

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

OFFICER-INVOLVED SHOOTING – 117-05

| <u>Division</u> | <u>Date</u> | <u>Duty-On(X) Off()</u> | <u>Uniform-Yes() No(X)</u> |
|------------------------|--------------------|--------------------------------|-----------------------------------|
| Wilshire | 12/29/2005 | | |

| <u>Involved Officer(s)</u> | <u>Length of Service</u> |
|-----------------------------------|---------------------------------|
| Sergeant A | 18 years, 9 months |
| Officer A | 9 years, 8 months |

Reason for Police Contact

Officers noticed a male subject spraying graffiti onto a wall. As the officers approached the Subject, he fired multiple rounds at the officers, which resulted in an officer-involved shooting.

| <u>Subject(s)</u> | <u>Deceased ()</u> | <u>Wounded ()</u> | <u>Non-Hit ()</u> |
|--------------------------|----------------------------|---------------------------|---------------------------|
| Subject, male 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 BOPC 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 December 5, 2006.

Incident Summary

Sergeant A, Sergeant B and Officer A were riding in an unmarked minivan and wearing plainclothes when they noticed a male (the Subject) spraying graffiti onto a wall near an intersection.

Officer A drove toward the Subject and angled the minivan, with the headlights directly aimed at the Subject. Officer A pulled to a stop near the curb and Sergeant B exited the minivan. Within seconds, the Subject stopped spraying graffiti, turned toward the officers' vehicle, and reached toward his waistband with both hands. Sergeant B immediately moved toward a light post and drew his pistol.

Officer A saw the Subject take an object out of his pocket and point it in the direction of the officers. Sergeant A and Officer A then both saw muzzle flash and heard gunshots coming from the Subject.

Officer A then heard the Subject fire another round at the officers and saw muzzle flash coming from the Subject's position. Officer A, who remained at the driver's side door of the minivan, fired two rounds at the Subject. The Subject ran to a truck that was parked along the curb and moved to the passenger side of the truck, opened the passenger-side door, and crouched down behind it. Officer A had moved behind the open front driver's side door of the minivan for cover. The Subject then fired approximately two more rounds from his position. In response, Officer A fired approximately four more rounds at the Subject, who got into the truck. As the truck went past Officer A's position, Officer A observed two muzzle flashes and heard two loud pops coming from the passenger compartment. In response, Officer A fired three to four additional rounds directly at the area where the muzzle flashes were seen. Officer A saw the driver and a passenger crouched down. As the truck went past Sergeant A's position, he heard approximately four shots. In response, Sergeant A fired three rounds at the Subject. The truck drove away, so Sergeants A and B and Officer A all got back into their minivan in an attempt to pursue the truck, but the officers lost the truck and the subjects were not apprehended.

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 Sergeants A and B's tactics to warrant administrative disapproval. The BOPC found Officer A's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

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

C. Use of Force

The BOPC found Officer A's use of force to be in policy. The BOPC found Sergeant A's use of force to be in policy for rounds one and two. The BOPC found Sergeant A's use of force to be out of policy for rounds three, four and five.

Basis for Findings

A. Tactics

The BOPC noted that upon making the decision to contact the Subject, the officers did not discuss a tactical plan on how they would approach and deploy upon the Subject. In addition to driving an unmarked minivan, the officers were attired in plainclothes, were not wearing Department raid jackets, and did not have their badges visible. Upon stopping the Subject, none of the officers verbally identified themselves as police officers. Additionally, the BOPC noted that after the initial confrontation when the Subject ran to the pickup truck and entered it, Officer A moved from his position to the front of the unmarked minivan. This movement eliminated Officer A's cover and also resulted in Officer A being illuminated by the minivan's headlights. The BOPC determined that it would have been tactically safer for Officer A to deploy to the rear of the minivan, which would have afforded Officer A cover. The BOPC was also critical of Sergeants A and B's decision to approach the Subject. The BOPC further noted that both Sergeants A and B were aware they were in an area frequented by gang members and that graffiti subjects are known to carry weapons. They were not clearly identifiable as police officers, which placed them at a tactical disadvantage and could have resulted in them being misidentified by the subjects. Finally, the BOPC noted that as the ranking officers present, Sergeants A and B, were ultimately responsible for any decisions that were made.

The BOPC found Sergeants A and B's tactics to warrant administrative disapproval. The BOPC took into consideration that Officer A's first month of a loan to the unit and found Officer A's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC noted Sergeant B drew his service pistol upon observing the Subject reaching into the front of his waistband with both hands.

The BOPC noted Officer A drew his service pistol after he observed the Subject fire his handgun.

The BOPC noted Sergeant A drew his service pistol when he observed the Subject point his firearm in Officer A's direction.

BOPC determined that, on all of the above occasions, it was reasonable for Sergeants A and B and Officer A to believe the situation might escalate to the point where deadly force was necessary, and found all three of the officers' drawing and exhibition of a firearm to be in policy.

C. Use of Force

The BOPC noted Officer A fired a total of nine rounds at the subjects when he heard shots and saw muzzle flashes from the Subject's position. The BOPC determined that Officer A had sufficient information to believe the subjects presented an immediate threat of serious bodily injury or death and found Officer A's use of deadly force to be in policy.

The BOPC noted Sergeant A fired two rounds when Sergeant A observed the Subject running with his arm pointed toward Officer A and heard a shot being fired. The BOPC determined that Sergeant A's use of deadly force to be in policy for rounds one and two.

The BOPC noted that Sergeant A fired additional three rounds when he observed the Subject's vehicle pass by his location. The BOPC determined that, at that time, that there was no immediate threat of serious bodily injury or death. The BOPC found Sergeant A's use of force to be out of policy, warranting administrative disapproval for rounds three, four, and five.