

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

OFFICER-INVOLVED SHOOTING 086-05

Division	Date	Duty-On () Off(x)	Uniform-Yes() No(x)
Southeast	09/16/2005		

Officer(s) Involved in Use of Force	Length of Service
Officer A	11 months

Reason for Police Contact

An off-duty officer waiting in a fast food “drive-thru” lane saw a male with the handle of a gun protruding from his waistband. The officer shot at the male when the male approached the door of the officer’s vehicle.

Suspect	Deceased ()	Wounded ()	Non-Hit (x)
Subject 1: Male, age unknown.			

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 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 February 28, 2006.

Incident Summary

On the morning of Friday, September 16, 2005, off-duty Southeast Area Police Officer A entered the “drive-thru” lane of a fast food restaurant. Officer A, who was alone in his vehicle, ordered and pulled up behind a vehicle already stopped at the pick-up window.

Officer A observed a male (Subject 1) walk along the “drive-thru” lane. According to Officer A, the male stopped at the vehicle in front of him and yelled profanities at its driver. According to the officer, the handle of a small gun was protruding from Subject 1’s waistband. According to Officer A, Subject 1 then approached the officer’s vehicle,

walking to its passenger side. As he did so, Subject 1 yelled profanities at the officer. As Subject 1 reached the passenger side of Officer A's vehicle, the officer could only see Subject 1 from the chest and up and could no longer see Subject 1's hands. Officer A removed his service pistol, which he had earlier tucked under his leg, and pointed it at Subject 1. According to Officer A, when he drew his pistol Subject 1 moved a step or two toward the rear of the officer's vehicle. Officer A fired one round through his vehicle's rear window at Subject 1's upper body. Subject 1 ducked down, then began to run away.

According to Officer A, he then exited his vehicle and ordered Subject 1 to stop. Subject 1 ran away and appeared to get onto a bus. According to Officer A, as he watched the male running away he tried to use his cellular telephone but could not get it to work. Officer A then verbally identified himself as a police officer to a restaurant employee who was looking out of the pick-up window, and told a witness that he needed to use his telephone. Officer A then secured his pistol in the rear of his waistband.

Officer A used the witness's telephone to call the Southeast Community Police Station. Officer A was connected to Southeast Area Patrol Sergeant A. Officer A informed Sergeant A that he had been involved in an officer-involved-shooting (OIS).

Sergeant A broadcast a request for any units in the area to respond to Officer A's location. Southeast Area Sergeant B responded to the scene of the OIS. Southeast Area uniformed Police Officers B and C monitored Sergeant A's broadcast, responded to Officer A's location using their vehicle's emergency lights and siren and were the first unit to arrive on the scene. Sergeant B was the first supervisor to arrive on the scene. The sergeant asked Officer A whether he was involved in a shooting, how many rounds he fired, how many suspects were involved, whether anyone was injured and in which direction he had fired.

Subject 1 was not identified in the course of the Department's investigation. There was no evidence recovered to indicate that Subject 1 was struck by Officer A's gunfire.

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 the following areas: Tactics of the involved officer(s); Drawing/ Exhibiting/ Holstering of a pistol by any involved officer(s); the Use of Force by any involved officer(s) and any additional pertinent issues. 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's tactics to warrant administrative disapproval. The BOPC found that Sergeant B, and Officers B and C's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A's drawing and exhibition of a firearm to be out of policy, warranting administrative disapproval.

C. Use of Force

The BOPC found Officer A's use of force to be out of policy, warranting administrative disapproval.

Basis for Findings

A. Tactics

The BOPC noted that Officer A did not exit his vehicle to obtain a better tactical position prior to engaging Subject 1, but instead remained seated inside of his vehicle, allowing Subject 1 to approach the passenger side and placing the officer at a tactical disadvantage. Officer A failed to consider locking his vehicle doors and did not attempt to speak to Subject 1 or give him any commands to get away from the officer's vehicle.

The BOPC noted that, after the OIS, Officer A approached a witness while still holding his service pistol in his hand, did not identify himself as a police officer, and did not display his identification card or badge. Officer A subsequently placed his unholstered service pistol in his rear waistband while he had no visible identification displayed. Further, Officer A called Southeast Community Police Station, instead of 9-1-1.

The BOPC found Officer A's tactics deficient, requiring administrative disapproval.

The BOPC noted that Officers B and C responded to the incident using emergency lights and siren without informing Communications Division that they were doing so. The BOPC also noted that Sergeant B did not obtain sufficient details regarding the incident when he spoke with Officer A after the OIS.¹

The BOPC found that Officers B and C and Sergeant B will benefit from additional training by the Divisional Commanding Officer.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officer A had placed his unholstered service pistol under his thigh, rather than carrying it secured in a holster. The BOPC further noted that, after the OIS, Officer A did not secure his firearm in a holster, but placed it in his rear waistband.

¹ The Sergeant failed to obtain information regarding the mode of escape of the suspect.

The BOPC found Officer A's drawing and exhibition of a firearm out of policy, warranting administrative disapproval.

C. Use of Force

The BOPC noted that Officer A could not see Subject 1's hands, nor a weapon. As such, the BOPC determined that, at the time Officer A fired his weapon, there was no immediate threat of serious bodily injury or death.

The BOPC found Officer A's use of force out of policy, warranting administrative disapproval.