

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

**OFFICER-INVOLVED SHOOTING – 001-10**

**Division**      **Date**      **Duty-On (x) Off ( )**      **Uniform-Yes (x) No ( )**  
Outside City    1/1/10

**Involved Officer(s)**      **Length of Service**  
Officer A      12 years, 3 months  
Officer B      8 years, 10 months

**Reason for Police Contact**

Officers heard gunshots and observed the Subject holding a handgun.

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

Subject: Male, 29 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 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 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, the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on November 23, 2010

**Incident Summary**

Officers A and B were deployed in a dual-purpose police vehicle when they began hearing continuous gunshots being fired near their location. The gunshots sounded like they were being shot from both high and low caliber weapons. Officer B told Officer A that he believed someone was firing an AK-47 rifle.

While driving around looking for the source of the gunshots, Officers A and B observed a male, subsequently identified as the Subject, standing on the street between two parked vehicles. The Subject began crossing the street and when he reached the middle of the street, the Subject turned and looked in the direction of Officers A and B. The Subject looked startled, possibly because he realized that Officers A and B were police officers and the Subject ran toward the sidewalk. Officers A and B drove toward the Subject. Once Officer A and B got within a car and a half length of the Subject, Officers A and B noticed a pistol in the Subject's right hand. Officer B started yelling to Officer A that the Subject had a gun.

The Subject walked up the driveway of a residence and turned towards a fence, which was located on the property of the neighboring residence. Officer A stopped his vehicle and angled it toward the Subject so that he and Officer B could utilize their vehicle doors for cover. The Subject squatted down and entered a large gap in the fence. According to Officer B, it looked like the Subject was going to place his pistol in the bushes by the fence, but before putting his pistol down, the Subject looked up at the officers. Officer B opened his door and placed his right foot on the ground just as the Subject stood up, pointed his pistol at the officers, and began walking backward. Believing that the Subject was going to shoot him, Officer B drew his pistol, pointed it at the Subject, and fired three rounds. The Subject moved backward behind a small tree in the yard. Officer B stopped firing when the Subject was completely behind the tree and no longer visible. The Subject moved out from behind the tree, squeezed through the opening in the fence, and started running through the neighboring residence. Officer A exited his vehicle and drew his pistol. Forty-three seconds later, Officer B broadcast, "R45 shots fired, officer needs assistance."

Officer A used his radio to request a help call but received no response. Officer A then realized that he left his radio on simplex frequency from when he and Officer B were responding to an earlier backup request. Officer A switched the toggle on his radio, broadcast another request to Communication Division (CD), and received a response. Officers A and B checked the yards of both residences to see if the Subject was still present, which he was not.

Backup officers located and detained the Subject, who was then positively identified by Officers A and B. The Subject was not in possession of a handgun when he was detained and had no gunshot wounds. The Subject's gun was not located.

### **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 and B's tactics to warrant a tactical debrief.

### **B. Drawing/Exhibiting/Holstering**

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

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

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

## **Basis for Findings**

### **A. Tactics**

In its analysis of this incident, the BOPC identified the following tactical considerations:

In this instance, Officers A and B heard several gunshots being fired and elected to search for the origin of the gunshots, but did not advise CD of their updated status or location. Officers A and B continued to search for the source of the gunfire and eventually observed the Subject separate from a group and walk in front of their police vehicle while holding a handgun. Although officers are required to go Code-6 and provide CD with their current location when conducting field investigations, Officers A and B were unaware of the actual location where the gunfire was coming from and were actively searching for the source. Additionally, due to the volume of gunshots erupting in various locations throughout the city, it would not have been practical for the officers to broadcast that they were Code-6 and advise CD that shots had been fired in the area every time they heard gunshots and elected to investigate. Finally, upon locating the group and observing the Subject walk in front of their police vehicle, the officers were forced to react to the Subject's actions when he turned and pointed a handgun at them, thereby mitigating the requirement to advise CD of their updated status and location until they addressed the deadly threat and the tactical situation afforded them time to do so. Once the Subject fled out of sight and there was a lull in the action, the officers notified CD of their status and location and requested units to respond and establish a perimeter.

In conclusion, although not advising CD of their status and location while conducting a field investigation substantially deviated from approved department tactical training, in this instance, the officers' actions were justifiable.

In this instance, according to Officer A, he broadcast a "shots fired, officer needs help" call while the toggle switch of his radio was on the simplex frequency.

According to Officer A, his handheld radio was set to the simplex frequency position from a previous call and he forgot to return the toggle switch to the duplex frequency position upon completion of the call. As a result, Officer A's initial broadcast was not acknowledged by CD. While on the simplex frequency, officers are able to monitor the transmissions made by other officers and CD; however, CD is unable to monitor their broadcasts. Since simplex channels are not monitored by CD, the request for help may go unheard, as occurred in this incident.

In conclusion, Officer A's actions of initially broadcasting on the simplex frequency were inadvertent and immediately rectified once he recognized his error. Therefore, based on the totality of the circumstances, Officer A's actions did not substantially deviate from approved departmental tactical training.

In this instance, following the officer-involved shooting (OIS), Officer B broadcast that shots were fired and that he and Officer A needed assistance. As of March 31, 2009, the "assistance" request was eliminated from approved department emergency requests. During highly stressful situations, such as an OIS, officers often times revert back to prior training they had received. Officer B joined the Department in 2002, when "assistance" was an approved emergency request and had received training on it up until its elimination approximately nine months prior to this incident. Due to the relatively recent change in policy, a request for "assistance" is still recognized as an emergency call by many patrol personnel and would not result in the delay of their response.

In conclusion, by broadcasting a request for "assistance," Officer B substantially deviated from approved departmental tactical training; however, based on the relatively new change in policy, his past training, and the dynamics involved in the mindset of officers during highly stressful situations, Officer B's deviation was justifiable.

## **B. Drawing/Exhibiting/Holstering**

In this instance, Officers A and B observed the Subject point a handgun at them. In response, both officers drew their service pistols. Officers with similar training and experience as Officers A and B would reasonably believe that when the Subject pointed a handgun at them, the situation had escalated to a level where the use of force may be justified.

In conclusion, BOPC found Officers A and B's drawing and exhibition of a firearm to be objectively reasonable and in policy.

## **C. Use of Force**

In this instance, Officers A and B observed the Subject walk across the street in front of their police vehicle while armed with a handgun and enter the yard of a residence. Officer A angled the police vehicle in the direction of the Subject and used the vehicle's headlights to illuminate the Subject as he entered the yard. Once inside the yard, the Subject turned toward the officers and pointed a handgun in their direction.

Believing the Subject was about to shoot him, Officer B drew his service pistol and, from a partially seated position, fired three consecutive rounds at the Subject. An officer with similar training and experience as Officer B would reasonably believe that the Subject presented a significant risk of serious bodily injury or death when he pointed a handgun at Officer B. As such, it was objectively reasonable for Officer B to utilize force in defense of his own life and that of his partner.

In conclusion, BOPC found Officer B's application of force to be in policy.