

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

**OFFICER INVOLVED SHOOTING - 045-10**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off()</b>	<b>Uniform-Yes() No(X)</b>
Southwest	06/03/10		

<b>Involved Officer</b>	<b>Length of Service</b>
Officer A	14years 7 months

**Reason for Police Contact**

Plainclothes Officers observed a shooting in progress and pursued one of the involved subjects, which resulted in an officer involved shooting.

<b>Subject</b>	<b>Deceased ()</b>	<b>Wounded ()</b>	<b>Non-Hit (X)</b>
Subject: Male, 24 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 BOPC of Police; and the report and recommendations of the Inspector General. The Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

In accordance with state law divulging the identity of police officers in public reports is prohibited, so 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 April 19, 2011.

**Incident Summary**

Vice Officers A (passenger) and B (driver) were in plain clothes, driving an unmarked vehicle. The officers were conducting a vice investigation regarding a restaurant. The officers parked to monitor the bar. Just after arriving at the location, the officers observed an illegally parked vehicle and decided to issue a parking citation. The officers were about to advise Communications Division (CD) that they were Code Six at the location, when they were distracted by a male, who was on the same side.

The male was pacing back and forth and yelling repeatedly and motioning to someone across the street. At about this time, the officers observed a second male, who was later identified as the Subject, across the street. As the officers were watching the two males, they observed a vehicle, driven by a lone occupant make a U-turn and then stop near their location. The driver of the vehicle then raised a semi-automatic handgun, pointed it in the direction of the Subject, who now also had a handgun in his hand. There was a subsequent exchange of gunfire between the Subject and the driver of the vehicle. The vehicle fled the location as the Subject ran. Officer B made the decision to follow the Subject instead of the fleeing vehicle, because they were in a plain vehicle, without emergency equipment, and he did not feel they could catch up to the vehicle. Immediately after the shooting, Officer A broadcast information regarding the shooting and the Subject. The officers followed the Subject in their vehicle. The officers stopped their vehicle at the corner of an alley. FID reviewed the radio frequency and the broadcast made by Officer A, regarding the initial shooting, was not recorded.

According to Officer A, Officer B positioned the vehicle in so that a fence near the entrance to the alley would provide them some cover. As Officer A exited the vehicle, he drew his pistol because he was aware the Subject could still be carrying a weapon. Officer A pointed his pistol over the roof of the vehicle, keeping the sights lower than the Subject's body and yelled, "Police, Stop." Officer A recalled that the Subject turned toward his right and looked at him, and Officer A took two shots out of fear that the Subject was going to shoot him or his partner. Officer A further explained that when he ordered the Subject to stop, he slowed down, turned to his right, with the gun in his right hand and raised his arm to approximately shoulder height as he pointed the gun toward the officers. Both rounds missed the Subject, who continued running east through the alley.

Officer B reported that Officer A exited the vehicle as it was rolling to a stop. Officer B, with his window down and still inside the vehicle, shouted to the Subject, "Stop. Police." The Subject had a gun in his right hand, turned his body to his left, leveled his arm and pointed the gun at them. At that point, Officer B drew his pistol while he was still inside the vehicle and fired two rounds at the Subject, who then continued to run east through the alley. Once he reached the end of the alley, Officer B noticed that the Subject turned a second time and looked back, but did not point his weapon at the officers.

Officer A entered the vehicle and the officers continued to pursue the Subject as he ran down the alley and turned south. Officer A broadcast that shots had been fired and made an additional broadcast, advising responding units that they were undercover officers, and requested an airship. The officers lost sight of the Subject and stopped and someone motioned to the officers that the Subject had run east on the street.

The officers proceeded east on the street and observed the Subject running on the sidewalk. The officers followed the Subject, until the responding airship arrived on scene overhead. The officers were approximately 20 feet from the Subject, Officer B stopped their vehicle and both officers exited. As recalled by Officer B, the Subject appeared to be getting tired, slowed down, turned and saw the officers.

At that point, he voluntarily raised his hands and went down to his knees. The officers then gave him commands, ordering him into a prone position.

Officer A told the Subject to stop and then ordered him to his knees and into a prone position. Both officers then approached the Subject, and Officer A noticed a gun in the Subject's right front pocket. With Officer B covering, Officer A holstered his pistol and removed the gun from the Subject's waistband.

In response to Officer A's broadcast, uniformed Officers C and D responded to the scene. When Officers C and D arrived, the Subject was in a prone position on the ground. According to Officer C, he then handcuffed the Subject and he was taken into custody without incident. Officer A handed Officer C the weapon he had recovered from the Subject, and Officer C secured it in the trunk of his police vehicle. The weapon removed from the Subject was a semi-automatic handgun, and the weapon had one round in the chamber and one round in the magazine.

Witness A, heard an unknown male yelling, "Here cuz. Here I am cuz," and shortly thereafter, heard an exchange of gunfire. Witness B, observed the Subject pull out a semi-automatic handgun and fire three to four shots, possibly at someone on the other side of the street. The Subject then ran out of view.

Witness C, heard five or six gunshots and then observed the Subject run east into the alley, holding a gun in his hand, followed by the officers in their vehicle. Witness C observed the officers' vehicle stop and Officer A exit, but believed Officer B stayed inside the vehicle. Witness C heard one of the officers state, "Stop, freeze," then Officer A fired three shots as the Subject ran down the alley. Witness C did not observe the Subject turn or look back at the officers.

Witness D heard eight or nine shots and then about 15 seconds later saw the Subject running south. Witness D noticed that the Subject was holding a semi-automatic gun in his right hand. The Subject turned east and ran down the alley. Witness D then observed the officers in a vehicle stop at the entrance to the alley and then the Subject apparently heard the sound of the vehicle and looked back to his right to see where the officers were. At that point, Witness D could not see the Subject's gun and saw Officer A exit the vehicle and then order the Subject to stop. As the Subject ran down the alley, Officer A fired five or six shots at him. Witness D estimated that Officer A fired his pistol approximately one second after the Subject looked back at the officers.

Witness E, heard shots coming from the street and saw the Subject running down the alley followed by the officers in a vehicle. Witness E did not observe the Subject carrying anything. Witness E did not witness the OIS, but heard an officer state, "Stop, stop. Police," then heard two gun shots. Witness E, heard five gunshots and then observed the Subject running south from the alley, and then run east.

Witness E noticed that as the Subject was running, he was holding the grip of a handgun that was in the right side of his waistband. It appeared to Witness E that the Subject was trying to pull the gun out of his waistband.

Witness F heard four gunshots and then observed the Subject standing, facing west toward the mouth of the alley, with his right arm raised, and pointing a handgun westbound. According to Witness F, at that time he believed that the Subject was shooting at the officers, although he could not see the officers. The Subject then put the gun in his right pocket and ran south. Witness F observed Officer A exit the vehicle, point his pistol at the Subject and order him to "stop." According to Witness F, the officer did not shoot at the Subject, because at that point Witness F and Witness E were in the line of fire. When the officer ordered the Subject to stop, the Subject stopped at the corner, appeared to panic, looked around and then ran east. Witness F described the gun carried by the Subject as a revolver.

Sergeant A arrived at the scene as the Subject was being taken into custody. Sergeant A obtained a Public Safety Statement from Officer A. Sergeant B arrived on scene and ensured that separation and monitoring protocols were implemented.

### **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 Officer A and B's tactics to warrant a tactical debrief.

#### **B. Drawing/Exhibiting/Holstering**

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

#### **C. Use of Force**

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

## **Basis for Findings**

### **A. Tactics**

In the analysis of this incident, the BOPC identified the following tactical considerations:

In this instance, Officer A and B's attire consisted of plainclothes. Both officers had their Department badges affixed to their belts adjacent to their service pistols. Although Officers A and B contend they were merely monitoring the location, they elected to become involved in enforcement activities as they decided to issue a parking citation for an unoccupied vehicle illegally parked in front of a fire hydrant. Whether or not enforcement activity is anticipated, while working in plainclothes assignments, officers should consider storing their ballistic vests, raid jackets and other tactical equipment in the passenger compartment of their vehicle, thereby facilitating immediate access.

In conclusion, Officers A and B's actions did not substantially deviate from approved Department tactical training as they were not contacting an individual. Nevertheless, Officers A and B are reminded that the propensity for encountering a suspect remains ever present when working in the field and that immediate access to equipment is crucial.

In this instance, Officers A and B notified the Officer-in-Charge (OIC) of Vice prior to the initiation of their activity; however, they did not make the proper notification to the area watch commander. The investigation was unable to verify whether either officer intended on notifying the watch commander; however, they had made appropriate notifications to their OIC and according to Officer A, they were only monitoring the location for approximately "30 seconds" and were in the process of advising Communication Division (CD) of their status and location when their attention was diverted to the unfolding situation.

In conclusion, based on the totality of the circumstances, although not notifying the watch commander *substantially deviated* from approved Department tactical training, the officers' deviation was justified. With that said, the inherent risk of the misidentification of plainclothes personnel is of paramount concern. Notification to the watch commander is important in that uniform personnel can then be made aware of the plainclothes operation to more appropriately respond if necessary. Officers A and B are reminded that proper notifications serve to enhance officer safety.

In this instance, prior to pursuing the Subject, Officer A stated he broadcast the following to CD, "*Yeah. I yeah, the suspect, yeah. Suspect's description, his direction. I did say that, you know, a shooting in progress. I don't know the exact words I used. I even think we - - I think I said we were in foot pursuit.*" This broadcast was not captured by CD; however, the reported broadcast did not include a description of the officers' plainclothes attire along with the description and direction of travel of the armed motorist. Officer B ultimately broadcast the information regarding the red vehicle after the Subject was handcuffed.

Based on the dynamic nature of the event observed by Officers A and B, it was reasonable that Officer A was not able to ensure his broadcast was captured by CD.

In conclusion, Officers A and B's actions did not substantially deviate from approved Department tactical training; however, when circumstances warrant an emergent response of additional personnel, as occurred in this instance, it is vital that CD has the pertinent information readily available to provide to the responding units and influence their ability to properly respond and make the most appropriate tactical decision.

In this instance, when Officers A and B approached the Subject the officers drew their service pistols and deployed behind their respective vehicle doors. Officer B ordered him into a prone position and the officers converged on the Subject. While making their approach, Officer A observed a handgun protruding from the Subject's right pant pocket. As Officer B provided cover, Officer A holstered his service pistol and recovered the handgun. As Officer A recovered the Subject's handgun, Officers C, and D who were in full uniform and driving a marked black and white police vehicle, arrived at scene. Officer A noted the arrival of uniformed police personnel and directed Officers C and D to handcuff the Subject. Although the Subject complied with the officers' commands by assuming a prone position and a weapon was not observed initially, prior to approaching the Subject, he was observed to be armed with a handgun. Additionally, the Subject had already exhibited a predisposition for violence by shooting at the motorist and pointing his handgun at Officers A and B. In order to maintain a tactical advantage when dealing with an unpredictable armed suspect, it would be prudent for officers to utilize cover and await the arrival of additional personnel prior to approaching the Subject, especially if the initial officers are lacking safety equipment such as ballistic vests.

In conclusion, although improvements could be made, Officers A and B's actions did not *substantially* deviate from approved Department tactical training. The BOPC will direct that this issue be addressed during the Tactical Debrief.

Each incident must be looked at objectively and the areas of concern must be evaluated based on the totality of the circumstances. The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific. Each tactical incident inherently results in considerations for improvement.

The BOPC found that the tactics utilized by Officers A and B did not "*unjustifiably or substantially deviate from approved Department tactical training.*"The BOPC recommends that Officers A and B attend a Tactical Debrief.

## **Drawing/Exhibiting**

### **Officer A:**

In this instance, as the officers deployed on the suspect at the mouth of the alley on Vineyard Avenue, Officer A exited the vehicle while simultaneously drawing his service pistol. Following the OIS, Officer A holstered his service pistol, got back into the vehicle and the officers continued eastbound in the alley, ultimately locating the Subject. The officers deployed on the Subject and once again, Officer A drew his service pistol.

### **Officer B:**

In this instance, as Officer B was slowing the vehicle to a stop and tactically positioning it at the mouth of the alley, Officer A exited the vehicle and ordered the Subject to stop. In response, Officer B drew his service pistol. Before Officer B could exit the vehicle, Officer A had engaged the Subject and the OIS concluded. When the Subject continued to flee, Officer B holstered his service pistol and the officers drove eastbound in the alley after him. Unable to locate the Subject, Officer B stopped the vehicle to investigate the whereabouts of the fleeing Subject. As Officer B exited the vehicle, he drew his service pistol. Officer B holstered his service pistol and the officers drove south bound. When the officers located the Subject, they initiated contact and Officer B drew his service pistol for a third time.

Officers with similar training and experience as Officers A and B would reasonably believe that the situation had escalated to the point where there was a substantial risk that the use of Lethal Force may be justified each time Officers A and B drew their service pistols. In conclusion, the BOPC found that Officers A and B's Drawing/Exhibiting to be In Policy.

## **Lethal Use of Force**

In this instance, Officer A drew his service pistol, identified himself as a police officer and ordered the suspect to stop. Officer A recalls, "*And he turned towards his right and upper torso area and somewhat of his lower - - lower - - his legs and looked right at me, almost like dead in my eye and started to raise his gun. And I took two shots out of fear that, you know, he was going to shoot me or my partner.*" Officer A fired his service pistol to protect his partner and himself from the "immediate threat of death or serious bodily injury." An officer with similar training and experience would have reasonably perceived the suspect's actions may result in serious bodily injury or death and that the use of Lethal Force would be justified. Therefore, the decision to use Lethal Force was "objectively reasonable."

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