

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

OFFICER-INVOLVED SHOOTING – 062-06

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
77 th Street	07/28/2006		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	16 years, 11 months
Officer B	23 years, 4 months

Reason for Police Contact

Officers A and B observed two vehicles engaged in what appeared to be a "road rage" incident. The officers initiated a traffic stop of the vehicle that appeared to be the "aggressor." While conducting the traffic stop, the driver of the vehicle, Subject 1, exited, walked toward Officer B, and pointed a rifle at Officer B. Officers A and B fired several shots at Subject 1, subsequently killing him.

<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 06/05/07.

Incident Summary

While on patrol, Officers A and B observed a vehicle driving erratically. The officers observed that the vehicle appeared to possibly be chasing a second vehicle.

As Officers A and B maneuvered closer to the two vehicles, they observed the first vehicle make an abrupt turn onto a perpendicular street, while the second vehicle

continued driving on the same street. Officers A and B decided to follow the first vehicle in order to conduct a traffic stop.

Officer B activated the police vehicle's overhead emergency lights. The vehicle the officers were following quickly came to a stop, and Officer B stopped the police vehicle several feet behind it.

Officers A and B both exited the police vehicle and stood behind their respective car doors. Officer B drew his service pistol, holding it in the low-ready position. Each officer shined a spotlight from the police vehicle toward the vehicle. Officer B then yelled to the driver of the vehicle, ordering him to turn off his vehicle's engine. Officer B observed the driver, Subject 1, extend his head out through the front driver's side window and turn to look back at Officer B.

Meanwhile, Officer A moved away from the front passenger's side door of the police vehicle and toward the sidewalk. Then, he began to approach the passenger's side of the vehicle in order to get a better view inside the passenger compartment.

Officers A and B then observed Subject 1 reaching down toward or underneath his seat, within the passenger compartment of the vehicle.

In response, Officer A drew his service pistol and shined his flashlight directly at Subject 1. Officer B yelled to Officer A that he could not see Subject 1's hands.

Officer A then observed Subject 1 turn his head and make eye contact with him. Immediately after that, Officers A and B both observed Subject 1 rapidly exit his vehicle through the front driver's side door. Officer B saw that Subject 1 was advancing toward him while holding a rifle in a low-ready position, pointed in the direction of the officers.

Officer B then observed that Subject 1 began to raise the rifle up while still advancing toward him. In response, Officer B fired four to five rounds at Subject 1 from his service pistol. Subject 1 continued to advance toward Officer B, who took a step back and then fired another four to five rounds at Subject 1. Officer B fired a total of nine rounds at Subject 1, emptying his pistol.

Meanwhile, Officer A observed Subject 1 as he exited the vehicle. However, Officer A's view of Subject 1 was partially blocked at first by the vehicle itself. Just as Officer A heard the first shot being fired by Officer B, he was able to see that Subject 1 was holding a rifle and advancing in the direction of the officers' police vehicle. In response, Officer A fired a total of nine rounds at Subject 1 from his service pistol in rapid succession.

Subject 1 collapsed to the ground on top of his rifle and Officers A and B ceased firing. Officer B used his radio to broadcast a request for assistance at his location. Shortly thereafter, additional units arrived at the scene, including Officers C and D. As

additional officers arrived, Officer B realized that his service pistol was empty; he then re-holstered it.

Officers C and D drew their service pistols because it was not known whether there were additional suspects remaining inside the vehicle. Officer C then covered Subject 1 while Officers A and D cleared the vehicle, finding no additional occupants. After the vehicle had been cleared, Officers C and D re-holstered their pistols and Officer A decocked and re-holstered his. Officer D then broadcast a request for a Rescue Ambulance (RA) to treat Subject 1. Subject 1's rifle was removed from underneath his body and placed on the sidewalk, out of his reach. Subject 1 was then handcuffed.

Los Angeles Fire Department personnel responded and declared Subject 1 dead 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 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 divisional training.

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

B. Drawing/Exhibiting/Holstering

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

C. Use of Force

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

D. Other Issues

The BOPC determined that Officer B required divisional training on the Department's policy regarding the drawing of a firearm.

Basis for Findings

A. Tactics

The BOPC noted that Officers A and B observed what appeared to be a vehicle engaged in a road rage incident with a second vehicle. The officers appropriately communicated their observations to one another and agreed to stop the first vehicle, as it appeared to be the aggressor. Officer B activated his emergency equipment to initiate a traffic stop. Subject 1 quickly pulled to the curb.

The BOPC noted that Officers A and B initiated an investigation without notifying Communications Division (CD) of their status and location. Officers are trained to advise CD when they conduct officer-initiated activities, which makes units in the vicinity aware of their location and creates the circumstance wherein they can respond more rapidly if needed.

Shortly after Officers A and B exited their police vehicle, Officer A moved away from the cover of the front passenger's side door and toward the sidewalk. Officer A indicated that he was attempting to get a better view inside of Subject 1's vehicle. He also indicated that he was attempting to stay out of Subject 1's view by approaching at an angle and using the darkness that was present around the sidewalk.

The BOPC would have preferred that Officer A had maintained his position of cover behind the passenger's side door. Although Officer A might not have had as clear a view of Subject 1's vehicle from this position, the reward of obtaining a closer view was outweighed by the risk of abandoning cover in this situation.

After the officer-involved shooting (OIS), Officer B noted that he had expended his initial capacity of nine rounds from his service pistol. He made a conscious decision not to reload, and proceeded to holster the empty pistol. Although responding units arrived within seconds, Subject 1 was not handcuffed and his vehicle was not searched. Officer B should have reloaded his service pistol in the event he had to re-engage Subject 1 or any additional armed subjects that may have emerged from the vehicle.

As Officer A covered Subject 1 and the unsearched vehicle with his service pistol, Officer B requested "assistance" via CD. It would have been prudent for Officer B to broadcast an "officer need help" call. With the situation still unfolding, Officer B's broadcast should also have included the direction of approach for responding officers, so as to minimize the likelihood of a "cross-fire" situation.

When Officers C and D arrived at the scene, Officer B advised them that Subject 1 had not been secured, was laying on a rifle and his vehicle had not been searched. Officers A, C and D tactically approached the vehicle and determined it was unoccupied, after which Officer A de-cocked his service pistol. Subject 1 was then handcuffed without any further incident. It would have been prudent for Officer A to de-cock his service pistol after the OIS and an initial assessment was performed. Approaching the vehicle

to clear it, with a cocked pistol, created a circumstance wherein a negligent discharge was more likely to occur.

The BOPC was satisfied with Officers C and D's tactics as they responded to the assistance call, communicated well and worked as a team. The BOPC found Officers C and D's tactics to be appropriate.

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

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officers A and B observed Subject 1 driving erratically as if he were chasing the second vehicle. Believing he may be observing a road rage situation or opposing gang members involved in a dispute, Officer B positioned his vehicle behind Subject 1, as he appeared to be the aggressor. The officers initiated a traffic stop, and Subject 1 abruptly pulled to the curb. As Officer B exited his police vehicle, he drew his service pistol. The BOPC determined that Officer B had sufficient information to believe the situation may escalate to the point where deadly force may become necessary. The BOPC found Officer B's drawing to be in policy.

The BOPC noted that, as Officer A walked to the sidewalk to obtain a better visual inside Subject 1's vehicle, he observed Subject 1 reaching for something underneath the front seat. Believing Subject 1 was reaching for a possible weapon, Officer A drew his service pistol. The BOPC determined that Officer A had sufficient information to believe the situation may again escalate to the point where deadly force may become necessary. The BOPC found Officer A's drawing to be in policy.

Officers C and D arrived at the scene after the OIS. The officers approached Officer B and were advised that Subject 1 was lying on a rifle, un-handcuffed, and that his vehicle had not been searched. Officers C and D drew their service pistols as they approached Subject 1's vehicle with Officer A. The BOPC determined that Officers C and D had sufficient information to believe the situation may escalate to the point where deadly force may become necessary.

The BOPC found Officers C and D's drawing to be in policy.

C. Use of Force

The BOPC noted that Subject 1 exited the driver's door while holding a rifle with both hands. When he reached a standing position, he faced Officer B and held the rifle in a low-ready position. Officer B yelled "gun" as Subject 1 walked toward him and simultaneously began to raise the rifle up toward Officer B. In fear of being shot, Officer B fired four to five rounds at Subject 1. Subject 1 appeared unaffected and continued walking toward Officer B while pointing the rifle. Officer B, walking backwards to create distance between Subject 1 and himself, fired four to five rounds at Subject 1.

Officer A, positioned on the sidewalk when Subject 1 exited the driver's door, was unable to see what Subject 1 was holding in his hands. Subject 1 continued to advance toward the police vehicle, which enabled Officer A to obtain an unobstructed view of Subject 1 pointing a gun at Officer B. Simultaneously, Officer A heard Officer B fire one to two rounds at Subject 1. Subject 1 appeared unaffected as he continued walking toward Officer B while pointing gun at him. In immediate defense of Officer B's life, Officer A fired nine rounds at Subject 1.

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

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

D. Other Issues

The BOPC noted that, during the investigation, Officer B discussed drawing his firearm. Officer B indicated that, as a general practice, he drew his service pistol prior to initiating all night-time traffic stops in his assigned area.

The BOPC noted that Officer B's statement was problematic. The BOPC determined that Officer B required divisional training on the Department's policy regarding drawing of a firearm.