

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

OFFICER-INVOLVED SHOOTING – 107-07

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Newton	12/14/2007		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	17 years, 1 month

Reason for Police Contact

Officers A and B pursued a stolen vehicle. During the pursuit, Subject 2 fired a pistol at the officers. At the conclusion of the pursuit, Subject 2 pointed the pistol at Officer A. Officer A then shot Subject 2.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject 2: male, 18 years of age.			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate the 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 9/30/08.

Incident Summary

Officers A and B were conducting patrol duties in a marked police vehicle. They observed a vehicle stopped in a left turning lane, with its left turn signal activated.

Officers A and B observed two occupants, Subject 1 (driver) and Subject 2 (front seat passenger), in the vehicle. As Officers A and B continued past the vehicle, Officer B observed Subject 1 abruptly turn right from the left turning lane and drive away from the officers. Officer A queried the vehicle's license plate for wants or warrants, using the police vehicle's Mobile Digital Computer (MDC).

Officer B negotiated a U-turn to investigate the observed traffic violation and followed Subject 1's vehicle. Meanwhile, the MDC revealed that the vehicle was stolen. Officer A broadcast this information and requested a back-up unit and an air unit.

Subject 1 drove at the speed limit, but would activate his vehicle's turn signal then go the opposite direction. While waiting for the arrival of the air unit and additional unit, Officer B continued to follow Subject 1's vehicle without activating overhead lights or sirens.

Air unit Officers C and D arrived and advised Communications Division (CD) that they were overhead monitoring the vehicles. Officer D began to broadcast the vehicles' direction of travel.

Officers E and F joined the primary unit and Officer A broadcast that they were going to attempt to stop the subject's vehicle. Officer B activated the police vehicle's emergency lights and sirens. Officer E also activated his emergency lights. As soon as the lights and sirens were activated, Subject 1 began to accelerate. Officer A broadcast that Officer A and B's unit was now in pursuit of the vehicle.

Note: This broadcast was not received by CD.

As the officers continued to follow Subject 1's vehicle, driving at speeds of approximately 40 to 50 miles per hour, Officers A and B observed Subject 2 lean out of the front passenger window, point a gun toward the police vehicle and fire rounds. Officers A and B heard the gunshots, saw muzzle flash and a cloud of smoke from the front passenger side of Subject 1's vehicle.

Officer A advised CD that shots had been fired. After hearing the gunshots, Officers A and B drew their service pistols. The pursuit continued, and Subject 1 drove toward a recreation center. Subject 1 turned into the recreation center, where he stopped his vehicle.

Officer B stopped the police vehicle behind Subject 1's vehicle. Officers A and B exited their vehicle and positioned themselves behind the door panels for cover. Officer E parked his vehicle behind Officer B's vehicle and exited along with Officer F. Officers E and F drew their pistols and positioned themselves at their vehicle's door frames.

Subject 2 opened the front passenger door and exited with a pistol in his right hand. Officers A, B and E saw Subject 2 turn his body in a clockwise motion and point his pistol toward Officer A. In response, Officer A fired three pistol rounds, striking Subject 2 on his left hand and his left leg. Subject 2 then fell to the ground.

Officer B observed Subject 1 seated in the driver's seat with his hands up and ordered him out. Once Subject 1 exited the vehicle, Officer B directed him to lay on the ground. Officer B, along with other officers who had arrived at the scene, approached Subject 1 and took him into custody without incident. Officer A continued to cover Subject 2 as

Officer E approached Subject 2 and handcuffed him. After Subject 2 was handcuffed, the officers holstered their pistols.

Officer B broadcast that the subjects were in custody. A Rescue Ambulance (RA) was requested for Subject 2.

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, B, E and F's tactics to warrant a tactical debriefing.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A, B, E and F'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. The investigation revealed that the CD tape did not capture the initial vehicle pursuit broadcast made by Officer A. Additionally, none of the responding officers reported hearing a vehicle pursuit broadcast over the frequency.

Although the air unit had assumed broadcasting responsibilities, Officer A was responsible for ensuring that CD received the initial vehicle pursuit broadcast.

2. Officer B elected to draw his service pistol while driving and still engaged in the vehicle pursuit.

Although the potential for an accidental discharge is a concern, the life-threatening actions of the subject firing at the officers created the circumstance wherein Officer B's ability to protect himself from any further deadly assault took precedence.

The BOPC found Officers A, B, E and F's tactics to warrant a tactical debrief.

B. Drawing/Exhibition/Holstering

The BOPC evaluated the circumstances relevant to Officers A, B, E and F's drawing and determined that in each instance 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, B, E and F'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 Officers A and B from the immediate threat of death or serious bodily injury.

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