

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

**OFFICER INVOLVED SHOOTING – 026-16**

**Division                      Date    Duty-On (X) Off ( ) Uniform-Yes ( ) No (X)**

77th Street                      4/29/16

**Officer(s) Involved in Use of Force                      Length of Service**

Officer A    8 years, 3 months

**Reason for Police Contact**

Officers A and B were driving eastbound, approaching an intersection, when Officer A observed a male subject with a handgun shooting at another male, which resulted in an officer-involved shooting (OIS).

**Subject(s)    Deceased ( )    Wounded ( )    Non-Hit (X)**

Subject: Male, 23 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 subject 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 March 14, 2017.

## **Incident Summary**

Officers A and B were conducting an investigation unrelated to the OIS. The officers were driving a plain vehicle, equipped with a radio; however, it was not equipped with forward facing emergency lights, siren, or ballistic door panels.

Officers A and B completed their investigation and were driving eastbound in the number two lane of traffic, approaching an intersection. According to Officer A, the officers were stopped for the red tri-light signal behind five to ten cars.

Officer A observed a group of approximately five people involved in a fight near Subject 2's vehicle, parked along the south curb and west of the intersection.

**Note:** According to Officer B, he observed a group running around, back and forth, in the area of the gray vehicle.

Officer A observed a male, Subject 1, wearing a gray long sleeve shirt, run northbound through traffic. Officer A then re-directed his attention back toward the group by the gray vehicle and observed a male wearing a dark jacket, Subject 2, standing by the front passenger door.

**Note:** According to Officer B, he observed Subject 1 running northbound across the street, armed with a handgun. Officer B could not describe the handgun; however, he stated Subject 1 held the handgun in both hands pointed north. Officer B described Subject 1 as a male, six feet tall, wearing a red shirt with a yellow circular design, and dark pants. Officer B was the only witness who observed Subject 1 in possession of a handgun; however, no handgun related to Subject 1 was recovered.

Officer A observed Subject 2 with his arms extended outward, holding what he can only describe as being a pistol, pointed at a male, later identified as Victim A, who was wearing a red jacket. According to Officer A, Victim A was standing on the south sidewalk, east of the gray vehicle and also observed people standing in the background behind Victim A.

**Note:** According to Officer B, he redirected his attention to the parked vehicles and observed Subject 2 exit the driver's side door of the gray vehicle. Subject 2 ran around behind the vehicle; he then observed Subject 2 in a squatted position by the passenger door of the gray vehicle. Subject 2 was facing east with both hands outstretched. Officer B described Subject 2 as a male, five feet, seven inches tall, 18 to 23 years old, wearing a blue jacket and dark colored pants.

As Officer A was exiting the driver's door of the police vehicle, he heard two to three gunshots and observed Victim A bent over at the waist with both hands in front of his body. According to Officer A, he knew that Subject 2 was shooting, and in his mind, believed that he was shooting to kill Victim A.

**Note:** According to Officer B, he opened and exited his front passenger door and took a position of cover between the door and the frame of the vehicle. Officer B unholstered and pointed his pistol in the direction of Subject 2. Officer B observed Subject 2's hands recoil as if firing a handgun; however, he did not see a handgun at that moment.

Officer A unholstered his weapon and stood between the open door and the police vehicle. According to Officer A, he reacted immediately to defend the life of Victim A, which is when he tried to stop the threat. Officer A aimed at Subject 2's upper torso area and fired two rounds from his pistol in a southeast direction.

According to Officer A, the threat was imminent, and he did not have time to communicate with his partner or identify himself as a police officer. Regarding his background, Officer A stated that he believed Subject 2 was going to kill someone directly in front of him, and he needed to take action to stop the threat.

**Note:** According to Officer B, he was not aware that his partner fired his pistol. When Officer B heard gunshots, his attention was divided between Subject 1, who was still standing in the traffic lanes, and Subject 2, who was in front of his vehicle. Officer B was not able to distinguish who fired the shots.

According to Witness B, he was working nearby when he observed a tan vehicle stop eastbound behind a white vehicle. A male, wearing a red or blue jacket, exited the passenger side of the tan car, and fired a handgun three times at the white car. The officers arrived and stopped their plain undercover police car behind the tan car. Two police officers gave the male commands to drop his weapon, or to stop. The officers fired two to three rounds at the person shooting at the white car.

**Note:** The investigation determined that Officer A was the only officer to fire his weapon. Neither Officer A or B indicated they gave commands.

After Officer A fired his pistol, he observed Subject 2 crouch down and enter the gray vehicle through the front passenger door. As Subject 2 was preparing to enter the vehicle, Officer B observed Subject 2 with a black handgun, and entered the driver's door. Victim A and the group of bystanders fled the area. Officer A lost sight of Subject 1 as he ran northbound. Officer B last recalled Subject 1 fleeing in a southeast direction.

When Officer A observed the brake lights illuminate on the gray vehicle, he holstered his pistol in anticipation that the vehicle would be driven away.

Officer B holstered his pistol and broadcast over the police radio that shots had been fired and provided his location.

**Note:** Although Officer A believed Victim A was struck by gunfire, a Rescue Ambulance (RA) was not requested. According to Officer A, he did not know what had happened to Victim A because he was focused on Subject 2, who had fled in the gray vehicle. Officer B did not observe Victim A.

Communications Division (CD) broadcast a help call over the police radio.

**Note:** Officer B broadcast his unit was following a vehicle related to a “shots fired” call. CD later in the update broadcast indicated the vehicle was related to an ADW (Assault with a Deadly Weapon) call.

Subject 2’s vehicle travelled fled eastbound, and Officers A and B entered their vehicle and followed. As the vehicle turned and travelled westbound, Officer B provided CD with the vehicle description and license plate information.

**Note:** Officer B continued broadcasting the officers’ direction of travel until the arrival of an Air Unit; however, Officer B did not advise CD about the existence of Subject 1, that he was armed with a firearm, or his direction of travel as he fled on foot. No request was made to have a unit respond to the OIS location to check for gunshot victims. Officers A and B focused on the vehicle’s route of travel and did not discuss tactics.

The vehicle continued driving, and Officer B broadcast that the vehicle had one occupant. Officers A and B believed that Subject 2 was driving the car.

Air Support Division (ASD) arrived overhead and assumed responsibility for broadcasting the vehicles’ direction of travel. Officers A and B continued to follow the vehicle from a distance of two to three car lengths at a maximum speed of 35 miles per hour (MPH).

ASD observed the vehicle stop mid-block, and then that Subject 2 exited the driver’s door, ran northbound to the rear of a residence, and then over a fence into a rear yard of another residence. ASD broadcast that officers had arrived at the location, provided a description of Subject 2, and requested containment to be set up by responding units.

Officers A and B parked approximately three houses east of the vehicle, facing westbound. The officers unholstered their firearms, approached and cleared the vehicle from the driver’s side. Officers A and B holstered their firearms upon clearing the vehicle. Officers A and B took a position of cover and maintained their position on the perimeter.

Air Support directed Officers C and D to the midblock and advised them that Subject 2 was in the rear yard of an off-white, two-story complex. Officers E and F responded and parked behind Officers C and D’s vehicle. Officers C and D exited their vehicle, unholstered their firearms and took cover behind the vehicle. The officers pointed their

weapons in the direction of the residence, and held them at a low-ready position. Officer C observed Witness B seated on a chair on the porch of that residence and told him to go inside.

As Officers E and F exited their vehicle, Officer E deployed his Department-issued rifle in a slung position. Officer F unholstered his pistol, held it in a low-ready position, and took cover behind a nearby tree.

Sergeant A arrived at Officers A and B's location, and Officer A informed him that he was involved in the OIS. It was at this time that Officer B discovered that his partner was involved in an OIS. Sergeant A then requested that CD assign a unit to check the OIS scene for a shooting victim.

Sergeant A obtained a Public Safety Statement (PSS) from Officer A and monitored him until he was relieved. Sergeant B responded and declared himself the Incident Commander.

Officer E observed Subject 2 crouched down on the porch of a residence and advised the other officers of Subject 2's location. Officer E gave Subject 2 commands to exit the porch area. Subject 2 raised his hands and complied with the commands. When Subject 2 reached the sidewalk, Officer C holstered his firearm and directed Subject 2 into a prone position on the sidewalk. The other officers provided cover for Officer C to handcuff Subject 2. Once Subject 2 was taken into custody, he was placed inside Officer C's vehicle. Upon clearing the yard, the officers holstered their firearms, and Officer E downloaded and secured his rifle in his police vehicle.

**Note:** Officer D located Subject 2's blue and gray sweater on the porch.

Officers G and H responded to assist with the help call and perimeter. The officers were subsequently flagged down by Witness C, who pointed to a handgun on the south side of the street in front of a residence. Witness C advised the officers that the handgun was thrown from the driver's side of a car, later identified as Subject 2's vehicle, as it passed his residence. Witness C was unable to see the occupant inside the vehicle. The officers secured the area of the handgun and broadcast their location.

**Note:** Officer B participated in a Field Show Up and identified Subject 2 as being the person he previously observed with a handgun and fleeing the scene in the vehicle.

Police Officers I and J were traveling northbound on the freeway when they were flagged down by Victim B, who told the officers that her boyfriend, Victim A, who was in the front seat of the vehicle, had been shot. The officers observed Victim A seated in the passenger seat holding his right knee. It appeared he had sustained a gunshot wound.

The officers requested a Rescue Ambulance (RA) for Victim A. They also observed a bullet impact to the rear of the vehicle, an impact on the passenger door, and an impact to the right front tire.

**Note:** Officers I and J received information from Victim B where the shooting took place. Los Angeles Fire Department (LAFD) Firefighter/Paramedics arrived at scene and transported Victim A to a local hospital.

**Note:** Paramedic A was told by Victim A that he was involved in a traffic accident and, as he exited his vehicle, he observed two males in the vehicle. According to Victim A, one of the males tried to snatch his chain and then he heard a shot.

As officers drove Victim A's vehicle off the freeway, they observed a handgun under the driver's seat.

**Note:** Neither Victim A or B advised any of the officers regarding the handgun inside the vehicle. Officers monitored the vehicle until FID Detectives arrived.

Force Investigation Division responded to the location and interviewed Victim B who stated that earlier in the day, she and Victim A had gone to look at bracelets. They left together and when Victim B drove away from shopping center, she felt a vehicle hit her car from the rear. Victim B immediately pulled over to the south curb and Victim A exited the front passenger seat to check for damage.

Victim B never exited her vehicle and watched through the rear-view mirror. A male wearing a red shirt approached Victim A and attempted to grab his necklace. They both began fighting and she heard a gunshot. Victim B ducked down and Victim A entered her vehicle. Victim A told her that he had been shot and to drive him to the hospital. Victim B pulled over on the freeway after noting that she had a flat tire and subsequently flagged down a police car.

Officers K and L were on the OIS perimeter when a citizen approached Officer K and told him that someone (Subject 1) was hiding in a truck next door to his residence. Officer K walked to look at the pick-up trucks parked in the driveway of a residence and observed Subject 1 standing by one of the trucks, wearing an orange traffic vest and underwear.

Despite no supplemental information being broadcast about a second Subject, Officer K believed that, because Subject 1 had stripped down to his underwear, was hiding near the truck, and was inside an active search perimeter, he might be involved in the "shots fired" broadcast. Officers K and L took cover behind the vehicles parked on the south side of the street and unholstered their firearms to a low-ready position. Officer K gave Subject 1 commands to exit the driveway and to prone himself out on the sidewalk.

According to Officer L, once Subject 1 was prone out, Officer K holstered his firearm, approached, and handcuffed Subject 1 while he acted as the cover officer.

Officer L broadcast that he and his partner had taken Subject 1 into custody and requested the location of the OIS Command Post. Officer K searched the pick-up trucks at the location and recovered Subject 1's clothing. Subject 1 spontaneously stated he was a victim of the shooting. When Officer K asked Subject 1 what he was doing there, Subject 1 told him that he was the driver of a vehicle that was involved in a traffic accident, and became involved in a fight with the other occupant of the accident. The person he fought had a gun in his waistband, and Subject 1 became frightened, so he ran northbound. Subject 1 heard gunshots behind him and was able to see a police officer had arrived and possibly fired his firearm. According to Subject 1, the officer saved his life. Subject 1 was subsequently transported to the Command Post, then to the 77th Street station.

**Note:** Officers K and L stood by the rear driver's passenger door without knowledge regarding the OIS and attempted to ascertain if Subject 1 was a victim or witness to the incident. The officers advised Subject 1 several times that officers would speak with him; however, Subject 1 continued to provide statements without questions being asked of him by the officers. This was captured in the officers' Digital In-Car Video System (DICVS).

Additional officers went to the hospital and met with Victim A for an interview. According to Victim A, he and Victim B were shopping when he observed two people (later identified as Subjects 1 and 2) by the jewelry area, and they appeared to be looking at the gold necklace he (Victim A) was wearing. When Victim A and his girlfriend (Victim B) left from shopping, it appeared that Subjects 1 and 2 were following them. Victim A observed Subject 1 get into a vehicle, while Subject 2 continued to follow him. Victim A entered their car (with Victim B) and they drove east, but did not discuss being followed. As they drove a short distance, they were hit from behind. Victim B pulled over to the south curb, and Victim A placed an air soft gun in his waistband. Victim A exited the front passenger seat to find out what had happened. Victim A immediately recognized Subject 1 from the shopping area as Subject 1 exited the driver's door of his vehicle. Subject 1 approached him and attempted to grab the gold chains around his neck. Victim A grabbed Subject 1's hands to keep him from grabbing his gold chains and, as they both struggled with each other, the air soft gun in his waistband began to fall out. When Victim A grabbed his air soft gun to keep it from falling, Subject 1 turned and ran northbound across the street. Victim A then observed Subject 2 exit the front passenger door of the vehicle, holding a gun. As Victim A turned and ran toward Victim B's vehicle, Subject 2 shot at him, striking his right knee. Victim A stayed low in the vehicle to keep from getting struck by additional gunfire, and told Victim B to drive him to the nearest hospital.

**Note:** Victim A stated he carried the air soft pistol because he had been a victim of several robberies and believed it would deter anyone from robbing him.

## **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 whose 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 exhibiting of a firearm 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 its analysis of this incident, the BOPC noted the following tactical considerations:

#### 1. Tactical Communications

Officers A and B did not discuss tactics prior to initiating contact with an armed suspect and did not communicate with one another on multiple occasions throughout the incident.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, the officers each had a different perspective of the incident and had enough time to communicate their observations to one another. As a result of their



inability to effectively communicate, they were unaware of each other's actions and Officer B did not know that Officer A had been involved in an OIS.

Based on the totality of the circumstances, the BOPC determined that Officer A and B's actions were not a substantial deviation, without justification, from approved Department tactical training.

## 2. Help Call

Officers A and B did not broadcast a Help Call after observing an ADW shooting in progress.

Although officers are given discretion regarding the appropriate time to broadcast a request for resources based on the ongoing tactical situation, it would have been tactically prudent for the officers to broadcast a "Help Call" when they observed that the Subject was armed with a handgun in order to alert responding personnel of the seriousness of the incident.

## 3. Utilization of Cover

After Officers A and B cleared the Subject's vehicle, they left cover and subsequently remained in the open as they waited the arrival of additional units.

The utilization of cover enables an officer to confront an armed Subject while simultaneously minimizing exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options.

These topics will be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:

### 1. Broadcasts

The investigation revealed that neither officer requested a RA for a possible victim of a shooting, despite believing Victim A had been struck by gunfire. Although it was determined that Victim A fled the scene and had been driven away from the scene by his girlfriend (Victim B), Officers A and B are reminded that no arrest, conviction, or piece of evidence can outweigh the value of human life.

- 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, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Each tactical incident merits a comprehensive debriefing. In this case, the BOPC determined that Officer A and B's tactics warranted a Tactical Debrief.

## **B. Drawing/Exhibiting**

- According to Officer A, he observed Subject 2, standing on the passenger side of a vehicle that was parked in the street next to the east curb, with his arm extended, holding a gun. Based on his observations, he immediately placed the vehicle in park, opened his door, and stepped out of the vehicle to investigate. As Officer A stepped out of the vehicle, he heard two to three shots and immediately drew his service pistol.

According to Officer B, he observed Subject 1 run north across the street, while armed with a firearm, and heard the sound of gunfire. As Officer B exited the vehicle, he drew his service pistol.

Based on the totality of the circumstances, the BOPC determined that officers 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.

Therefore, the BOPC found Officers A and B's drawing and exhibiting of a firearm to be in policy.

## **C. Lethal Use of Force**

- **Officer A** – (pistol, two rounds)

According to Officer A, he observed Subject 2 firing his handgun at Victim A. Based on Victim A's reaction, Officer A believed that Victim A had been struck by the gunfire. After the shots, Officer A observed Subject 2 continuing to point his handgun at Victim B. Fearing that Subject 2 was about to kill Victim A, he fired two rounds at Subject 2 to stop the deadly attack.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe that Subject 2's actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would be objectively reasonable to address this threat.

Therefore, the BOPC found Officer A's use of lethal force to be objectively reasonable and in policy.