

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

OFFICER-INVOLVED SHOOTING – 070-05

Division	Date	Duty-On(x) Off()	Uniform-Yes() No(x)
77 th Street	08/07/2005		

Involved Officer(s)	Length of Service
Police Officer A	7 years, 6 months
Police Officer B	9 years, 1 month
Police Officer C	9 years, 6 months

Reason for Police Contact

Officers observed a shooting in progress and engaged Subject 1.

Subject(s)	Deceased ()	Wounded ()	Non-Hit (x)
Subject 1: Male, unknown 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 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 August 7, 2006.

Incident Summary

On the afternoon of Sunday, August 7, 2005, plain-clothes Police Officers A, B and C were travelling in an unmarked, two-door police vehicle. Officer A was driving the vehicle, Officer B was the front seat passenger and Officer C was in the right rear passenger seat.

As the officers neared an intersection, they heard the sound of gunfire. Officer A slowed the vehicle. As the officers drew closer to the intersection, they saw a male (Subject 1). Subject 1 was firing a handgun. None of the officers could see what or

whom Subject 1 was shooting at. As they approached, the officers communicated their observations to one another.

The officers continued to approach and engaged Subject 1. Subject 1 ran as the officers followed in their vehicle. Subject 1 turned one or more times toward the officers, pointing and, by some accounts, fired his weapon at the officers. During this encounter, Officers A and B fired three and five rounds respectively at Subject 1.

Note: Officer and witness accounts are inconsistent regarding the details of the incident. Although it is well established that the officers encountered a suspect who was in the act of shooting, and that two of the officers fired at Subject 1, the evidence was ambiguous as to the details of the encounter. The following narrative represents the accounts provided by the involved officers and key witnesses.

According to Officer A, Officer A stopped the vehicle in the intersection, exited the vehicle and identified himself by announcing, "LAPD." Immediately upon exiting the vehicle, Officer A drew Officer A's service pistol. Subject 1 turned and fired two rounds in the officers' direction. Officer A responded by firing two rounds at Subject 1. Officer A also heard Officer B firing at this time. After Officer A fired the two rounds, Subject 1 turned and ran. Officer A re-entered the vehicle, placed Officer's A's pistol under Officer A's leg and shifted the vehicle into drive. Officer A then began to follow Subject 1, holding Officer A's pistol in Officer A's right hand. As Subject 1 reached a parked Cadillac, he again turned and pointed his gun at the officers. Officer A responded by stopping the police vehicle for a second time, exiting and firing one more round at Subject 1. Subject 1 then resumed running. Officer A got back into the police vehicle and continued to follow Subject 1. Subject 1 then ran down a driveway. Officer A stopped the car for a third time and exited. Officer A realized that the police vehicle was still rolling forward. Officer C then assumed control of the vehicle.

According to Officer B, Subject 1 fired, then ran. Officer B did not see Subject 1 look toward the officers' vehicle, and did not think Subject 1 knew that the officers were there.

Note: Officer B did not describe Subject 1 as having turned toward and/or firing at the officers from the corner of the intersection. Furthermore, Officer B did not describe Officer A stopping and exiting the vehicle, nor firing at Subject 1, at this point in the incident.

According to Officer B, Subject 1 ran at a "full sprint" until he reached a gray pick-up truck. Upon reaching that location, Subject 1 reached for his waistband and crouched down. Officer A stopped the car. Officer B shouted, "Stop, Police," and reached for the handle of the vehicle door. As he did so, Subject 1 stood up and turned toward the officers with his weapon pointing in their direction. While still seated in the vehicle and holding Officer B's already-drawn service pistol out of the open window, Officer B fired two rounds at Subject 1. Subject 1 moved a "couple of feet" and again pointed his weapon toward the officers. Officer B responded by firing three more rounds.

According to Officer B, the vehicle “felt like [it was] stopped” when Officer B fired. Subject 1 then turned into a driveway.

Note: Officer B stated that he did not know whether Officer A fired his weapon. Officer B did not state that Officer A stopped the vehicle at any point prior to the occasion when Officer B fired. Nor did Officer B state that Officer A had exited the vehicle prior to or concurrent with Officer B firing.

According to Officer C, Officers A and B drew their pistols as they approached the intersection. Officer C grabbed a radio and told Officers A and B, “I’ve got the radio.” As Officer C began to broadcast, Subject 1 turned and pointed his gun toward the officers. Officer C then laid down on the back seat of the car and broadcast from that position. As Officer C was broadcasting, Officer C could hear shots being fired.

Officer C was unsure whether the shots Officer C heard came from inside or outside of the vehicle. Officer C heard a vehicle door open and close as the vehicle was close to the intersection, but was unaware of Officers A or B having exited the vehicle. Officer C further stated that the vehicle slowed down, but was unsure whether or not it stopped.

Officer C remained ducked-down on the rear seat of the vehicle as the vehicle continued. Officer C stated that she heard an additional volley of approximately six shots from outside the vehicle as they continued moving. After hearing the second volley of shots, Officer C came back up from on the seat and saw that Subject 1 was running. The officers followed in the vehicle until Subject 1 entered a driveway. Officer A then stopped the vehicle and Officers A and B exited. Officer C climbed into the driver’s seat of the vehicle.

Note: Officer C did not describe the vehicle as having stopped at any time between the initial encounter with Subject 1, and the point at which Officers A and B exited and Officer C assumed control of the vehicle.

According to Witness A, Subject 1 fired at the intersection then ran. As Subject 1 reached a parked car (which Witness A believed to be Subject 1’s car), a police officer “jumped out of” the police vehicle. Witness A then heard additional gunshots.

According to Witness B, she heard shots as she approached the intersection. She then saw Subject 1 run to a parked car and attempt to open the vehicle. As Subject 1 did so, the officers’ vehicle pulled up alongside. An officer “jumped out” and told Subject 1 to “Freeze.” The officer then started shooting at Subject 1 and Subject 1 started shooting at the officer. Subject 1 then ran, with a gun in his hand. The officers fired more rounds as Subject 1 ran.

Note: Despite their proximity to the location of Officer A’s reported first exchange of gunfire with Subject 1, neither Witness A nor Witness B described having seen such an exchange.

As Officers A and B exited the vehicle following the officer-involved shooting, Officer A directed Officer C to set up a perimeter and directed Officer B to take a position at a nearby street corner.

Meanwhile, Officer A moved to the entrance of the driveway where Subject 1 had last been seen. Officer A maneuvered around the corner of the driveway and saw Subject 1 running. Subject 1 was then lost from Officer A's sight. Subject 1 was still holding a gun when last seen by Officer A.

Subject 1 was not taken into custody. No evidence was recovered to indicate that the officers' gunfire injured Subject 1. The involved officers were not injured.

A 15-year-old victim was shot and injured during this incident. Based on the location of the victim relative to Subject 1, and the time at which he received his injury, it was evident that the victim was struck by a round fired by Subject 1.

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 Officers A, B and C's tactics to warrant formal training.

B. Drawing/Exhibiting/Holstering

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

E. Use of Force

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

Basis for Findings

A. Tactics

The BOPC would have preferred that the officers had their body armor, raid jackets and badges available. The BOPC noted that when engaging an armed suspect, plainclothes officers should consider that Subject 1 might not recognize that they are police officers. The BOPC would have further preferred that the officers had clearly displayed their badges during the incident.

The BOPC noted that Officers A and B heard shots being fired before they observed Subject 1 and that after the officers observed Subject 1, they engaged him without first broadcasting their status to Communications Division (CD). The BOPC would have preferred that the officers had broadcast that they had heard shots being fired and informed CD of their location. The BOPC would have also preferred that the officers had broadcast Subject 1's actions, description, type of firearm, direction of travel, that they were in plainclothes, as well as a description of their vehicle.

The BOPC noted that once the officers had contacted CD, Officer C provided an inaccurate location for the "help call." The BOPC would have preferred that Officer C had verified their location prior to broadcasting, which would have prevented the potential delay in the responding units.

The BOPC noted that three officers were deployed in a plain vehicle with only two doors, and that this created a situation where the officer in the back seat was unable to quickly exit, limiting the officers' tactical options. The BOPC would prefer that, when more than two officers are deployed in a vehicle, the vehicle be equipped with four doors.

The BOPC noted that while following Subject 1 in the vehicle, Officer A placed Officer A's service pistol under Officer A's thigh. The BOPC further noted that Officer A failed to put the vehicle in park before exiting, which required Officer C to climb over the front seat to take control of the vehicle. The BOPC would have preferred that Officer A had properly secured the pistol in its holster before operating the vehicle. Additionally, the BOPC noted that as the driver of the vehicle, Officer A's primary responsibility was to drive the officers out of the danger zone and position the vehicle in a manner which would afford them better cover.

The BOPC noted that after taking control of the vehicle, Officer C requested a one-block perimeter, and would have preferred that Officer C had expanded the perimeter to include several blocks.

The BOPC found Officers A, B and C's tactics to warrant formal training.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officers A and B heard shots being fired, observed Subject 1 firing a pistol, and, in preparation to confront Subject 1, drew their service pistols. The BOPC determined that the officers had sufficient information to believe the situation may escalate to the point where deadly force may become necessary and found their drawing and exhibition of a firearm to be in policy.

C. Use of Force

The BOPC noted that Officers A and B saw Subject 1 firing a pistol at an unknown target, and then saw Subject 1 point and/or fire the pistol in the officers' direction.

The BOPC determined it was reasonable for Officers A and B to believe that Subject 1 presented an immediate threat of serious bodily injury or death and found their use of force in to be in policy.