

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

OFFICER-INVOLVED SHOOTING – 087-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes () No (X)
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Hollenbeck	09/27/11		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	10 years
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Reason for Police Contact

As officers followed a vehicle occupied by several suspects, including one who they believed to be armed, the suspects' vehicle pulled up alongside the officers' vehicle and one of the suspects fired at the officers, resulting in an officer-involved shooting.

Subject	Deceased () Wounded () Non-Hit (X)
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Subject 1: Male, 30 years of age.

Subject 2: Male, 21 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 August 14, 2012.

Incident Summary

Plainclothes Officers A and B were driving an unmarked vehicle. Officer A was wearing a white T-shirt and blue jeans with white tennis shoes and wore his badge around his neck attached to a silver chain placed underneath his t-shirt. Officer B was wearing a gray short-sleeved shirt, black shorts, black tennis shoes and his badge was attached to the right side of his belt.

According to the officers, they normally carry their tactical vests in the backseat of the vehicle; however, on that day they had thrown their vests into the trunk. Typically, the officers indicated, when time permits, they put on their raid jackets to identify themselves to subjects and for other officers responding to the scene. The officers also indicated that they normally request a black-and-white vehicle to conduct traffic stops.

On the date of the incident, Officers A and B were in an area enforcing quality of life crimes, such as drinking in public, illegal vendors, and monitoring the streets for prostitution. The officers were also aware of a recent homicide involving a gang member in the area.

Officer A observed four males standing on the front porch of an apartment complex. Two of the subjects were later identified as Subject 1 and Subject 2. As Officer A slowed their vehicle, Subject 1 looked in the officers' direction and made eye contact with Officer A. It also appeared to Officer A that Subject 1 displayed hand signs above his head of an unknown gang.

The officers were approximately 60 feet south from the subjects' location when Officer B heard yelling through his open vehicle window and believed someone needed help. As he turned in the direction of the yelling, he observed Subject 1 display gang hand signs. Subject 1, who was followed by Subject 2, stepped down from the porch area of the apartment complex and reached with his right hand toward his rear waistband.

As the officers continued driving, Officer A slowed his vehicle for a red light and subsequently stopped at an intersection. Subjects 1 and 2 were on the sidewalk walking at a fast pace toward the officers' vehicle from a distance of approximately 180 to 200 feet. Officer B observed Subject 1 holding a handgun in his right hand, along his side and pointed downward, and he communicated this to Officer A.

When the light changed to green, Officer A negotiated a left turn to create distance between them and the subjects. Officer A wanted to monitor the subjects' actions until police vehicles arrived to detain them and provide a safe route to approach. Officer A slowed the vehicle to a speed of approximately 10 to 15 miles per hour (MPH) and from a distance of approximately 90 feet observed Subjects 1 and 2 run down the street. The officers tried to maintain a safe distance while still keeping them in sight.

Officer B broadcast the subjects' location to Communications Division (CD). Officer B then observed a vehicle, driven by a male, later identified as Subject 3, approach

Subjects 1 and 2 and stop. He advised Officer A of his observation. Officer A, through the rear view mirror, observed the subjects' vehicle. Subject 1 entered the front passenger side of the vehicle while Subject 2 also entered. The subjects' vehicle then accelerated toward the officers. Officer A accelerated their vehicle to approximately 40 MPH and created a distance of approximately 500 to 1,000 feet from the subjects' vehicle.

Officer B broadcast their position and also relayed the subjects' location.

As the subjects' vehicle got closer, Officer A accelerated. Officer A negotiated several turns at a speed of approximately 50 MPH. The officers momentarily lost sight of the subjects' vehicle. In an effort to locate the subjects and provide additional information to responding units, the officers pulled over.

While stopped at the location, Officers A and B remained seated inside their vehicle. They believed it was unsafe to exit their vehicle in order to retrieve their raid jackets due to their belief that the subjects were armed. Approximately one minute later, the subjects' vehicle reappeared and drove toward them at a high rate of speed. Officers immediately proceeded in a southbound direction. Officer B advised Officer A that the subjects' vehicle was right behind them. Officer B broadcast a help call.

Officers A and B stopped at a red light. Fearing for their safety, with the subjects directly behind them, Officer A drove through the red light.

Meanwhile, the subjects' vehicle negotiated a right turn in a different direction. The officers then negotiated a U-turn and Officer B broadcast the subjects' last known location. At this time, Officer A still believed it was unsafe to exit their vehicle in order to retrieve their raid jackets and remained seated in the vehicle.

As Officer A drove north, the subjects' vehicle traveled south onto the same street, heading toward the officers. Officer A believed it would have been unsafe to identify himself with his badge at this time due to his belief that Subject 1 was armed and being within a close distance.

Officer A slowed his vehicle, almost stopping while the subjects' vehicle continued south nearly parallel to the officers' vehicle. Believing that the situation could escalate to a use of deadly force situation, Officer A unholstered his pistol and held it in his right hand. While holding the steering wheel with his left hand, Officer A crossed his right hand over his left hand and pointed his weapon outside his open driver's side window. As the subjects' vehicle got closer and came to a stop next to their vehicle, Officer A observed Subject 1 pointing a weapon in his direction and heard an unknown number of gunshots. Simultaneously, Officer A pointed his weapon in the direction of Subject 1's upper torso area and fired three rounds at Subject 1 from a distance of approximately 10 to 15 feet.

Meanwhile, Officer B lifted up his shirt with his left hand, unholstered his weapon with his right hand and held it with both hands in a low-ready position. As he observed Subject 1's right hand come up, he heard Officer A instruct him to get down and he took cover below the dashboard of their vehicle.

Officer B did not see what Subject 1 was holding in his hand. He heard an unknown number of gunshots while Subject 1's right hand simultaneously came up. Officer B indicated he did not fire due to the position he was in – Officer B had no clear shot of Subject 1 and he was concerned that Officer A was in his line of sight.

Witness A stated that he observed a small vehicle traveling north. He then observed a second vehicle traveling south on the same street. As the small vehicle negotiated a U-turn in front of the second vehicle, Witness A heard five to seven gunshots. When the small vehicle completed the U-turn, the second vehicle followed it south at a high rate of speed. Witness A then observed several police vehicles behind them. At the time of the shooting, the vehicles were approximately twenty feet apart. Witness A stated he only heard the gunshots and did not know where they were coming from.

After the shooting, the subjects' vehicle continued to drive south at a high rate of speed. Officer A holstered his service weapon to get control of his vehicle, and continued driving north. Officer B broadcast a "shots fired" radio call.

Officer A negotiated a second U-turn and followed the subjects' vehicle south at a distance of approximately 400 feet. As the subjects' vehicle turned at a corner, their vehicle brake lights came on. Believing the subjects were about to exit their vehicle and engage them again, Officer A stopped his vehicle mid-block where he and Officer B took cover amongst the vehicles parked alongside the street. As responding patrol units arrived at the location, Officer A directed officers to where the subjects were last seen. Officer B holstered his weapon. As Officer A exited his vehicle, he noticed that the vehicle had sustained two impacts – one to the front left fender, and another to the front driver's mirror.

Meanwhile, uniformed Officers C and D responded to the help call and made contact with Officer A. Officer A directed them toward the location where the subjects' vehicle was last seen. Officer D then observed a vehicle come to a stop at the intersection.

Officers C and D observed Subjects 1 and 2 running on the sidewalk toward them. Subject 2 was approximately two feet in front of Subject 1 and holding a blue steel, semi-automatic handgun in his right hand. Officer C did not broadcast the information regarding Subject 2; however, he did communicate his observations to Officer D.

Officer D ordered Subjects 1 and 2 to stop, but they continued to run in the officers' direction, and through an open gate of an apartment complex driveway. When the subjects looked in his direction and turned into the long driveway of the apartment complex, Officer D yelled out, "Stop, stop." Officer D followed the subjects to the entrance of the driveway, stopped and looked to the rear of the apartment complex.

Officer D held his position at the driveway and was subsequently joined by Officers E and F.

Additional officers arrived at the location in response to the help call, including Officers G, H, I and J, in addition to Sergeant A. Officer C advised Officer G that two individuals had exited a car and ran between the buildings. Officer G parked his vehicle and positioned himself close to the apartment complex. As additional units arrived, Officer C re-positioned himself alongside of Officer G.

In response to the help broadcast, Sergeant B also responded to Officers A and B's location. Officer A informed Sergeant B that he and Officer B has been in an officer-involved shooting (OIS). Sergeant B observed that the officers' driver side rear view mirror was fractured and what appeared to be a bullet hole to the side of the officers' vehicle. Sergeant B and other responding supervisors established a Command Post (CP), monitored Officers A and B, and instructed them not to discuss the incident.

Meanwhile, Officer G observed Subjects 1 and 2 looking around from the rear corner of a house and advised Officer C of his observations. Officer C observed the two males and informed the airship and the units in the perimeter of his observation. Officer G believed the males were the involved subjects because they matched the description of Subjects 1 and 2. Officers C and G ordered Subjects 1 and 2 out and onto the sidewalk. Officer H, along with additional officers, took them into custody.

Once in custody, Subject 1 spontaneously stated to Officer C, *"They were shooting at us. We were just running away from them."* Officer C placed Subject 1 in his police vehicle and, along with Officer D, transported Subject 1 to a field show-up. Officer G transported Subject 2 to the same location for the field show-up. Subject 2 did not make any statements to Officer G.

Note: Subject 1 was sitting in the backseat of Officer D's police vehicle for approximately 30 minutes prior to the arrival of additional officers for the field show-up, due to there being an outstanding subject at the scene, and the perimeter still being coordinated. During this time, Subject 1 was throwing up, out of breath, and sweating in the back of the police vehicle. Officer D believed Subject 1 was throwing up because it was just hot in the back of the car. Officer D opened the windows and door for Subject 1 to give him some air.

Responding officers transported Officers A and B to the location for a field show-up. The officers did not speak to each other or make any other statements during or prior to the transport. Officers A and B positively identified Subject 1 as the shooter and Subject 2 as the passenger.

After the field show-ups, Sergeant C transported Officers A and B back to Sergeant B's location. Sergeant B ordered the officers separated and obtained a PSS from each. After the field show-ups, the subjects were separately transported to the station.

During the course of the investigation, a K-9 unit was contacted and responded to the location. The K-9 unit located two handguns to the rear parking lot of the apartment complex.

According to the investigation, one weapon, a revolver, was recovered from the rear driveway of the apartment complex. One latent print from the revolver was collected, analyzed, and found to match Subject 2's fingerprints. A second weapon, a semi-automatic pistol, was recovered from the same location. No prints were recovered from this weapon.

Two impacts were located on the officers' vehicle to the front left fender and the driver's side view mirror. The investigation revealed that the impact to the driver's side view mirror was consistent with a single projectile traveling from right to left, back to front and in a downward direction. One unknown expended bullet was recovered from under the cover of the left front wheel well.

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 of a firearm 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 made the following findings.

A. Tactics

The BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officers A and B's drawing and exhibition of a firearm to be in policy.

C. Lethal Use of Force

The BOPC found Officer A's use of lethal force to be in policy.

Basis for Findings

A. Tactics

- In their analysis of this incident, the BOPC identified the following tactical consideration:

1. Tactics/Cover

As the officers' vehicle and the subjects' vehicle approached one another, Officer A decided that his best tactical option was to slow his vehicle and remain inside. When confronted with a deadly force situation involving a firearm, officers are trained to seek the best source of cover that is readily available. In this instance, given their limited tactical options, the officers' most viable option was to address the deadly threat while seated in their unmarked vehicle and rely on the limited available cover the vehicle's non-ballistic door panels and cross beams could provide.

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The BOPC found the officers' decision to remain inside their vehicle did not substantially deviate from approved Department tactical training.

- The BOPC additionally considered the following:
 - Equipment, Body Armor/Identifying Police Attire

The investigation determined that Officers A and B's body armor and raid jackets were in the trunk of their vehicle at the time of the OIS.

In this instance, Officers A and B were working in a plainclothes assignment. The officers' mission for that day was to enforce quality of life issues, such as drinking in public, illegal vendors as far as selling DVDs, and monitoring the streets for prostitution.

While considering this issue, the BOPC took into account the unique nature of this specialized assignment compared to other plainclothes assignments. During this specialized type of enforcement, the same vice operator will often act in an undercover and enforcement capacity. Once a violation occurs the same officers would take the appropriate enforcement action. Wearing body armor or a raid jacket during this type of enforcement activity would

compromise the officers' undercover status and eliminate any chance of obtaining a violation.

The BOPC found that the officers' decision not to wear body armor did not deviate from Department procedure.

- Tactical Considerations/Encountering Armed Suspects

During this incident, the officers adjusted their driving tactics thereby allowing the subjects' vehicle, which contained at least one armed individual, to close the distance between themselves and the officers.

Based on their actions and statements, it is clear that Officers A and B attempted to strike a balance between their desire to avoid a direct armed confrontation and their responsibility to facilitate the arrest of an armed subject.

The BOPC found that the officers' decision to try to maintain visual contact with the subjects' vehicle while coordinating the response of uniformed personnel is consistent with the mission of the Department and consistent with their expectations.

- Radio Communications

Throughout this incident, Officers A and B utilized their radios to provide the responding uniformed officers with updated suspect information and locations. During their interviews, however, both officers noted occasional difficulties in being able to broadcast timely information.

During the investigation, the BOPC also noted that Officers A and B did not log on with CD at their start of watch. Failure to log on with CD could have serious repercussions during an emergency situation. Officers and units are identified by the Radio Telephone Operator (RTO) via the radio identification number that is in the officer's possession. If an officer were not logged into the communications system, the RTO would not be able to readily identify an officer who activated his/her help button. This could cause a delay in response of personnel and resources.

- Medical Treatment

The investigation revealed that after Subject 1 was taken into custody, he was transported a short distance away from the OIS scene and held in the back of a police car while awaiting a field show-up. Due to the ongoing investigation and tactical concerns, Subject 1 remained inside that police vehicle for approximately 30 minutes. During that time it was noted that Subject 1 was out of breath and throwing up. Though Subject 1's condition corrected itself

prior to being transported to the station, the officers are to be reminded of the importance providing timely medical treatment.

The BOPC found that these topics did not substantially deviate from Department training.

- Rules of the Road

In this instance, the officers were being followed by an armed suspect and were stopped at a red phased tri-light signal with the suspects' vehicle directly behind them. Fearing for his safety and that of his partner, Officer A cleared the traffic and proceeded through the intersection against the red light. Though officers, when not in pursuit, are mandated to follow the rules of the road, in this instance, the officers found themselves at a tactical disadvantage and took appropriate measures to rectify the situation.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific.

Each tactical incident inherently results in considerations to better handle a similar incident in the future. The UOFRB determined, and the Chief concurred, that the identified tactical consideration did not substantially and unjustifiably deviate from approved Department tactical training. Therefore, a Tactical Debrief is the appropriate forum to evaluate the events and the incident with the objective of individual and organizational improvement.

In conclusion, the BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- In this instance, the officers were being followed by armed subjects. During the following, the officers utilized driving tactics which allowed them to maintain their distance from the subjects' vehicle while remaining close enough for the officers to broadcast constant updates on the subjects' location. During this following, Officers A and B were forced to stop at a red traffic light. Fearing for their safety, with the subjects directly behind them, Officer A proceeded through the red phase traffic light. Meanwhile, the subjects' vehicle negotiated a right turn, out of the officers' view. In an effort to reacquire a visual of the subjects' vehicle, Officer A continued south for approximately one block, negotiated a U-turn, and drove north. As the officers continued north, the subjects' vehicle emerged and drove directly toward the officers at a high rate of speed. Left with no other avenue of escape, Officer A slowed their vehicle to almost a stop while he and Officer B drew their service pistols.

The BOPC determined that an officer with similar training and experience as Officers A and B while faced with similar circumstances would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Officer A and B's drawing/exhibiting to be in policy.

C. Lethal Use of Force

- **Officer A** (pistol, 3 rounds)

As Officer A drove northbound, the subjects' vehicle emerged and drove directly toward the officers' vehicle at a high rate of speed. As the subjects' vehicle closed the distance, Officer A observed Subject 1, who was seated in the front passenger seat of the vehicle, pointing a handgun in his direction. Once the subject's vehicle was almost parallel to the officers, Subject 3 leaned back in his seat, allowing Subject 1 to fire at the officers through the driver side open window. Fearing he was about to be shot, Officer A fired three rounds at Subject 1 from a distance of approximately 10 to 15 feet.

The investigation revealed that Officer A discharged his service pistol prior to his vehicle coming to a complete stop and while the subjects' vehicle was still moving. At the time, Subject 1 posed an immediate deadly threat by means other than the vehicle. Officer A's actions were in response to exigent circumstances and in the immediate defense of his and his partner's life. Therefore, the BOPC found that Officer A's decision to fire at a moving vehicle while in a moving vehicle was reasonable and within Department policy.

In consideration of all the statements and evidence, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe that Subject 1's actions represented an imminent threat of serious bodily injury or death. Therefore, the decision to use lethal force was objectively reasonable and within Department policy.

In conclusion, the BOPC found Officer A's use of lethal force to be in policy.