

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

OFFICER-INVOLVED SHOOTING – 074-06

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
77th Street	09/03/06		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	8 years, 3 months
Officer B	10 years, 2 months

Reason for Police Contact

Officers attempted to conduct a traffic stop, which initiated a vehicle pursuit and later a foot pursuit of an armed subject. While attempting to apprehend the subject, the officers became involved in struggle for his weapon. In the course of the struggle, the subject turned the weapon towards an officer, resulting in an officer-involved shooting.

<u>Suspect</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 1: Male, 30 years of age.			

Board of Police Commissioner's 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 7/10/2007. The BOPC unanimously made the following findings.

Incident Summary

Officers A and B were on patrol when they saw a vehicle fail to stop for a posted stop sign. When the driver (Witness 1) and front passenger (Subject 1) in the vehicle looked in the officers' direction, the driver immediately accelerated to a high rate of speed.

Officer A accelerated the police vehicle while Officer B entered the vehicle's license plate into his police vehicle's Mobile Data Terminal (MDT). As the officers followed the

vehicle, Officer A noted that it had an inoperable brake light.

Officer A activated the lights and siren of the police vehicle to attempt to stop the vehicle. The vehicle began to pull to the side of the road, but then immediately pulled away. The driver stopped the vehicle several more times but continued driving away after doing so. The officers noted that the driver and passenger of the vehicle were continually communicating with one another, and that the passenger was reaching under his seat.

Officer B broadcast to Communications Division (CD) that his unit was conducting a traffic stop and requested an additional unit. The vehicle finally began to slow to a stop.

As the vehicle began to slow, the front passenger door opened. Subject 1 jumped out and began to run. Subject 1's right front pants pocket was sagging down as he was running out of the vehicle, and Subject 1 was using his right hand to hold the pocket. This led Officer A to believe that Subject 1 was possibly armed. Officer A advised Officer B of this observation.

Officer A stopped the police vehicle. The officers initially focussed their attention on Witness 1. Officer A ordered Witness 1 to turn off the engine, throw the keys out, and step out of the vehicle.

Officers A and B then decided that they would focus on Subject 1 given their belief that he was armed. Officer B began to broadcast the officers' status and location, while simultaneously exiting his police vehicle to use his door for cover. As he did so, the microphone slipped out of his hand. Officer B then ran to the cover of a tree in the yard of a residence. Officer B then moved to the cover of a wall of the residence.

Meanwhile, Witness 1 drove away from the scene.

Officer A's intention was to track Subject 1's movements and establish a perimeter. Officer A exited his police vehicle, went around the back to use the vehicle as cover, and then began to follow Officer B. Officer A broadcast that they were in foot pursuit.

Officer B then negotiated the corner around the wall of the residence and down the driveway. Subject 1 then leaped over a wrought iron gate. Officer B ran down the driveway toward Subject 1. Officer A followed, having observed that Subject 1's hands were in plain view on the gate and he was not holding anything in his hands.

Subject 1 was hanging on top of the gate in the driveway. Subject 1's clothing was stuck on the points of the gate, suspending him above the ground.

Officers A and B attempted to pull Subject 1 back onto their side of the gate. Officer B was pulling Subject 1's left arm and Officer A was trying to pull on Subject 1's right arm. Subject 1 was struggling and resisting the officers' efforts.

Officers A and B began to issue commands to Subject 1. Subject 1 was moving around, and Officer B could not determine whether Subject 1 was attempting to hit Officer B or was trying to free himself from the gate.

Officer A looked down and noticed the butt of a gun hanging out of the right pocket of Subject 1's shorts, about to fall out. Officer A noted that Subject 1 was reaching for the gun. Officer A told Subject 1 not to reach for the gun. Officer A also advised his partner that Subject 1 was reaching for the gun. At that time, a revolver fell out of Subject 1's shorts and landed on the ground, approximately two to three inches from the gate.

Officer B indicated that he was "swinging" Subject 1 back and forth, slamming his body into the gate, having noticed Subject 1 reaching for the revolver on the ground. Officer A asked Officer B to hold onto Subject 1 and advised Officer B that he was going to get the revolver. Officer A released his failing grip on Subject 1's right arm, dropped down to his knees, and placed both hands through separate vertical openings on gate to reach for the revolver.

Officer B then released one of his hands from Subject 1's arm and pressed the emergency button on his ASTRO radio. At or about that time, Subject 1's clothing became dislodged from the gate, Officer B lost his grip on Subject 1's left arm, and Subject 1 broke free from the gate. As Officer A reached for the revolver on the ground, Subject 1 lunged towards the revolver and grabbed the revolver as well.

Officer A grabbed the grip of the revolver with one hand and covered the trigger area of the revolver with his other hand. At or about the same time, Subject 1 grabbed the barrel of the revolver.

Officers A and Subject 1 both tried to tug the revolver away from each other by pulling the revolver in their direction. Officer A believed that Subject 1 had better control over the revolver.

As Officer A and Subject 1 struggled for control of the revolver, Subject 1 pointed the barrel of the revolver towards Officer A's neck and upper chest area. Officer A feared for his life and believed that Subject 1 was about to kill him. As such, Officer A yelled to Officer B, "He's going to shoot me, partner. Shoot him. Shoot him." Upon making this statement, Officer A noticed Subject 1 look up at Officer B. This distraction enabled Officer A to force the barrel of the revolver back towards Subject 1. At that time, Officer A fired three rounds from the revolver at Subject 1 in defense of his life and the life of his partner.

Simultaneously, Officer B believed that Subject 1 had control of the revolver and was about to shoot him and/or Officer A. He noted that the barrel of the revolver was pointed directly at Officer A. Officer B drew his service pistol and fired two rounds downward at Subject 1 as Officer B stepped back. Officer B then re-assessed, noted that Subject 1 still held the gun and was a threat, and fired three additional rounds

downward at Subject 1.

Officer A noted that Subject 1 immediately released his grip on the revolver, stepped backwards, and yelled. Officer A pulled the revolver onto his side of the gate, backed away from Subject 1, and ordered Subject 1 to get on his stomach. Officer A placed the revolver on the driveway near the house and drew his service pistol. Subject 1 crawled away from the officers and then lay on the ground in a prone position, facing away from the officers.

Officer A broadcast that shots had been fired, followed by a help call and their location. Officer B then broadcast a request for a rescue ambulance (RA).

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

C. Non-Lethal Use of Force

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

D. Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that Officers A and B observed a vehicle failed to stop for a posted

stop sign. The officers noted Witness 1 committed two additional traffic violations before stopping. Officer B advised CD that they were on a traffic stop, and when the vehicle failed to yield, Officer B requested an additional unit for a possible unreported stolen vehicle. Once Witness 1 attempted to avoid detention by willfully failing to yield to the officers' signal to stop, it would have been tactically prudent for Officer B to advise CD that they were in pursuit and to broadcast a request for a "back-up" and an air unit. This would have better-informed responding units of the unfolding incident and addressed the liability issues associated with vehicle pursuits.

While the vehicle continued at a slow rate of speed, Subject 1 jumped out and ran. Officers A and B did not advise CD of the termination of the following and the nature of the subsequent foot pursuit. By not advising CD of their location, Officers A and B placed themselves at a tactical disadvantage and limited the information available to responding Department resources.

Officers A and B chose to follow Subject 1 and did not maintain control over the vehicle, potentially leaving the occupied vehicle behind them as they followed Subject 1. While the BOPC understands the officers' rationale to follow Subject 1, the BOPC is concerned that in so doing, the officers placed themselves in a tactically disadvantageous position. It would have been preferable for the officers to clear the vehicle, or to confirm that it was far enough away from the scene so as not to pose a threat to them from the rear as they followed Subject 1.

Although Officers A and B had no confirmation that Subject 1 had a handgun, they perceived his actions to be consistent with those of an armed suspect. The officers' decided to leave their position of cover and approach a possibly armed suspect. The totality of the situation supported the officers' decision. However, the BOPC would have preferred that the officers had taken the time to notify CD of their updated location and provide responding units with tactically pertinent information.

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

B. Drawing/Exhibiting/Holstering

The BOPC noted that following the OIS, Officer A took several steps back and placed Subject 1's handgun on the driveway. Officer A then proceeded to draw his service pistol as he covered Subject 1 and waited for the arrival of responding units. The BOPC determined that Officer A had sufficient information to believe that Subject 1 may be armed with an additional weapon and that the situation may once again escalate to the point where deadly force may become necessary.

The BOPC noted that when Officer B observed that Subject 1 had partial control of the handgun and was pointing it at Officer A, Officer B relinquished his grasp on Subject 1's right wrist and drew his service pistol. The BOPC determined that Officer B had sufficient information to believe the situation had escalated to the point where deadly force may become necessary.

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

C. Non-Lethal Use of Force

The BOPC noted that as Subject 1 struggled to release his clothing from the gate, Officer B grabbed Subject 1's left wrist and arm with both hands. Simultaneously, Officer A grabbed Subject 1's right shoulder. While maintaining their firm grips on Subject 1, they attempted to pull Subject 1 from the south side of the gate to the north side.

The BOPC determined that Officers A and B's non-lethal use of force was reasonable to overcome Subject 1's aggressive and combative demeanor. The BOPC found Officers A and B's use of non-lethal force to be in policy.

D. Use of Force

The BOPC noted that as Officer A reached through the gate to retrieve the handgun, Subject 1 fell off the gate and landed on his feet. Instead of opting to flee, Subject 1 clearly demonstrated lethal intent by grabbing the barrel of the handgun as Officer A grabbed the grip of the handgun. The struggle for the handgun continued and Subject 1 forced the barrel toward Officer A's neck and torso. Officer A, fearing the was about to be shot by Subject 1, was unable to draw his own weapon, as relinquishing partial control of the gun would more than likely have resulted in a situation where Subject 1 would gain full control of the gun. Officer A forced the barrel of the handgun toward Subject 1 and fired three rounds.

During the struggle over the handgun, Officer B observed Subject 1 pointing the barrel at Officer A. In immediate defense of Officer A's life, Officer B fired two rounds at Subject 1. Subject 1 appeared unaffected as he continued to fight for possession of the handgun. Officer B feared Officer A or himself would be shot and fired three additional rounds.

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.