

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

OFFICER-INVOLVED SHOOTING 101-07

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes () No (X)</u>
Outside City	11/10/2007		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	2 years, 1 month

Reason for Police Contact

Officers participating in a crime reduction task force observed a male riding a bike against the flow of traffic without a light. Officers followed the male intending to stop him and cite him for a traffic violation, but the male came off the bike and began to reach for his waistband. Officers observed the male pull a gun out from his waistband, and an officer-involved shooting occurred.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)¹</u>
Unidentified: Male			

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 September 23, 2008.

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.

¹ No evidence was recovered from or observed at the scene to indicate that the unidentified suspect suffered any injury as a result of this incident.

Incident Summary

Officers A and B were assigned to a crime reduction and warrant enforcement task force. Officers A and B were working to combat a rise in Burglary from Motor Vehicle (BFMV) and Grand Theft Auto (GTA) crimes in that area. Officers A and B were each wearing plainclothes, ballistic vests, and Department raid jackets and their police badges were visible. They were riding in a plain vehicle and were in communication with other task force officers in the area who were driving black-and-white police vehicles via a tactical radio channel.

Note: Officer B indicated that he and Officer A were advised, in the event that they saw criminal or suspicious activity, to contact a black-and-white or uniformed unit to come and conduct a traffic stop. The officers were also granted permission to conduct pedestrian stops.

Officers A and B were driving down the street when they observed an unidentified male riding a bicycle on the sidewalk of the street they were on, against the flow of traffic. The male was also riding at night without a light. Officer B intended to stop the male.

Officer B drove the plain vehicle past the male and turned. Officer B stopped the vehicle in such a way that the front of the vehicle blocked the path of the male on the bicycle. The male turned, and both Officers A and B observed the male look in their direction as one of his feet came off of the bicycle and as he began to lose control.

Officer B conducted a u-turn in order to face toward the male. As Officer B conducted the u-turn, Officer A saw the male start reaching for the front of his waistband while still on the bicycle. Around this time, Officer A began to draw his service pistol from its holster and told Officer B, "He's got a gun." Once Officer B completed the u-turn, he observed the bicycle on the ground, although he could not see the male. At the same time, Officer A saw that the male had fallen off of the bicycle and onto the sidewalk.

Officer B then saw the male's head rise up from the trunk of a parked vehicle. He also saw that the male had one hand in his waistband, as if he was trying to take something out from it. Officer B stopped the plain vehicle, began to exit, and drew his service pistol.

Note: The officers decided to take immediate action rather than continuing to observe the male because as he started to bike away, he also started reaching for his waistband.

Officer A did not have the opportunity to ask for an additional unit because the incident happened too quickly to wait for a black-and-white vehicle to arrive.

Meanwhile, Officer A finished drawing his service pistol and opened the police vehicle's door in preparation for exiting. He observed that the male was lying down on the

ground, supporting himself with one hand, and continuing to reach for his waistband with the other hand. Then, Officer A observed the male pull out a gun and begin to sit up. Officer A next saw the male start to point his gun toward Officer A and raise his arm. In response to Officer A's observations, and while still inside his vehicle, Officer A fired one round through the vehicle's windshield and in the male's direction from an approximate distance of 15 to 20 yards.

Officer B heard a gunshot as he exited the vehicle. Unaware of the location of his flashlight and his radio, he began to feel around for the radio. He and Officer A then saw the male moving down the street. Officer A retrieved the police radio, which had fallen, and moved toward the rear of the officers' vehicle. Officer A used his radio to broadcast the officers' location and to report a male armed with a gun. Officer A also requested an airship and indicated that the male was wearing a striped shirt and a beanie. Officer A broadcast that shots had been fired.

Officers A and B observed the male turn right. They moved toward the corner of the intersection, but they lost sight of the male. Officer B holstered his service pistol. Moments later, additional units arrived at the scene and a perimeter was established.

Among the officers who responded to the area after the officer-involved shooting occurred were Officers C and D. Officers C and D took up a position at the intersection along the perimeter that was being set up. While at that position, Officers C and D were approached by a male (later identified as Subject 1) who met the description of the outstanding subject.

Note: Officer C observed that Subject 1 was wearing a dark polo shirt with stripes, black pants or shorts, and a black baseball cap.

Subject 1 was belligerent and appeared to be under the influence of alcohol. Officer D also indicated that Subject 1 wanted to get inside the perimeter that had been established in the area. Officers C and D decided to detain Subject 1.

Officers C and D handcuffed Subject 1 and got ready to put him in the back of their police vehicle. At the same time, Officer B and a supervisor were approaching the location. Officer B saw Subject 1 and recognized his face and his striped shirt. Officer B positively identified Subject 1 as the outstanding subject.

Subsequently, Officer A also positively identified Subject 1. According to Officer A, Subject 1 was not wearing the same shirt he previously had on, but he did have the same stocky build as the outstanding subject. Officer A later added that when the identification occurred, the outstanding subject was wearing a white and blue, short-sleeved shirt.

Note: Subject 1 indicated that, on the night of the incident, he was at a party when he observed a helicopter over his house approximately two to

three blocks away from the scene of the officer-involved shooting. Subject 1 left the party and walked toward his house.

When Subject 1 arrived at the location, officers informed him that he could not continue toward his residence. Subject 1 informed the officers that he lived with his grandmother and that he needed to check on her. Shortly thereafter, Subject 1 was taken into custody.

Subject 1 denied having any involvement in the officer-involved shooting that had taken place. Specifically, he denied carrying a gun, riding a bicycle, or being on the street at the time of the incident. Subject 1 acknowledged that he was angry when he was prevented from going home, indicating that he needed to check on his grandmother.

Subject 1 was subsequently transported to a nearby police station. Five days after the date of the incident, Force Investigation Division detectives interviewed Witness A. Witness A indicated that during the morning after the incident, he was washing his vehicle when an unidentified male drove up to the front of his house and introduced himself. The unidentified male told Witness A that the police had been looking for him [the unidentified male] the night before. The unidentified male indicated that he had pulled out a gun when the police saw him that night, although he did not fire any rounds.

The unidentified male next told Witness A that he [the unidentified male] had a beanie and that he hid his gun inside the beanie and left it somewhere on a truck that belongs to Witness A's father and was apparently parked nearby. He also told Witness A that he hid underneath the truck from 11:00 p.m. until 4:00 a.m. Finally, the unidentified male told Witness A that he was 33 years old and that he belonged to the Hoover Gang.

Force Investigation Division detectives then showed Witness A a picture of Subject 1. Witness A said that if he saw the picture, he would definitely recognize the male. Upon seeing the picture, Witness A indicated the male in the picture looked like the same person and had the same eyes. Witness A was asked how sure he was that the individual in the picture was the same individual who had approached him in front of his house. Witness A replied that he was 75% sure.

Force Investigation Division detectives contacted the Los Angeles Office of the City Attorney (CA's Office) and informed personnel of the statement made by Witness A. Personnel from the CA's Office informed the detectives that Subject 1 had been released on November 13, 2007, and was cited back to court. Subsequently, the CA's Office declined to file charges against Subject 1.

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 a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

1. Officers A and B did not advise Communications Division (CD) of their status and location once the decision was made to initiate contact with the subject.

The intent of the "code-six" mandate is to enhance officer safety. Officers A and B should have advised CD of their status and location when they decided to initiate contact with the subject. This ensures that units in the area are aware of their activity and can anticipate a response to assist, if needed.

2. Officers A and B initiated contact while working in a plainclothes capacity, in raid jackets and ballistic vests, and without an exigent circumstance warranting immediate action.

Although Officers A and B were wearing raid jackets, they were not being worn as a quasi-uniform. They were operating as a mobile observation post and were to refrain from initiating public contact. In this instance, it was desirable that the officers be readily identifiable as they took enforcement action.

3. Officers A and B did not request assistance or help and did not request a perimeter to contain the fleeing subject.

The initial actions taken at any tactical incident prove invaluable in the ability to obtain a successful outcome. A perimeter increases the likelihood of a subject's apprehension when the coordination of resources occurs in an expeditious manner. Officers A and B should have immediately established the parameters of a desired perimeter to contain the fleeing subject and directed responding officers to strategic positions to maintain the integrity of the containment.

4. During the FID investigation, it was noted that Officer B did not maintain an additional magazine with extra ammunition on his person throughout this incident.

Officer B should have carried all required equipment with him while performing in a plainclothes capacity. Having additional ammunition is vital during rapidly evolving tactical incidents involving firearms.

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

B. Drawing/Exhibiting

The BOPC evaluated the circumstances relevant to Officers A and B's drawing and determined that the officers had sufficient information to reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may become necessary.

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

C. Lethal Use of Force

The BOPC evaluated the circumstances relevant to Officer A's lethal use of force. The BOPC determined that Officer A had sufficient reason to believe that it was necessary to protect the officers' safety from the immediate threat of death or serious bodily injury. It was reasonable for Officer A to fire a service pistol through the front windshield of the vehicle to address the immediate threat that the subject posed.

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