

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

OFFICER-INVOLVED SHOOTING – 070-06

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes() No(X)</u>
North Hollywood	08/26/2006		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	9 years, 6 months
Officer B	11 years, 6 months

Reason for Police Contact

Officers A and B observed a vehicle with what appeared to be bullet holes in the passenger door. As they followed the vehicle, it was driven erratically, and suddenly stopped in the roadway. When the officers exited their vehicle to approach the occupants, Subject 1 began to fire at the officers.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
Subject 1: Male, 23 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 07/17/07.

Incident Summary

Officers A and B were attired in plainclothes and driving a plain vehicle on the freeway. Officer A exited the freeway in the number two lane and slowed to a stop to wait for the signal to change from red to green. Stopped in the number one lane, next to Officers A and B, was a vehicle with what appeared to be bullet holes in the passenger side door of the vehicle. Officer A also observed the driver, Subject 1, had a shaved head and was wearing a white jersey and the passenger, Subject 2, had short hair. Officer A told Officer B of his observations.

Officer A was unable to determine if there were any occupants seated in the rear of the vehicle.

Officer B looked in the direction of the vehicle, but was unable to see the bullet holes due to the darkness and his position in the passenger seat. The signal turned green and the vehicle turned. Officer A also turned. Without signaling, the vehicle crossed over into the number two lane, in front of Officers A and B's vehicle. Officer A slowed down so that he and Officer B were in a position to see the vehicle's license plate.

As the vehicle drove under a freeway overpass, it pulled over to the right, causing Officers A and B to pass. As he passed the vehicle, Officer A continued briefly but then pulled over to the curb and stopped. The vehicle then passed Officers A and B, pulled over, and stopped. Officer A slowly moved forward, closer to the rear of the vehicle. The vehicle then pulled away from the curb and drove off, continuing along the street. Officers A and B continued following the vehicle. Officer B used his radio to contact Communications Division (CD) and request a wants and warrants check on the vehicle's license plate.

As Officers A and B continued following the vehicle, they observed it being driven in an erratic manner, straddling the lanes in traffic and suddenly stopping and starting.

CD advised Officers A and B that the vehicle was not wanted and was appropriately registered. Officers A and B remained behind the vehicle and followed it as it continued driving erratically. Officer A followed the vehicle at a distance and had to decelerate occasionally so that he did not pass it. Officers A and B both believed that the driver was either intoxicated or was an unlicensed juvenile.

Officer B then contacted CD and requested an additional unit to conduct a traffic stop, and provided the location. The vehicle then turned onto a perpendicular street. Officer B advised CD of the updated direction of travel as the officers continued to follow.

CD acknowledged the update and asked what the vehicle was wanted for. Officer B advised they were following a reckless driver. Without signaling, the vehicle suddenly braked and turned again. Officer B continued his broadcast and updated CD of the vehicle's new direction of travel.

Officer A lost sight of the vehicle momentarily as it turned. As the officers followed the vehicle, Officer A saw the driver's door opening. The officers stopped their vehicle in the intersection. Officers A and B then saw the subjects' vehicle abruptly stop in the middle of the roadway. As the vehicle stopped, Subject 1 exited the driver's door.

Officer A placed his badge in his left hand, shifted the vehicle into park and began to exit the car while verbally stating, "police," as he displayed his badge in the direction of Subject 1. At the same time, Subject 1 turned and faced toward Officers A and B.

Subject 1 then produced a pistol and fired several rounds in the direction of Officers A and B.

Officer A yelled, "He's got a gun." Officer A assumed a crouched position and, using the doorway of the vehicle as cover, unholstered his duty pistol and fired two rounds at Subject 1.

Meanwhile, Officer B saw Subject 1 standing in the roadway with the pistol and heard gunfire and what sounded like breaking glass and bullets hitting the police car. Officer B opened his door, unholstered his service pistol and, from a seated position, fired two rounds at Subject 1.

Subject 1, apparently unaffected by the gunfire, appeared to aim directly at Officer B and fired additional rounds at him. Officer B attempted to reposition himself in order to re-engage Subject 1. As he rose from his seated position, Officer B slipped and fell to the pavement. Officer A saw Subject 1 firing at Officer B and fired two additional rounds in Subject 1's direction to stop the threat. Officer A heard gunfire coming from Officer B, and then saw Officer B lying in the street next to his opened door. Believing Officer B had been hit by the gunfire, Officer A used his radio to broadcast that the subject was shooting at them. Officer A then fired an additional round at Subject 1, and Subject 1 fired approximately three more rounds in the direction of Officers A and B.

Meanwhile, Officer B, who had not been hit by the gunfire, stood up and told Officer A that he was not injured. Officer B then assumed a position of cover behind his door and fired two additional rounds at Subject 1, who continued to fire at the officers. After firing these two rounds at Subject 1, Officer B experienced a pistol malfunction.

Officer B retrieved a magazine from his duty belt, performed a tactical reload and attempted to fire an additional round at Subject 1; however, his pistol would not fire. Officer B then tapped the lower portion of the pistol's magazine to ensure it was properly seated and pulled the slide in a backward motion in an attempt to chamber a round. Officer B cleared the malfunction and returned his handgun to an operable condition.

Subject 1 stopped firing at Officers A and B, turned and re-entered the vehicle, and drove out of the officers' sight.

Officer A observed that Officer B was bleeding in the area of his right elbow but was otherwise uninjured. Officers A and B then went to the trunk of their vehicle, retrieved their raid jackets and put them on. Officers A and B then maintained a position of cover at the rear of their vehicle, in case the vehicle should return to their location.

Officer A broadcast the vehicle's direction of travel and to advised that he and his partner were not injured. Shortly thereafter, several uniformed officers responded to the officers' location.

Meanwhile, Officers C and D, driving an unmarked police car equipped with emergency lights, were responding to the location of the incident when they observed a vehicle matching the description of the subjects' vehicle travelling at a high rate of speed. Officers C and D caught up with the vehicle and broadcast their location of travel. Officers C and D activated their vehicle's emergency lights and continued to follow the vehicle.

Meanwhile, Officer A and B, upon hearing the broadcast by Officers C and D, holstered their weapons.

As Officers C and D followed the vehicle, it abruptly stopped. Officers C and D stopped their police vehicle behind the vehicle and prepared to make a high-risk vehicle stop.

Meanwhile, Lieutenant A, Sergeants A and B, and Officers E, F, G, H, I, J, K, L, M, N, O, P, Q, and R arrived to assist Officers C and D in conducting the traffic stop.

Officer D began to issue commands for the occupants inside the vehicle to exit from the driver's side door. Subject 1 exited the vehicle and Officer D directed him to lie down in the roadway. Officer I directed the passenger, Subject 2, to lie on the ground near Subject 1.

Several officers began walking towards the vehicle in order to clear it as other officers covered Subjects 1 and 2. Sergeant B formed the opinion that, due to the vehicle's darkly tinted windows, the officers were unable to determine if a third subject was inside the vehicle. Sergeant B called the officers back and directed the deployment of a beanbag shotgun to break out the rear windshield of the vehicle.

Officer C heard Sergeant B's instruction and armed himself with a beanbag shotgun. Officer C then positioned himself behind a tree at the rear of the vehicle and fired four rounds in the direction of a rear door glass. Officer C's rounds struck the glass, but did not shatter or penetrate it. Instead, the rounds deflected off the vehicle and fell to the ground nearby. Officer C then repositioned himself to the rear of his police car and fired two additional rounds at the rear windshield. Both rounds penetrated the rear windshield, making two separate holes in the glass.

Sergeant A then directed Officer H to deploy his beanbag shotgun to break out the rear window of the vehicle. Officer H armed himself with a beanbag shotgun and moved forward to a covered position and fired four rounds, penetrating the glass. Sergeant A then directed Officer H to stop firing. Based on the holes made in the glass by the beanbags, the officers formed the opinion that no additional suspects were inside the vehicle. Shortly thereafter, Subjects 1 and 2 were taken into custody without incident.

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 and B's tactics to be appropriate.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A and B'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. Additional

The BOPC found Officer B's weapon manipulation to warrant additional training.

Basis for Findings

A. Tactics

The BOPC noted that Officers A and B observed a vehicle while stopped on the freeway off ramp that appeared to have bullet holes in the passenger door and dark tinted rear windows. The officers communicated their observations to one another and decided to allow the vehicle to drive ahead of them, allowing them to view the license plate in order to check for any wants or warrants. After CD advised the officers that there were no wants or warrants associated with the vehicle, they continued to observe the vehicle.

Subject 1's vehicle pulled to the curb for approximately 30 seconds, then pulled away and continued along the roadway. Officers A and B continued to follow the vehicle as it drove erratically, with abrupt starts and stops while in the roadway. Officer A remained at a substantial distance from Subject 1's vehicle, providing a margin of safety. Officers A and B continued to follow Subject 1's vehicle at a substantial distance. Subject 1 then stopped the vehicle in the roadway, and Officer A stopped shortly behind.

Officer A attempted to identify himself as a police officer as he exited the vehicle while holding his police badge and verbalizing that he was a police officer. As Officer A was in the process of exiting the vehicle, Subject 1 exited his vehicle, turned and began

firing rounds at the officers. Officer A drew his service pistol and returned fire while maintaining the most appropriate position of cover available behind the driver's door of his vehicle.

Simultaneously, Officer B began to exit their vehicle. Subject 1 then began firing. Officer B drew his service pistol, returned fire, then fell to the roadway while exiting the vehicle. Officer B quickly recovered to his feet, assumed a position of cover behind the passenger door of their vehicle, and fired additional rounds at Subject 1. Officer B experienced a pistol malfunction while exchanging gunfire with Subject 1. Officer B cleared the malfunction and made his service pistol ready for fire, while maintaining a position of cover behind the passenger door of their vehicle.

Officer A broadcast a help call to CD and quickly briefed responding units, affording the best opportunity for capture of the subjects. Officers A and B realized that they were in plainclothes in an unmarked vehicle and made no attempt to pursue the subjects.

Additional officers observed the suspect's vehicle and conducted a high risk traffic stop upon it, subsequently taking Subject 1 and the passenger into custody without further incident. During the detention operations, an on-scene supervisor directed that a Beanbag Projectile Shotgun be utilized to break out the rear window of the vehicle to allow officers to view the interior upon their approach to ensure no additional subjects were inside. In this instance, the BOPC determined it was appropriate to fire beanbag rounds at the vehicle window to break it out allowing officers a view of the passenger compartment prior to their approach. The use of the beanbag round was part of a coordinated tactical plan designed to enhance the officers' safety.

The BOPC found Officers A and B's tactics to be appropriate.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Subject 1 abruptly stopped his vehicle in the middle of the roadway, exited the vehicle, raised a handgun, and pointed it at Officers A and B. Officers A and B, who were in the process of exiting their vehicle, continued to do so while simultaneously drawing their service pistols to confront Subject 1's deadly actions.

Although additional officers drew their service pistols during the felony vehicle stop of Subject 1's vehicle, they were not significantly involved in the incident and did not receive findings.

The BOPC determined that Officers A and B had sufficient information to believe the situation had escalated to the point where deadly force had become necessary.

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

C. Use of Force

The BOPC noted that Subject 1 began firing at Officers A and B immediately after exiting his vehicle. Officer A, while in the process of exiting his vehicle, assumed a crouched seated position with his leg braced on the street and fired two rounds at Subject 1. Officer B, also in the process of exiting his vehicle, assumed a seated position of cover and fired two rounds at Subject 1.

Officer A fully exited the vehicle and assumed a position of cover behind the driver's side door as Subject 1 again fired at the officers. Officer A fired two additional rounds at Subject 1 as he continued to fire at the officers. Officer A glanced over to check on his partner and observed him lying on the street. Believing his partner had been shot, Officer A fired one final round at Subject 1 as Subject 1 continued to point his handgun at the officers and fire upon them.

Officer B slipped and fell to the street while exiting the vehicle. Officer B jumped to his feet, advised Officer A that he was not injured, assumed a position of cover behind the passenger door and fired two additional rounds at Subject 1 as Subject 1 continued to fire at the officers.

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 A and B's use of lethal force to be in policy.

D. Additional

The BOPC recognized that Officer B experienced a weapon malfunction during this incident. Although Officer B cleared the malfunction, it was not conducted "text book" fashion. The BOPC directed that Officer B receive additional training in weapons manipulation to enhance his skills.

The BOPC found Officer B's weapon manipulation to warrant additional training.