

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

Officer Involved Shooting – 063-08

<u>Division</u>	<u>Date</u>	<u>Duty-On()</u>	<u>Off(X)</u>	<u>Uniform-Yes()</u>	<u>No(X)</u>
Outside City	07/12/2008				

<u>Officers(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	6 months

Reason for Police Contact

The involved officer was off-duty and driving to his residence when he was confronted by three subjects, who the officer believed were gang members. The encounter resulted in the exchange of gun fire between the officer and one of the subjects.

<u>Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit ()¹</u>
Two unknown males and one unknown female.			

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 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 June 23, 2009.

Incident Summary

At the time of the incident, Officer A was in plain clothes and driving his personal vehicle. He had just left work and was en route to his residence. Officer A was armed

¹ The suspects involved in this incident have not been identified and it is unknown whether they were struck by gunfire.

with his off-duty pistol that he carried unholstered and tucked between the driver's seat and center console of his vehicle.

As he was approaching his residence, Officer A observed a dark blue Toyota Tacoma pickup truck traveling slowly in the number one lane in front of him. As the Toyota passed a Mexican restaurant, the front passenger, Subject 1, leaned out of the front passenger side window and displayed hand gestures in the direction of the restaurant. Officer A believed the passenger was waiving to someone in the restaurant and continued on in the number two lane, passing the Toyota.

Shortly thereafter, Officer A stopped for a red signal and observed that the Toyota had pulled alongside. Officer A observed Subject 1 make hand gestures that he believed were gang signs while yelling (inaudibly) at Officer A. Officer A made a right turn and proceeded away from the intersection.

Officer A checked his rearview mirror and observed that the Toyota had also made a right turn and was following him. The Toyota, driven by Subject 2, accelerated toward him and switched on its high beams headlights.

Officer A had knowledge that gang members are known to commit violent crimes and believed he may become victimized. Therefore, Officer A retrieved his unholstered off-duty pistol and placed it on his lap, holding it with his right hand.

Officer A entered a left turn lane and stopped for the red signal. The Toyota pulled alongside in the number one lane and stopped a few feet forward of Officer A's vehicle, aligning the bed of the pick-up truck with the passenger's compartment of Officer A's vehicle. Subject 1 leaned forward, looked in Officer A's direction, displayed gang signs and again yelled inaudibly.

At that point, Officer A observed Subject 3 appear from inside the bed of the Toyota pickup truck. Subject 3, who had apparently been lying down in the bed of the truck out of sight, displayed gang signs and yelled a gang name at Officer A. Subject 3 then raised his right hand which was holding a chrome semiautomatic pistol and pointed the weapon at Officer A. Officer A responded by raising his pistol and pointing it at Subject 3.

Subject 3 fired his weapon at Officer A which struck Officer A's vehicle. Officer A returned fire as Subject 3 continued shooting toward Officer A. Officer A observed Subject 3 lunge forward, as if he had been shot in the right shoulder.

Officer A assessed the situation and observed that Subject 3's pistol was still pointed at him. Officer A accelerated forward as he fired his last round at Subject 3.

Note: Officer A's vehicle was struck by two bullets during the exchange of gunfire.

Officer A made a left turn and noted that the Toyota did not try to follow him. Officer A proceeded to his residence. Officer A called his Area Police Station and reported the officer involved shooting.

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's tactics to warrant a Tactical Debrief

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A's drawing and exhibiting 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

In adjudicating this incident, the BOPC considered that:

1. While driving home from work, Officer A placed his unholstered off-duty firearm between the driver's seat and center console.

It would have been prudent for Officer A to have holstered his off-duty firearm in a manner consistent with Department policy.

2. Officer A's off-duty pistol magazine was not filled to capacity and contained a round that was not approved for duty use.

It would have been prudent for Officer A to have carried Department authorized ammunition while off-duty and loaded his magazines to capacity.

The BOPC found Officer A's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

Officer A observed Subject 3 point his handgun toward Officer A. As the incident had escalated to the point of lethal force, Officer A drew his handgun.

The BOPC found Officers A's drawing to be in policy.

C. Use of Force

Officer A observed Subject 3 display and fire his handgun toward him. Officer A returned fire.

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