

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

OFFICER-INVOLVED SHOOTING – 003-07

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes() No(X)</u>
Northeast	01/05/2007		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	10 years, 1 month

Reason for Police Contact

Officers A and B, dressed in plainclothes, observed Subject 1 driving erratically and believed Subject 1 may have been in a stolen vehicle. Officers A and B then observed Subject 1 getting in and out of his vehicle armed with a gun. When Subject 1 walked toward Officer A brandishing a gun, Officer A fired two rounds at Subject 1.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
Subject 1: Male, 32 years.			

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 12/04/07.

Incident Summary

Vice Officers A and B were monitoring vice-related activity. They were wearing plainclothes and driving a plain vehicle.

Officers A and B observed a black vehicle pass their own vehicle at a high rate of speed. Officers A and B decided to contact Communications Division (CD) for a wants and warrant check of the vehicle's license plate. CD advised that there were no wants

or warrants on the vehicle. The driver, Subject 1, continued driving in a “stop-and-go type action” as the officers followed.

Officer B believed that Subject 1 might be driving an unreported stolen vehicle or have committed a crime. Subject 1 then entered the left turn lane at an intersection and stopped at the green light. Officer B observed that Subject 1 appeared to watch Officers A and B in his rearview mirror. Subject 1 then parked at the curb after he turned left and glanced back at Officers A and B in his rearview mirror.

As the officers drove past Subject 1 when the light turned green, Officer B saw the driver’s side window down, and saw what he believed to be the barrel of a handgun adjacent to the window sill. Subject 1 then began following the officers, and then Officer A also thought he saw a gun.

After passing Officers A and B, Subject 1 stopped his vehicle mid-block and looked in the officers’ direction. Subject 1 then took out a black semi-automatic handgun, within the officers’ view. After seeing Subject 1 with the gun, Officer B stopped their vehicle behind Subject 1’s vehicle. Officers A and B unholstered their weapons, opened their doors and took cover behind their vehicle doors. Subject 1 was yelling unintelligibly as he displayed his pistol. Officers A and B verbally identified themselves as police officers and ordered Subject 1 to stop.

Subject 1 ignored Officers A and B’s commands, got back into his vehicle and resumed driving. Officers A and B followed Subject 1. Officer A made a series of broadcasts indicating they were a plainclothes unit, and requesting back-up, then assistance. He further provided the officers’ location and direction of travel. Officer A then broadcast that the incident involved the vehicle previously run for wants and warrants, provided a description of the vehicle’s color, model and make, and updated their direction of travel. Meanwhile, Sergeant A heard the broadcasts, and began driving towards the officers’ location to assist.

While driving, Subject 1 used his cellular telephone and called the residence of his friend, Witness A. Subject 1 told Witness A that he felt he was being followed by people who wanted to rob him. Subject 1 stopped his vehicle in front of Witness A’s residence. Officer B stopped the officers’ vehicle behind Subject 1’s vehicle.

Officers A and B then saw Subject 1 exit his vehicle and walk towards them with a handgun in his right hand, pointed in a downward position. Officers A and B drew their pistols and, from a seated position, took cover behind the doors of their vehicle. Officer B shouted “police,” and ordered Subject 1 to “put the weapon down.” Witness A heard one of the officers verbally identify themselves as “LAPD.”

Officer A exited the passenger’s side door and took cover between two cars parked at the west curb. Officer B then exited the police vehicle and sought cover at the rear of the police vehicle.

Subject 1 began walking on the sidewalk toward Officer A in an aggressive manner. Subject 1 then raised the handgun and pointed it in Officer A's direction. Officer A raised his pistol and fired one round in Subject 1's direction. Subject 1 continued advancing in Officer A's direction, which caused Officer A to believe that his round had not struck Subject 1. In response, Officer A fired a second round, which resulted in Subject 1 falling to the ground and simultaneously throwing the gun he was carrying.

Note: Subject 1 later told investigators that he exited his vehicle, walked towards his friend's residence, heard the gunfire and officers identify themselves as the "Police," and then direct him to "Get on the ground." Subject 1 was not struck by the officer's rounds. According to Witness 1, the officers "clearly identified themselves as LAPD officers" prior to the shots being fired.

Meanwhile, Officer B walked over to the left side of the vehicle, which Officer A was using as cover and heard Officer A directing Subject 1 to "Stop. Put your hands up. Get down on the ground." Officer B saw Subject 1 going down onto the pavement and then laying on his stomach. Officer B did not see Subject 1 throw the gun, and was unaware that he had done so.

Officer A broadcast, "Shots fired, officer needs help." Witness A heard three shots, crouched down and then ran towards his apartment. He said he also heard something hit the ground that "sounded metallic. I'm thinking a gun or a knife."

Officers A and B both ran over to where Subject 1 lay on the pavement. Officer A directed Officer B to handcuff Subject 1 while he covered Subject 1 with his pistol. Officer B reholstered his pistol and handcuffed Subject 1. Officer A broadcast, "Suspect in custody."

Meanwhile, Sergeant A arrived at a nearby intersection in an attempt to locate Officers A and B. He was contacted by a citizen who advised him that a shooting had just occurred in the vicinity. Sergeant A turned a corner and saw Officer A and B's vehicle.

Sergeant A stopped his police vehicle, exited, unholstered his pistol and took cover behind a parked car across from Officers A and B. Officer A advised Sergeant A that Subject 1 had been taken into custody and his vehicle had yet to be cleared.

Additional officers arrived on scene and were directed by Sergeant A to clear Subject 1's vehicle. The vehicle was checked and cleared. Sergeant A was then advised by Officer A that an officer involved shooting had occurred.

A search of the area where Subject 1 was last seen armed with the gun before being fired upon by Officer A resulted in the recovery of a loaded .45 caliber semi-automatic pistol inside Witness 1's front yard.

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 Officer A, B, and Sergeant A's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

- The BOPC found Officer A, B, and Sergeant A'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

The BOPC noted that once Subject 1 exited his vehicle and began walking toward the sidewalk, Officer A moved behind two parked vehicles to obtain better cover and still maintain view of Subject 1.

Prior to Officers A and B approaching Subject 1 to handcuff him, the officers communicated effectively and assumed proper contact and cover responsibilities. Once additional officers arrived to assist, a plan was developed and a search team was formed to clear Subject 1's vehicle. The vehicle was cleared, discovering no additional suspects. This reflected proper supervisory command and control and demonstrated the efficiency of responding officers.

After observing Subject 1 with a handgun, Officer A broadcasted a backup request and later upgraded the request to assistance. It would have been prudent for Officer A to have initially requested either assistance or help once Subject 1 was observed with a handgun.

Force Investigation Division detectives were unable to determine through officer interviews the exact location of the initial portions of the incident. For example, Officer A believed they were traveling on one of two streets, when it appeared through subsequent investigation that they were actually on a third street. Officers must be constantly aware of their location to ensure timely and accurate response of other units.

Officer A broadcast Subject 1's vehicle as one of two very different vehicles, a sedan or a Sport Utility Vehicle. Although the correct vehicle description was broadcast during a subsequent transmission, Officer A was reminded to accurately broadcast vehicle descriptions, which can increase the likelihood of recognition and apprehension by responding units.

After firing the second round at Subject 1, Officer A did not communicate the fact that Subject 1 had thrown his handgun over his shoulder. This created confusion, as Officer B was unaware of this fact when approaching Subject 1 to handcuff him. Officer A should communicate pertinent facts known regarding weapons to his partner.

After the shooting, Officer A thought it was important to approach Subject 1 and detain him. It may have been safer for the officers to remain at a safe distance while continuing to provide cover over Subject 1 until additional units arrived to assist. Subject 1's vehicle had not been cleared and Officers A and B were unaware if there were additional suspects within it.

Once Subject 1 had been handcuffed, Officer A broadcast "suspect in custody," prior to the vehicle being cleared of any potential additional subjects. It would have been tactically safer for Officers A and B to not have sent this broadcast until the vehicle had been cleared, thus ensuring that no additional subjects were inside.

The BOPC also noted it would have been prudent for the officers to have requested assistance as soon as Officer A observed what he believed was the barrel of a handgun.

The BOPC found that Officers A and B and Sergeant A's tactics to warrant divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officer A observed what he believed to be the barrel of a handgun being held by Subject 1, as he was seated inside of his parked vehicle. Officer A communicated his observations to Officer B as they passed Subject 1's vehicle. Subject 1 then followed Officers A and B's vehicle and subsequently passed the officers.

Subject 1 again stopped his vehicle. Officers A and B both observed Subject 1 holding a handgun. Realizing that the situation had risen to the point where deadly force may

become necessary, Officers A and B drew their service pistols. Subject 1 then entered his vehicle and drove away.

Subject 1 again stopped his vehicle and exited the vehicle while holding a handgun in his right hand. Officers A and B both observed Subject 1 holding the handgun and, realizing that the situation had risen to the point where deadly force may become necessary, drew their service pistols.

As Sergeant A responded to the assistance request, an unknown citizen advised him that there was a shooting in progress. Sergeant A drove to the incident scene, stopped his vehicle behind the officers' vehicle, exited, and fearing an armed confrontation, drew his service pistol.

The BOPC determined that Officers A and B and Sergeant A had sufficient information to believe that the situation had escalated to the point where deadly force may become necessary.

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

C. Lethal Use of Force

The BOPC noted that once Subject 1 reached the sidewalk on the street where the shooting occurred, he began to walk toward Officer A. Subject 1 raised his right arm and pointed the handgun in Officer A's direction. Fearing he or his partner were about to be shot, Officer A fired one round at Subject 1 to stop his actions. Subject 1 continued to walk toward the officers and point his handgun in their direction. Officer A fired a second round at Subject 1, again to stop his actions. Subject 1 then threw the handgun over his left shoulder and fell face forward onto the sidewalk.

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

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