

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

OFFICER-INVOLVED SHOOTING – 078-10

Division	Date	Duty-On(X) Off()	Uniform-Yes(X) No()
Southeast	10/07/10		

Involved Officer(s)	Length of Service
Officer A	5 years, 6 months

Reason for Police Contact

Officers observed a Subject act suspiciously and attempted to contact him. The Subject ran from the officers and produced a gun.

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
Male, 18 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, 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 Chief of Police; and the report and recommendations of the Inspector General. The Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

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 September 6, 2011.

Incident Summary

Events prior to the officer-involved shooting

Several weeks prior to the incident, a gang-related shooting had occurred involving rival gang members. Offices A and B were assigned to patrol the area as a deterrent to potential retaliation shootings. The officers were in uniform and drove a black and white police vehicle.

The officers observed three individuals, who were known to the officers as gang members. The three were walking together eastbound between two buildings. The officers had contacted the individuals several times in the past and each had admitted their gang membership. The group was approximately 100 yards away and was walking toward the police vehicle, but upon seeing the officers, the Subject broke away from the group and walked northbound. Both officers found the Subject's actions suspicious, as gang members who are possibly armed, or possess contraband, will sometimes walk away from their group in an attempt to avoid contact with the police.

The officers decided to make contact with the Subject and parked their vehicle near him. The officers did not advise Communications Division (CD) that they were making the contact. The officers exited their police vehicle and approached the Subject. The Subject then placed another person between himself and the officers, using the individual in an apparent effort to block the officers. As Officer A reached toward the Subject, the Subject pushed the other person toward Officer A and started to run. Both officers followed and observed that, as the Subject ran from them, he held his waistband, which led the officers to believe that the Subject was armed. Both officers drew their pistols.

Officers' accounts of the officer-involved shooting

As they followed the Subject, Officer A was positioned approximately ten to 15 feet behind the Subject. Officer A recalled, "I was afraid that because as he was looking back he was trying to find out where we were at so he can actually do something with the firearm that he had." The Subject then looked over his right shoulder a second time and simultaneously brought up a blue steel handgun with his right hand and pointed it back at Officer B. Officer A feared that the Subject was going to shoot Officer B. Officer A stopped running and fired two rounds at the Subject.

Meanwhile, Officer B recalled, "At this time the Subject looked over his right shoulder in my direction and pulled a blue steel handgun from his right waistband area. He turned and looked over his shoulder as he pointed the gun in my direction, and I heard approximately two shots and believed that my partner had fired the rounds." Officer B believed that the Subject was going to shoot him. According to Officer B, he did not fire his own pistol "because everything had happened so quickly."

According to the officers, after the Subject was shot, he dropped the gun and fell to the ground.

Witness accounts of the officer-involved shooting

According to Witness A, the Subject had taken two or three steps away from the officers when he used his right hand to remove a dark colored handgun from either his rear pocket or waistband. The Subject then threw the gun approximately 10 feet to his right and continued to run. Witness A estimated that the Subject ran an additional 15 to 17 feet. The Subject then began to wave his hands in the air, as if surrendering. Officer A yelled a profanity at the Subject and fired his pistol twice, and the Subject fell face-forward onto the grass.

Note: The location where Witness A indicated the Subject's gun landed was 63 feet from the Subject's final position on the ground.

According to Witness B, the Subject pushed the person he was hiding behind toward the officers and tried to escape by running away. The Subject pulled out a gun from his pocket and threw it. The officers chased the Subject and were about five feet behind the Subject when an officer shot him. The Subject's gun was already on the ground when the officer shot the Subject.

Note: Witness B terminated his interview by investigators before completing it, stating that he was upset.

According to Witness C, he heard one gunshot and then observed that the Subject had surrendered with his hands on his head, lying on his stomach on the grass. An officer then shot the Subject twice in the back. Witness C later stated the officers possibly shot the Subject three times when the Subject was on the ground. According to Witness C, one of the bullets struck the Subject in the buttocks and two struck him in the back.

Note: Witness C admitted during his interview that he was intoxicated when he was interviewed. When investigators attempted to ask clarifying questions, Witness C terminated the interview.

According to Witness D, she observed the officers run after the Subject and one of the officers was close enough to reach out and grab the Subject. The officer then shot the Subject twice in the back. Witness D did not see the Subject with a gun.

Witness E initially told investigators that she saw the Subject on the ground in handcuffs. Witness E later said that she saw the police chase the Subject, heard the gunshots, and saw the Subject fall face-down. Two officers were a couple of feet from the Subject when he was shot. According to Witness E, she did not see anything in the Subject's hands, nor whether the Subject looked back, but said that she wore glasses and could not see that far away.

Note: Due to her reluctance to be interviewed in person, investigators interviewed Witness E telephonically. Witness E terminated the phone call prior to investigators completing the interview. Subsequent attempts to re-contact her were unsuccessful.

According to witness F, he heard three gunshots. Witness F then observed the Subject lying on the grass and two officers standing near him. One of the officers looked down at the Subject and asked, "Why did you shoot at me?"

Events following the officer-involved shooting

According to Officer A, after he fired the shots, the Subject stumbled forward, fell onto the grass and landed face-up. Officer A holstered his pistol and handcuffed the Subject.

Officer B broadcast a help call and a request for a Rescue Ambulance (RA). According to Officer B, the Subject's gun was about five feet to the right of the Subject. Officer B noticed a crowd advancing toward the officers and picked up the Subject's gun. Officer B placed the gun in his (Officer B's) pocket.

A crowd of people came toward the officers from the east and west, surrounding the officers. The crowd appeared to be agitated and hostile, and began yelling obscenities. The officers ordered the crowd to stay back and unholstered their pistols. Officer A broadcast that a large crowd was approaching and that they needed help. Additionally, during the same broadcast, Officer A repeated Officer B's request for a RA for the Subject.

In response to the help call, numerous personnel responded to the scene.

According to Witness I, she volunteered to do CPR on the Subject. The officers she spoke to initially refused, and then one officer motioned for Witness I to approach the Subject. However, several officers pointed their pistols at her and told her to back away from the scene. Witness I was not able to identify which officers pointed their guns at her.

A RA arrived at the scene and transported the Subject to the hospital. The Subject was subsequently pronounced dead by medical personnel.

Note: The weapon recovered by Officer B was a loaded semi-automatic pistol. A thumbprint matching that of the Subject was found on a portion of the gun recovered by Officer B.

Note: At the request of investigators, a computer animated recreation of the shooting was completed. The analysis was completed based on the perspectives of the officers and on accounts provided by witnesses.

Note: An examination of the Subject's clothing was completed, revealing an absence of a gunpowder pattern. A gunshot residue pattern for the type of pistol used in this incident would be expected to be found at a range of up to three feet.

Note: The Subject sustained a single gunshot wound to his back.

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 and B's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A and B's drawing and exhibition of a firearm 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 the following:

In this instance, Officers A and B did not advise CD of their location and status prior to initiating contact with the Subject. The officers observed three individuals, whom they recognized as gang members. As the officers approached in their police vehicle, the officers noticed that the Subject had separated himself from the group.

Based on the Subject's suspicious actions, the officers initiated contact with the Subject. The officers indicated that they had not conclusively decided to confront the Subject until moments before making actual contact and, once they did make contact with the Subject, tactical considerations prevented them from advising CD of their location. Throughout their interviews, however, the officers articulated their reasonable suspicion that the Subject was armed with a gun. While making these observations, the officers had sufficient opportunity to advise CD of their location.

The BOPC determined that Officers A and B substantially deviated from approved Department tactical training by not notifying CD of their location. In this case, the BOPC

found no justification for this deviation. Officers A and B were equally responsible in regards to the mandate to advise CD of their status.

As the officers approached in their police vehicle, Officers A and B noticed that the Subject had separated himself from two other people. Based on their observations and others factors outlined above, Officers A and B established reasonable suspicion to justify a legal detention.

In preparation for making contact with the Subject, Officer B stopped his police vehicle approximately 11 feet away from the Subject.

In analyzing Officer B's tactical decision in positioning his vehicle, the BOPC took several factors into consideration.

During his interview, Officer B indicated that he was continually assessing the Subject's actions leading all the way up to the moment he stopped the police vehicle.

Note: Although reasonable suspicion had been established, the decision to initiate a detention was not conclusively made until Officer B stopped the police vehicle.

The officers indicated that they had a clear view of the Subject's hands during their approach.

When evaluating the tactics utilized by the officers prior to stopping and detaining the Subject, including their approach, the BOPC took into consideration all of the above factors as well as the historical impact the community concerns had on the manner in which officers currently conduct enforcement activity within the area where the incident occurred. Officers must evaluate the circumstances of each tactical scenario and maintain a balance between tactics that afford a reasonable likelihood of apprehension and those that provide a sufficient level of officer safety.

In this instance, based on the totality of the circumstances, the approach and positioning of the police vehicle was consistent with current enforcement techniques and approved Department tactical training. However, the involved officers would benefit from an assessment of the potential risks associated with this deployment strategy.

Based on their failure to notify CD of their location and status, the BOPC found that the tactics utilized by Officers A and B, substantially deviated from approved Department tactical training and therefore warrant a finding of Administrative Disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC noted the following:

First Drawing

As the Subject pushed the person toward the officers, the Subject grabbed his front waistband and ran, followed by the officers. The Subject continued to run with his right hand in his front waistband area causing the officers to form the opinion that the Subject may be armed. Officers A and B drew their service pistols.

The BOPC determined that another officer with similar training and experience would reasonably believe that the Subject may be armed and the situation could escalate to the point where deadly force may be justified.

Second Drawing

After the shooting, a large crowd formed and yelled obscenities as they advanced toward the officers. Officers A and B were placed in a precarious position as they waited for the response of additional personnel and drew their service pistols.

The situation supports a reasonable belief by the officers that the situation could continue to escalate. The BOPC determined that another officer with similar training and experience would reasonably believe that the hostile and non-compliant crowd could have presented a scenario where deadly force may be justified.

In conclusion, the BOPC found that both of Officers A and B's Drawing/Exhibiting to be In Policy.

C. Use of Force

The BOPC noted the following:

In this instance, Officers A and B went in foot pursuit of a Subject whom they believed to be armed. The officers ran approximately 10 to 15 feet behind and to the south of the Subject. The Subject continued running with his right hand in his front waistband area. The Subject glanced over his right shoulder. Officer A believed the Subject looked over his right shoulder to locate the officers. Officer A drew his service pistol.

As the foot pursuit progressed, Officer B observed the Subject looking over his right shoulder, toward him. The Subject then raised his right hand from his waistband, extended his right arm back and pointed a blue steel pistol at Officer B. Officer B did not have time to react and, within one second, heard Officer A fire two gunshots.

Simultaneous to Officer B's observations, Officer A observed that the Subject again looked over his right shoulder toward the officers. The Subject removed his right hand from his waistband, extended his right arm straight back and pointed a blue steel pistol at Officer B.

Officer A -- two rounds, from a distance of approximately 16 feet.

During the investigation, several investigative concerns were noted that required resolution specifically determining if the Subject's gunshot wound was consistent with Officer A's reported shooting position. The Department subsequently secured the services of an outside company to assist in a recreation of the shooting.

Computer Animated Recreation

- The shooting scene and Officer A's shooting stance was laser scanned to create a computer animated recreation of the shooting. The analysis of the incident was based on the shooting position and stance of Officer A, the trajectory of the bullet that struck the Subject, which according to the coroner's report, entered the Subject from back to front at a slightly upward angle of approximately 20 to 25 degrees, and the general orientation of the Subject's body position. The analysis provided depictions of how the events occurred from the perspectives of Officer A, and of Witnesses A, C and D.

Witness A

Witness A stated that within his first two or three steps, the Subject lifted the back of his shirt, removed a gun from his back pocket and threw it in a southerly direction. The location where Witness A estimated the Subject's pistol had landed was approximately 63 feet southwest from the Subject's final position on the ground.

Note: According to Witness A, Officer B would have had to have walked approximately 63 feet from the Subject to recover the weapon. There were no other witnesses that reported observing Officer B recover the Subject's weapon from the location indicated by Witness A.

According to Witness A, the Subject ran another approximately 15 to 17 feet and, just prior to the shooting, raised his hands straight up and waved his hands. Witness A believed the Subject attempted to show the officers he did not have another gun. According to Witness A, Officer A yelled a profanity. According to Witness A, Officer B, was still seated in the police car at the time of the shooting.

Note: There were no other witnesses who reported hearing Officer A make any statement prior to the shooting, and no other witnesses that reported Officer B being seated in the police vehicle when the shooting occurred.

Witness B

According to Witness B, the Subject had a gun in his pocket when he ran. Witness B stated that the gun was on the ground when the Subject was shot twice in the back by the officers.

Witness C

Witness C stated he observed the Subject on the grass with his hands handcuffed behind his head. The officer then shot him two or three more times, once in the buttocks and two in the back.

Note: Witness C gave three versions of what he observed. When investigators attempted to clarify inconsistencies in his statement, Witness C discontinued the interview and stated that he was intoxicated.

Note: The computer recreation illustrated that the angle of the bullet trajectory (20 to 25 degrees) was not consistent with Witness C's statement. The physical evidence also refutes Witness C's statement that Officer A shot the Subject three to four times.

Witness D

According to Witness D, the officers stopped and exited their vehicle and the Subject ran. Witness D did not see anything in the Subject's hands and thought the officer was reaching to grab him because he was right behind him, but then realized that the officer was shooting. One officer shot the Subject in the back two times. The Subject then fell and was handcuffed.

Note: Physical evidence ruled out that the Subject was shot at close range.

Witness E

According to Witness E, the officers were chasing the Subject and shot him from a distance of a couple of feet. Witness E was reluctant to be formally interviewed, but was finally interviewed telephonically. Witness E provided limited information regarding her observations before she terminated the telephone call.

Note: Physical evidence refutes Witness E's statement that Officer A was at a close distance when he fired.

The BOPC noted that this was a dynamic and fast moving event involving an armed Subject. The BOPC determined that the preponderance of evidence shows that an officer with similar training and experience as Officer A would reasonably believe that the Subject posed an imminent threat of death or serious bodily injury to Officer B when he pointed the pistol at him and that the use of lethal force would be justified. Therefore, the BOPC found that Officer A's use of lethal force was objectively reasonable and consistent with Department guidelines.

The BOPC found Officer A's use of lethal force to be In Policy.