

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

OFFICER-INVOLVED SHOOTING – 081-05

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Newton	09/03/05		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	9 years, 8 months
Officer B	4 years, 8 months
Officer E	10 years

Reason for Police Contact

Officers heard gunshots and responded to the location of the shooting. The officers observed three subjects leave the scene in a vehicle. Following a short vehicle pursuit, the subjects exited the vehicle and fled on foot. One subject pointed what appeared to be a firearm at officers, and a second pointed a firearm at officers, resulting in officer-involved shootings. The third subject dropped his gun and was taken into custody without the use of deadly force.

<u>Suspect</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject 1: Male, 19 years of age			
Subject 2: Male, 17 years of age.			
Subject 3: Male, 16 years of age (not injured).			

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 11/14/06. The BOPC unanimously made the following findings.

Incident Summary

Officers A and B heard several gunshots being fired. The officers observed two groups

of individuals standing on the street corner. One group member pointed to a van where the gunshots had originated. Officers A and B began to follow the van in their police vehicle. Officer B broadcast that the officers were following possible assault with a deadly weapon (ADW) suspects and requested backup and an airship. Officers C and D responded to assist.

At that time, Officer A activated the emergency equipment on his police vehicle to signal the driver of the van to pull over. However, the van failed to yield to the officers. Officer B broadcast that they were in pursuit of the van, and the van continued driving for approximately seven blocks.

The driver of the van turned into the parking lot of a fast-food restaurant. The van drove through the parking lot and through the restaurant's drive-thru lane. The van then stopped. Officer A stopped directly behind the van and Officer D parked his police vehicle behind Officer A's police vehicle.

When the van stopped, Subjects 1, 2, and 3 all exited the van and began to run from the officers. Officers A, B, and D observed a gun in Subject 1's right hand as Subject 1 exited the van and ran.

In response, Officer A drew his service pistol and pointed it at Subject 1. Officer B also drew his service pistol. Officers A and B ordered Subject 1 to stop several times, but he failed to comply. Officers A and B initiated a foot pursuit of Subject 1. Officer D, having parked his police vehicle directly behind Officer A and B's police vehicle, exited, and ran behind Officers A and B.

As Officer A was running, he was carrying his pistol in his right hand and his illuminated flashlight in his left hand. Officer B carried his pistol in his right hand, pointed towards the ground.

Subject 1 ran approximately 30 yards on the sidewalk when he suddenly turned his upper torso as he continued to run and pointed what appeared to be a gun toward Officer A. Officer B also observed Subject 1 turn his torso and point what appeared to be a gun. Officer A ordered Subject 1 to stop again, but Subject 1 did not comply. Officer A fired two rounds at Subject 1.

Officer A noticed no effect of his shots, and Subject 1 continued to run with Officers A, B, and D in pursuit.

Subject 1 turned again as he continued to run and again pointed what appeared to be a gun in Officer A's direction. Officer A ordered Subject 1 to stop again, but Subject 1 did not comply. Officer A fired another one or two rounds at Subject 1's upper torso, again with no perceptible effect. Subject 1 ran another 15-20 yards and then turned into a driveway. Officer A slowed down, negotiated the corner around a wall, and aimed his flashlight down the driveway, where he observed Subject 1 standing, facing Officer A. Officer A saw what he believed was the barrel of a gun protruding from Subject 1's hand

and saw Subject 1's hand begin to raise. Officer A yelled at Subject 1 to put the gun down, but Subject 1 did not comply. Officer A fired two rounds at Subject 1's upper torso.

Officer B also observed Subject 1 run into a driveway. Officer B observed Subject 1 on the driveway. Officer B then saw Subject 1 turn his torso to the side and Officer B could see that Subject 1 was holding a gun. Officer B fired two rounds at Subject 1.

Subject 1 fell to the ground. Officer A broadcast a request for backup and a Rescue Ambulance (RA) for Subject 1. Officer A covered Subject 1 by continuing to keep his gun pointed at Subject 1 until additional units arrived, at which time he decocked his pistol and re-holstered. Subject 1 was handcuffed. Officer B decocked and re-holstered his service pistol after he fired but before Subject 1 was handcuffed.

Note: It was subsequently determined that Subject 1 was not in possession of a weapon. The object the officers believed to be a gun was determined to be a black cellular phone, which was located near Subject 1.

Meanwhile, Officers E and F were transporting an unrelated arrestee (Subject 4) to a jail facility. Officers E and F observed a police vehicle with overhead lights and sirens activated, followed by a second police vehicle and a helicopter overhead, in pursuit of a van.

Officer E notified his partner of the pursuit and decided to assist by providing traffic control at an intersection. Specifically, Officer E wanted to use his police vehicle to stop traffic in the intersection. He did so by placing his police vehicle in the intersection and activating the police vehicle's amber lights. Officer E quickly noticed that the pursuit would not reach the intersection, given that the van and pursuing vehicles entered a parking lot.

Officer E observed the van park and Subjects 2 and 3 exit the vehicle and run along the sidewalk. Officer F observed Subject 1 exit the van and flee. Officer E observed Subject 2 holding a shotgun. Officer E notified his partner, Officer F, that Subject 2 was armed with a shotgun.

Officer E repositioned his vehicle in order to provide him and his partner cover. Subject 2 then ran past the front of the police vehicle. Officer E drew his service pistol and opened his driver-side police vehicle door.

Officer F exited the police vehicle, drew his service pistol to a low-ready position, and took a position behind the open rear driver-side door of the police vehicle.

Officer E called out to Subject 2 to "Stop." However, Subject 2 did not comply. At approximately this time, Officers G, H, and I responded to the location in one police vehicle. Officer G exited, drew his service pistol having seen Subject 2 running toward

him with a shotgun, and took a position behind his driver-side ballistic door panel. Officer H exited, drew his service pistol, and took a position of cover behind a parked white van. Officer I exited and moved to a position of cover behind the same van. There, he drew his service pistol, having observed Subject 2 approaching armed with a shotgun.

Subject 2 ran and, as he approached the middle of the street, twisted his upper torso and the shotgun back toward the officers. Officer E rapidly fired six rounds at Subject 2, aiming for his center body mass.

After Officer E fired, Subject 2 crossed the street and fell to the ground. Officer E, F, G, H, and I began to approach Subject 2. Officer I re-holstered his pistol and handcuffed Subject 2 while Officers G and H covered him. Officers G, H, and I then re-holstered their pistols.

Meanwhile, Officer C observed Subject 3 drop a gun on the ground and throw himself on the sidewalk. Officer F, with his pistol still drawn, walked over to Subject 3. Officer C then moved towards Subject 3 and handcuffed Subject 3 while Officer F covered him.

Note: Officers E and F left their police vehicle to detain Subjects 2 and 3, leaving Subject 4 alone in the police vehicle.

After Officer C handcuffed Subject 3, he walked over to Subject 2 and noticed that he was bleeding from the shoulder area. Officer C requested a Rescue Ambulance (RA) for Subject 2.

Los Angeles Board of Police Commissioner's 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, C, D, E and F's actions warrant formal training.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A, B, D, C, E, F, G, H, and I's drawing to be in policy.

C. Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that, when they heard shots fired, Officers A and B immediately responded to the area to investigate. The BOPC found that it would have been tactically safer for the officers to advise CD of their status and location.

The BOPC noted that Subject 1 refused to stop his vehicle and a vehicle pursuit ensued. As the pursuit continued, Officer B observed three occupants in the vehicle. Officer B did not communicate his observations to Officer A or the secondary unit. The BOPC found that it would have been more tactically sound for Officers A and B to communicate with each other and the other officers regarding their observations and tactical plan.

The BOPC noted that Officers A, B, and D did not broadcast to CD that they were in foot pursuit of Subject 1. The BOPC would have preferred that one of these officers had advised CD of the foot pursuit and in which direction they were running. The BOPC further noted that Officer B broadcast the incorrect location at the termination of the vehicle pursuit. The BOPC noted that officers are trained to always be aware of their exact locations and to communicate that information correctly to responding units in order to ensure their timely arrival.

The BOPC also noted that Officer A advised his partner that Subject 1 was armed with a handgun and drew his service pistol as he chased after Subject 1. Officers B and D observed Officer A chasing Subject 1 and joined in the foot pursuit with their weapons drawn. Neither Officers A, B, or D cleared the suspect's van prior to running past it. Consistent with current practices and training, the BOPC noted that the officers should not run past a vehicle or an area that has not been cleared of any additional suspects. Had an additional suspect been hiding in the vehicle, the officers would have been at a tactical disadvantage.

The BOPC is concerned that Officers A and B may not have approached the driveway at the termination of the foot pursuit in the safest manner. The result was that Officer A moved quickly into the open area of the driveway where he found himself with no cover, facing a suspect who he believes was facing him and pointing a firearm at him. The BOPC would have preferred that Officers A and B had stopped their pursuit, taken cover, and carefully negotiated the corner.

The BOPC noted that it appears that Officer A may have delayed decocking his pistol. Officer A noted that he did not decock his pistol when Subject 1 went down to the ground in the driveway and waited to decock until backup arrived. Maintaining the pistol in this mode increased the likelihood of an unintentional discharge.

The BOPC also noted that when Officer D joined the foot pursuit, he separated from his partner, thus leaving him alone to clear the vehicle, which is not consistent with current training.

Additionally, the BOPC noted that while pursuing the suspect is allowed, Department training recommends that consideration should be given to utilizing a perimeter to capture the suspect. In this case, the suspects were known to have committed an assault, were armed, and were highly dangerous to the community and to the officers. While pursuing the suspects was dangerous, doing so was in the best interests of public safety.

The BOPC further noted that, simultaneously, Officers E and F were transporting an arrestee when they observed a pursuit approaching. Officer E turned on his emergency equipment and entered into the intersection to prevent a possible traffic collision with cross traffic. The BOPC noted that had the officers not had an arrestee in their vehicle, their actions would have been appropriate, however, by involving themselves in the pursuit and the tactical situation they placed themselves at a tactical disadvantage.

As such, the BOPC found Officers A, B, C, D, E and F's tactics to warrant formal training.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officers A and B believed the occupants were armed with firearms. Officer B notified CD that they were following possible ADW suspects. Upon the termination of the foot pursuit, Officers A, B, and D observed Subject 1 armed with what they believed was a handgun. As such, the BOPC determined that Officers A, B, and D had sufficient information to believe that the incident may escalate to the point where deadly force may be justified.

The BOPC further noted that Officers C, E, F, G, H, and I were aware that the suspects were possibly involved in an ADW and observed them armed with guns. As the officers exited their vehicles, they simultaneously drew their service pistols. The BOPC determined that Officers C, E, F, G, H, and I had sufficient information to believe that the incident may escalate to the point where deadly force may be justified.

As such, the BOPC found Officers A, B, D, C, E, F, G, H, and I's drawing to be in policy.

C. Use of Force

Officer A fired four rounds at Subject 1 during the foot pursuit. Officer A indicated that

he fired at Subject 1 in response to Subject 1 turning to his left towards Officer A, and pointing what Officer A believed to be a gun in his right hand at Officer A. Subject 1's turning motions were confirmed by Officers B and D.

Officers A and B each fired two rounds at Subject 1 in the driveway at the end of the foot pursuit. Given that Officers A and B believed that Subject 1 was involved in an earlier shooting, Subject 1 led the officers in a vehicle pursuit, Subject 1 refused to comply with officer's orders to stop during the foot pursuit, and given that Subject 1 turned towards the officers during the foot pursuit and turned or appeared to turn towards the officers in the driveway with the cellular phone in his hand, the BOPC believes that Officers A and B's mistaken belief that the cellular telephone was in fact a firearm pointed in their direction was reasonable under the circumstances.

The BOPC noted that in the interim, Officer E observed Subject 2 running while armed with a sawed off shotgun. Unable to re-position his vehicle, Officer E placed the vehicle in park and used the driver's side door as cover. As Subject 2 ran in front of the police vehicle, Officer E ordered Subject 2 to drop the weapon. Subject 2 failed to comply, placed the shotgun closer to his body, and turned his upper torso toward Officer E. Fearing for the safety of Officer F, the arrestee, and his own life, Officer E fired six rounds in rapid succession, striking Subject 2 in the upper left shoulder. The BOPC determined that Officer E reasonably believed the suspect presented an immediate threat of serious bodily injury or death.

As such, the BOPC found Officers A, B, and E's use of force to be in policy.