

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

OFFICER-INVOLVED SHOOTING – 111-06

<u>Division</u>	<u>Date</u>	<u>Duty-On () Off(X)</u>	<u>Uniform-Yes() No(X)</u>
Foothill	12/18/2006		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Detective A	10 years, 7 months

Reason for Police Contact

Off-duty Detective A became involved in a “road rage” incident with passengers of a vehicle. After Detective A contacted the area police station for assistance, he followed the vehicle until it stopped in front of a residence. One of the vehicle’s occupants exited, retrieved a handgun, and fired at Detective A, who fired several shots in response.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
Subject 1: Male, 20 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 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 BOPC 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 10/30/07.

Incident Summary

Detective A was driving home in his privately owned vehicle, dressed in sweatpants, a tee shirt and a sweatshirt. He was not wearing or displaying any items that would have made him readily recognizable as a police officer.

As he attempted to make a turn at an intersection, Detective A was cut-off by a vehicle that failed to stop for a red tri-light traffic signal. Detective A had to abruptly apply his vehicle’s brakes in order to avoid a collision. As he applied his brakes, Detective A also honked his vehicle’s horn.

The vehicle in question had four to six occupants. Several of the occupants responded to the honk by yelling expletives and making obscene finger gestures and what Detective A believed to be gang signs. Detective A formed the opinion he was dealing with a group of gang members and responded by yelling an obscene remark through the open window of his vehicle.

Detective A sped up to get away from the vehicle and its occupants. He looked over his shoulder as he was pulling away and observed one of the occupants throw what appeared to be a full can of beer at his vehicle. The can did not strike his vehicle. At that point, Detective A reached down and started looking for his cellular telephone in order to call for assistance.

As Detective A prepared to use his telephone, the vehicle pulled up alongside his vehicle. In order to protect himself, Detective A removed his service pistol from a holster that was under a bag on his front passenger seat. Because of a slow moving vehicle to his front, Detective A had no readily available avenue of escape. The occupants of the vehicle were still yelling expletives at Detective A. Detective A pointed his pistol toward the passenger door just below the window jam. Apparently having observed the detective's pistol, the occupants of the vehicle ducked and the vehicle swerved and accelerated away.

Detective A called the Area Detective Desk and reached Police Service Representative (PSR) A. Detective A informed PSR A of his circumstances and requested assistance from area police officers. Detective A advised PSR A of his location, provided a description of his vehicle, the other vehicle and its occupants, and a brief narrative of the type of crime he believed had been committed. PSR A relayed this information to Department patrol personnel who began to respond to Detective A's location.

According to Detective A, his intention was to safely trail the vehicle and serve as a witness until patrol personnel arrived on scene. Detective A attempted to maintain a distance between his vehicle and the vehicle he was following. Detective A lost sight of the vehicle several times. Detective A believed that the distance he had created would make the occupants of the vehicle feel less threatened and provide him with a margin of safety.

Detective A continued to follow the vehicle as it drove into a residential area and stopped in front of a residence. The stop caught Detective A by surprise, and he stopped his vehicle. Several of the vehicle's occupants exited. One occupant (Subject 1) went to the front porch area of the residence, bent over, and retrieved a holster that contained a revolver.

As this was unfolding, Detective A determined he was at a tactical disadvantage and needed to create space between himself and the subject. Detective A then saw Subject 1 walking towards him with the handgun. With his own handgun still in his hand,

Detective A attempted to shift his vehicle into reverse. Detective A inadvertently placed the vehicle in neutral and was unsuccessful in attempting to back up.

Meanwhile, Subject 1 removed the handgun from its holster and fired one round at Detective A. The round penetrated the front of Detective A's vehicle and disabled it. Fragments resulting from the round's impact struck Detective A, causing a minor abrasion to his wrist.

Detective A exited his vehicle and, standing behind the open driver's door of his vehicle, fired six successive rounds at Subject 1 who, still holding the handgun and looking back over his shoulder at Detective A, was now running away. None of the rounds fired by Detective A struck Subject 1.

With his vehicle now disabled, Detective A abandoned it and took cover behind a pickup truck parked at the curb.

As Detective A was awaiting the arrival of Department personnel, Witnesses 1 and 2 walked out of the residence and asked Detective A if he was the police. Detective A replied with an expletive.

Department personnel arrived and a perimeter was established. Subject 1 was subsequently located and detained.

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 Detective A's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC found Detective A's drawing to be out of policy, warranting administrative disapproval.

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that Detective A observed a vehicle that failed to stop for a red tri-light traffic signal. In order to avoid a traffic collision, Detective A applied his brakes and simultaneously honked his vehicle horn. When Detective A's vehicle was adjacent to the vehicle, its occupants yelled expletives, made obscene hand gestures and displayed what he believed to be gang signs. Detective A responded by yelling an obscene remark through the open window of his vehicle.

The BOPC noted that Detective A's confrontational demeanor escalated the situation. Directly following the verbal dispute, the occupants of the vehicle proceeded to throw items at Detective A's vehicle. Detective A accelerated past the vehicle, retrieved his cellular phone and called directly to the Area Detective Desk. Detective A spoke to PSR A, identified himself and reported his status and location. The BOPC noted that phoning the Area Detective Desk was problematic as PSR A was not equipped with an radio and could only broadcast over the police station's internal intercom. Detective A should have called 911, which would have put him in contact with a police dispatcher and prevented any delay in dispatching help to the detective.

As Detective A continued driving, the vehicle accelerated and pulled up alongside the passenger side of his vehicle. Detective A drew his service pistol that was secured in a holster concealed underneath a bag on the front passenger seat, extended his arm across his passenger seat and pointed the service pistol toward the passenger door just below the window jam. It was evident the occupants of the vehicle observed Detective A's service pistol as the vehicle immediately swerved away from Detective A's vehicle and accelerated while all of the passengers ducked down.

Once Detective A deemed the immediate threat was over, he placed his pistol under his leg. It would have been safer had Detective A secured his service pistol back in its holster, thereby minimizing the risk of a negligent discharge.

Detective A followed the vehicle. It would have been tactically prudent for Detective A to have stopped his vehicle, allowed the subjects to continue forward and waited for the arrival of responding personnel.

Detective A then observed the vehicle parked in the roadway. Detective A immediately stopped his vehicle, and three individuals, including Subject 1, exited. Detective A retrieved his service pistol from underneath his leg and observed Subject 1 run to the front porch of a residence. Subject 1 crouched down with his back to Detective A as if retrieving something. Subject 1 then stood up and walked directly toward Detective A while holding a holstered handgun in his hand. Detective A attempted to place his

vehicle in reverse; however, he attempted to simultaneously manipulate the gear shift and hold his service pistol. Operating a motor vehicle with a service pistol in hand could increase an officer's chance of having a negligent discharge.

As he placed his foot on the gas pedal, he heard his engine rev and believed that he had inadvertently placed the vehicle in neutral rather than reverse. The BOPC was concerned that Detective A remained in his vehicle once he observed Subject 1 advancing toward him with a handgun. Detective A should have exited his vehicle and prepared for a potential confrontation with an armed subject.

The BOPC was highly critical of Detective A's apparent inability to control his emotions as the incident unfolded. As a police officer, he failed to remain objective and tactically assess the situation. He determined the subjects were possible gang members and observed a minimum of four occupants. At every intersection he made a conscious decision to continue to follow the subjects without resources such as a partner, vest, handcuffs, radio, or less lethal options.

The tactical errors made by Detective A compounded to make his performance seriously deficient.

The BOPC found Detective A's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC noted that, after avoiding a traffic collision with a vehicle, the vehicle's occupants threw items at the detective's vehicle and displayed what he believed to be gang signs. Detective A attempted to accelerate away; however, simultaneously an uninvolved vehicle in front of him unintentionally blocked his avenue of escape and the vehicle approached on the passenger side of his vehicle. Fearing the subjects may again throw items at his vehicle, and feeling he had no avenue of escape, Detective A drew his service pistol.

The BOPC noted that Detective A became involved in a road rage incident with possible gang members wherein he was a victim of an assault; however, the BOPC did not believe that the items thrown at him constituted a deadly weapon. In addition, the BOPC determined that Detective A's failure to properly assess the situation and his alternatives led to the unnecessary and premature drawing of his service pistol. The BOPC concluded that Detective A's basis for drawing his service pistol was not reasonable and that there was insufficient information to believe the situation may escalate the point where deadly force may become necessary.

The BOPC found Detective A's drawing to be out of policy, warranting administrative disapproval.

C. Use of Force

The BOPC noted that, as Subject 1 walked directly toward Detective A's vehicle, he did so holding a holstered handgun. Subject 1 pulled the handgun out of the holster, pointed it at Detective A and fired one round at him as he was seated inside of his vehicle attempting to place it in reverse. Detective A exited his vehicle and took a position behind his vehicle door. Subject 1 ran away from Detective A while looking over his shoulder and pointing the handgun at Detective A. Believing Subject 1 may fire a second round and fearing for his safety, Detective A fired six rounds at Subject 1.

The BOPC determined that Detective A reasonably believed that Subject 1 presented an immediate threat of serious bodily injury or death.

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