested because neither the suspect nor the involved officers were injured during the incident. A search of the crime scene was conducted, and a handgun was located in the backyard of a residence, approximately 64 feet from where Subject 1 was last seen standing by Officer A.

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 determined that Officers A and B will benefit from additional tactical training and will direct the officers' Commanding Officer to provide and document the appropriate divisional training to these officers.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A and B's drawing in policy.

C. Non-lethal Use of Force

The BOPC determined that Officers A and B's use of non-lethal use of force was reasonable to control the suspect and found their non-lethal use of force to be in policy.

D. Lethal Use of Force

The BOPC determined that Officer A reasonably believed that Subject 1 presented an immediate threat of serious bodily injury or death and found his use of lethal force to be in policy.

Basis for Findings

A. Tactics

The BOPC noted that when Officers B and A rode eastbound, Officer B observed three males congregated in the parking lot at the southeast corner, a location known for gang and narcotics activity. As they approached the location, one member from the group tapped Subject 1 on the shoulder. Subject 1 looked in the officers' direction, and the group dispersed in opposite directions. As Subject 1 attempted to conceal himself along an adjacent fence, Officer B approached Subject 1 and attempted to initiate a consensual encounter.

The officers' observations provided sufficient reasonable suspicion to initiate a detention of Subject 1. In an attempt to maintain the standard of a consensual encounter, Officer B approached Subject 1 with the intent to elicit a conversation rather than initiate a detention to investigate the suspected criminal activity. The BOPC noted that this created a situation wherein Officer B compromised his tactics when he approached within six to seven feet of Subject 1 and asked him, "What's up partner?" The situation would have been more appropriately handled with tactics consistent with a detention. The BOPC noted that it would have been more tactically prudent to have evaluated the surroundings and deployed in a manner that maximized the available cover and addressed the tactical considerations associated with the potential flight of a suspected criminal.

Additionally, the BOPC noted that Officers B and A approached Subject 1 without appropriately notifying CD of their status and location. Officers are trained to advise CD when they conduct officer-initiated activities.

As Subject 1 ran southbound through the parking lot, Officer B observed him reach for his waistband and grab the butt of a handgun. Officer A was unaware of Officer B's observations and did not hear Officer B shout that Subject 1 was in possession of a handgun. The BOPC further noted that although communication between bicycle officers can be difficult, Officers B and A are reminded of the importance of effective communication and working together as a team to ensure sound tactical decisions. Communication among partners is critical and when one partner works independent of the other, officer safety is jeopardized.

Officer B, knowing Subject 1 was armed with a handgun, initiated a bicycle pursuit. As Officer B broadcast the appropriate information to CD, Officer A became primary in the bicycle pursuit. Although Officer A had no confirmation that Subject 1 had a handgun, he perceived his actions to be consistent with those of an armed suspect. As the officers continued to pursue Subject 1, Officer A observed Subject 1 drop an ammunition magazine to the ground. Officer A should have relayed this information to Officer B as soon as reasonably possible, as opposed to waiting until Subject 1 was already in custody.

Officers B and A engaged in a bicycle pursuit of Subject 1, knowing that Subject 1 was armed. Although the surroundings afforded varying levels of potential cover, it was noted that Officers B and A had minimal cover and were in close proximity to Subject 1 as they pursued him in the alley.

Generally, officers are not to engage in a foot/bicycle pursuit of an armed suspect, unless there is adequate cover to continue the pursuit with the intent of monitoring the suspect's progress to better establish a perimeter. The safe and successful apprehension of a fleeing suspect is more likely when partners have previously discussed what tactics they will use to effect the arrest of a fleeing suspect.

After the officer involved shooting incident, Subject 1 fell onto the grass in a prone position with his left hand concealed underneath his body. The officers approached Subject 1 without knowing the location of the handgun. The BOPC noted that Officers B

and A should have sought positions of cover, and ordered Subject 1 into a high-risk prone position and waited for additional personnel to arrive. Once additional resources arrived, a coordinated approach would have been preferred. Additionally, Officers B and A participated in handcuffing Subject 1. Once the decision was made to handcuff Subject 1, the officers should have adhered to the contact/cover tactics.

The BOPC found Officer A and B's tactics to be warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC noted that when Subject 1 ran northbound through the alley to eastbound on the south sidewalk he did so with a handgun in his right hand. Officer A exited the alley and before proceeding eastbound he dismounted his bike and laid it on the ground. Simultaneously, Officer A observed Subject 1 trip and fall onto the sidewalk. In fear of an armed confrontation with Subject 1, Officer A drew his service pistol. The BOPC determined that Officer A had sufficient information to believe the situation may escalate to the point where deadly force may become necessary.

After falling to the ground, Subject 1 stood up and ran southbound through the chain link gate, while still holding a handgun in his right hand. Officer A entered the yard through the same gate, with Officer B following approximately 10 feet behind him. When Subject 1 turned and pointed his handgun at Officers B and A, Officer B drew his service pistol. The BOPC has determined that Officer B had sufficient information to believe the situation may escalate to the point where deadly force may become necessary, and therefore found the officers' drawing/exhibiting/holstering to be in policy.

C. Non-lethal Use of Force

The BOPC noted that after Officer A fired one round at Subject 1, who then fell onto the grass in a prone position. Officer A approached and placed his left knee on Subject 1's upper back and grabbed his right arm with both hands. Simultaneously, Officer B placed his right knee on Subject 1's back and attempted to gain control of his left hand, which was concealed underneath his body. As Officer B made repeated attempts to pull Subject 1's left arm behind his back into a position conducive to handcuffing, Subject 1 attempted to raise himself off the ground. Unsure if a handgun was concealed under Subject 1's body, Officer B delivered one punch to Subject 1's left shoulder blade.

Therefore, the BOPC found the officers' non-lethal use of force to be in policy.

D. Lethal Use of Force

The BOPC noted that when Officer A followed Subject 1 through the chain link gate, Officer A observed Subject 1 turn his upper body toward him and point a handgun in his direction. In fear of being shot, Officer A fired one round at Subject 1 in a southerly direction from a distance of approximately 13 feet. Subject 1 fell onto the grass in a prone position and was taken into custody. Subject 1 was not injured as a result of the shooting.

Therefore, the BOPC determined that Officer A's use of lethal force was reasonable and to be in policy.