

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

OFFICER-INVOLVED SHOOTING – 072-06

<u>Division</u>	<u>Date</u>	<u>Duty-On (x) Off()</u>	<u>Uniform-Yes()</u>	<u>No(x)</u>
Devonshire	08/29/2006			

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	10 years, 1 month
Officer B	6 years, 9 months

Reason for Police Contact

While conducting surveillance of narcotics activity, Officers A and B began following a vehicle. The driver, Subject 1, made several Vehicle Code violations, appeared to be speaking on a cellular telephone, and eventually returned to the alleyway, at which point Subject 2 exited an adjacent residence and began firing at the officers.

<u>Subject</u>	<u>Deceased (x)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 2: Male, 30 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 08/07/07.

Incident Summary

Officers A and B were dressed in plain clothes and driving an plain car when they commenced a surveillance due to complaints of narcotics activity in an alleyway. Officers A and B planned to drive by this location, identify vehicles involved in narcotics sales, and forward the information to a detective. As Officer A drove past the alley, he observed a vehicle parked behind a residence. Not wanting to compromise the surveillance, Officer A negotiated a turn at the intersection of the alley and read the

license plate number of the vehicle aloud so that his partner could obtain DMV and warrant information from Communications Division (CD).

The driver of the vehicle, Subject 1, negotiated the same turn and followed the officers. Officer A negotiated a turn and monitored the vehicle using his rearview mirror. When the vehicle turned and began travelling in the opposite direction, Officer A negotiated a U-turn and followed.

Subject 1 abruptly pulled his vehicle to the side of the roadway. Officer A drove past the vehicle to prevent compromising the surveillance and again monitored the vehicle using his rearview mirror.

Subject 1 then negotiated another turn, which caused the officers to temporarily lose sight of the vehicle. Officer A followed and Officer B observed the vehicle parked on the curb. When Officer A drove toward the vehicle, Subject 1 pulled from the curb and turned into an alleyway. Believing that their surveillance had been compromised, the officers determined that the vehicle should be stopped for a Vehicle Code violation and requested a patrol unit to effect the traffic stop.

Not wanting to lose sight of the vehicle, Officer A accelerated and closed the distance so that a traffic stop could be conducted, while Officer B advised CD of the vehicle's description and direction of travel. During the following, the officers noted that the vehicle had exceeded the 25 miles per hour speed limit, drove on the wrong side of the roadway when passing a moving motorist, and failed to yield for a posted stop sign.

During the following, Subject 1 negotiated a left turn, which enabled Officer A to see through the tinted windows on the driver's side and observe Subject 1 converse on a cellular phone and look over his shoulder in the officers' direction. Officer B observed what he believed to be two additional subjects in the vehicle and advised his partner of his observations.

Subject 1 negotiated another turn into an alleyway. Recognizing this alleyway as the same alleyway in which the subject's vehicle was initially encountered, Officer A advised his partner and tucked his shirt behind his holster for immediate access to his service pistol and to expose the LAPD badge affixed to his belt. Officer A also advised his partner that the location could be the address where the vehicle was registered.

Subject 1 abruptly stopped his vehicle in the center of the alleyway, exited, and ducked behind a block wall, out of the officers' view. As this was occurring, Subject 2 emerged from the rear gate of the residence and charged the officers while firing a semi-automatic pistol in their direction.

Officer B observed the weapon in Subject 2's hand and alerted his partner by yelling, "Gun, gun, gun!" Officer B then exited the officers' car from the passenger side, verbally identified himself as a police officer, and fired two rounds at Subject 2 while moving

toward the rear of his car. When Officer B reached the rear portion of the car, he fired two additional rounds at Subject 2.

Officer A also observed Subject 2 approach the officers with a gun in his hands while firing a semi-automatic pistol in their direction. In response, Officer A yelled "Stop, Police," and fired three rounds while moving toward the rear of the car. Officer A saw Subject 2 retreat behind the gate he had emerged from seconds earlier. When Subject 2 reappeared with his gun pointed toward the officers, Officers A and B fired one and two additional rounds, respectively, at Subject 2. Subject 2 was struck and incapacitated.

Following the officer-involved shooting and the arrival of additional units, Subjects 1 and 2 were arrested without further incident. Subject 2 died as a result of his injuries.

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 warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer 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.

Basis for Findings

A. Tactics

The BOPC noted that when Officers A and B began surveillance, they obtained the license plate of the vehicle and continued driving in an effort not to compromise their

surveillance. Officer B requested the DMV information and status of the vehicle and subsequently discovered it was parked to the rear of the registered owner's residence.

The officers negotiated a turn in the alley and used their vehicle mirrors to monitor Subject 1 as he drove behind them. Officer A exited the alley, negotiated a turn, and monitored his rearview mirror, waiting for Subject 1's vehicle to appear. Subject 1 exited the alley and negotiated a turn in the opposite direction. Officer A negotiated a U-turn and followed Subject 1, while maintaining a safe distance. As the officers followed Subject 1, Subject 1 abruptly pulled over to the curb and stopped on two separate occasions. Officer A recognized this tactic as a possible counter surveillance technique.

Once Officers A and B believed their surveillance was compromised, the officers closed the distance between their vehicle and Subject 1's vehicle before Officer B broadcast his request for a marked patrol unit. It would have been tactically prudent had the officers requested a patrol vehicle in a timelier manner. Instead, Officer A and B placed themselves in a tactical disadvantage and limited their access to Department resources.

As the following traversed several streets, the officers continued to monitor and follow Subject 1 as they waited for the arrival of a patrol vehicle. The officers observed Subject 1 speaking into a cell phone while looking over his shoulder in their direction. Subject 1 then proceeded to an alley. Officer A noted that they were in the same alley where the following originated. Officer A communicated the above observation to Officer B and, in effect, mentally prepared his partner and himself for the termination of the following. Officer A further prepared himself by securing his radio to his belt, moving his shirt around his holster and ensuring his LAPD badge was clearly visible adjacent to his holster.

Prior to the arrival of additional personnel, Subject 1 abruptly stopped his vehicle, exited the vehicle, ran, and concealed himself behind a concrete block wall. Simultaneously, Subject 2 entered the alley and fired several rounds from his handgun at Officers A and B. Officers A and B drew their service pistols as they exited their vehicle, identified themselves as police officers, and returned fire. After the first sequence of fire, both officers deployed to the rear of the undercover vehicle in an effort to reach a more defensible and protected position. Officers A and B exercised discipline by remaining behind their vehicle and not engaging in a foot pursuit of Subject 2.

Seconds later, Subject 2 reappeared and pointed his handgun at Officers A and B, causing the officers to respond to the threat. Subject 2 collapsed to the ground and, with the assistance of additional personnel, Subjects 1 and 2 were taken into custody without further incident.

The BOPC was concerned that Officers A and B entered the alley at the termination of the following. Subject 1 displayed driving tactics commonly utilized by narcotic suspects, the officers observed Subject 1 talking on a cell phone after their surveillance was compromised, and Subject 1's vehicle was registered to that location. Based on

the totality of the situation, the BOPC noted that it would have been tactically safer for Officers A and B to have remained at the entrance to the alley, displayed discipline, and attempted to contain the subjects while waiting for the arrival of responding personnel.

The BOPC also noted that officers may have unduly elevated the level of risk they faced in this incident by their decision to transition from surveillance to enforcement mode.

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

B. Drawing/Exhibiting/Holstering

The BOPC noted that, as their vehicle was coming to a stop, Subject 2 emerged from the rear steel gate of the residence while simultaneously charging and firing several rounds from a handgun at them. Officers A and B exited their vehicle and drew their service pistols to confront the deadly threat.

The BOPC determined that the officers reasonably believed the situation had escalated to the point where deadly force was justified.

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

C. Use of Force

The BOPC noted that, before Officers A and B's vehicle came to a complete stop, Subject 2 appeared and began firing several rounds at them from his handgun. Officer A and B drew their service pistols as they exited their vehicle and identified themselves as police officers. Officer A, in immediate defense of his life, fired three rounds at Subject 2 as he tactically re-deployed behind the trunk of the officers' vehicle.

Simultaneously, Officer B, in immediate defense of his life, fired two rounds at Subject 2 as he crouched behind the front passenger door for cover. Officer B then proceeded to re-deploy to the rear of the vehicle with Officer A, thereby affording himself more cover.

Subject 2 appeared unaffected as he ran through the steel security gate from which he originally emerged and proceeded out of the officers' view. Within seconds, Subject 2 reappeared and pointed his handgun at Officers A and B. Officer A, fearing for his safety, fired one round at Subject 2. Simultaneously, Officer B fired two rounds at Subject 2.

The BOPC determined that Officer A and B reasonably believed Subject 2 presented an immediate threat of serious bodily injury or death.

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