

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

OFFICER-INVOLVED SHOOTING – 004-12

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Southwest 01/05/12

Officer(s) Involved in Use of Force	Length of Service
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Officer A	6 years, 11 months
Officer B	5 years

Reason for Police Contact

Officers conducted a vehicle traffic stop. The front passenger jumped out of the vehicle, holding a sawed off shotgun, resulting in an OIS.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
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Subject 2: Male, 19 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 December 18, 2012.

Incident Summary

Uniformed Police Officers A and B were conducting gang crime suppression and reduction in their assigned area.

While the officers were in their police vehicle, they observed a blue vehicle occupied by three individuals, subsequently identified as Subjects 1, 2 and 3, traveling at a high rate of speed. In addition, the officers noticed dark tint on the driver's side window, also a violation of law. The officers elected to conduct a traffic stop on the vehicle.

Officers A and B followed the vehicle and continued to observe it traveling at a high rate of speed. The officers also observed that the exhaust was louder than it was when it first passed them. Officer A formed the opinion that the vehicle was operating at an unsafe speed. The officers then observed the vehicle fail to stop for a red light as it turned and were able to close the distance on the vehicle. Officer B conducted a want and warrant check on the vehicle's license plate number with the Mobile Digital Computer (MDC). The MDC inquiry revealed the vehicle was currently registered and had no warrants.

Officers A and B then conducted a traffic stop on the vehicle. Officer A activated their police vehicle's emergency equipment, while Officer B advised Communications Division (CD) via his police radio as to the officers' location.

When the subject vehicle stopped at the side of the road, Officer A began to apply the brakes and prepared to stop the police vehicle behind. Subject 2, who was sitting in the front passenger seat, pushed the front right passenger door completely open. Officer B observed the front passenger side door begin to open, as the vehicle was still in motion. Officer B opened his passenger side door and exited the police vehicle, as the vehicle was in motion, attempting to obtain a tactical advantage.

Officers A and B believed that the situation could escalate to deadly force. Officer A indicated that the officers exited their vehicle, at which point he observed the front right passenger door open very quickly. Officer A exited the police vehicle and drew his semiautomatic service pistol with his right hand and held his firearm in a low ready position, while utilizing the vehicle's door as cover. Officer B also drew his semiautomatic service pistol with his right hand and held his firearm at a low ready position, while standing outside and just north of the open passenger side door.

Note: The Digital In-Car Video System (DICVS) footage captured from Officers A and B's police vehicle indicated that both officers simultaneously provided commands to Subject 2 to stay in the car. Witness A, who was stopped directly behind the police vehicle during the OIS, heard an officer providing Subject 2 with commands, but could not hear exactly what the officer was saying, as his windows were in the up position.

Subject 2 stepped out of the front right passenger side of the vehicle and simultaneously rotated towards the officers in a full frontal position. During this time, Subject 2 was crouched down, wearing a sweater with a hood over his head, and armed with a shotgun.

According to Officers A and B, the hood over Subject 2's head began to fall back, as he advanced in the officers' direction. Officers A and B recognized the Subject, with whom they had made numerous contacts with in the past.

As Subject 2 was advancing in the officers' direction, he pointed his shotgun at them while transitioning from a crouched to an upright position. Officer A believed his life and his partner's life were in immediate danger so he fired his weapon at Subject 2. In defense of his life and his partner's life, Officer A fired a controlled pair of rounds at Subject 2. According to Officer B, Subject 2 did not stop after Officer A fired his rounds at Subject 2. Subject 2 was still advancing in Officer B's direction with the shotgun, so Officer B also fired his weapon to protect himself. Officer B believed the Subject was trying to advance towards the officers at a rapid pace, closing the distance between them. Officer B believed at that time, that Subject 2 was going to try to use his weapon against him. Officer B fired three rounds at Subject 2.

Subject 2 went down to the ground in a supine position, with his head facing west. Officer A then observed the Subject reaching for the shotgun with his right arm across his body. At this time, the shotgun was east of Subject 2's body and approximately 1½ - 2 feet from his feet. Officer A indicated he saw a furtive movement from Subject 2, and Officer A believed Subject 2 was attempting to retrieve the shotgun to continue to shoot at the officers, so he fired an additional four rounds in rapid succession at Subject 2.

Subject 2 turned over into a prone position and rolling his torso side-to-side. The shotgun remained east of Subject 2, near his feet; approximately two to four feet from him.

Officer A advised CD over his police radio, "shots fired, officer needs help, backup and airship." Officer B simultaneously advised CD via his police radio, "shots fired officer needs help."

Officers A and B began shouting commands to the Subject, and also to Subjects 1 and 3, who were seated in the subject vehicle. Subjects 1 and 3 were ordered to put their hands outside the car and they complied. Officer A indicated that he and Officer B yelled at the passengers inside that if they didn't get their hands out of the vehicle, the officers were going to shoot them. Officer A feared that Subjects 1 and 3 might be armed with guns as well. Officer B continued to aggressively give commands. He utilized profanity towards the individuals repeatedly because he believed that the situation had escalated to the use of deadly force that that type of language was appropriate to convey his seriousness.

Officers C and D were the first unit to arrive at scene and they notified CD accordingly. Officers C and D held Subjects 1, 2 and 3 at gunpoint until additional police personnel arrived. The officers utilized their ASTRO radios to communicate to responding units the best way to approach the location. Shortly thereafter, additional uniformed police officers arrived at the scene. The officers subsequently ordered Subjects 1 and 3 to exit the subject vehicle. Subjects 1 and 3 complied. The subjects were then directed to assume high risk prone positions in the roadway near the driver's side of the subject vehicle and again they complied. Officer A recognized the Subject as an individual who he had arrested and detained on prior occasions.

Officer A directed Officer B to assemble an arrest team to take Subject 2 into custody and secure the shotgun, as the remaining officers remained behind cover. Officer B assembled an arrest team of two additional uniformed police officers, consisting of Officers C and E.

The arrest team approached the subject vehicle while holding their service pistols at the low ready position. The vehicle was cleared for any additional subjects. Shortly thereafter, Officer B holstered his service pistol and handcuffed the Subject; taking him into custody, as Officers C and E stood by as cover officers. Upon handcuffing Subject 2, Officer B checked Subject 2's rear waistband for additional weapons with negative results. Once Subject 2 was in custody, Officers C and E holstered their service pistols.

Shortly thereafter, a second contact team was assembled at the scene, which consisted of Officers A, F G, and several other uniformed officers. The second arrest team approached Subjects 1 and 3, while holding their service pistols at the low ready position. Subjects 1 and 3 were placed in handcuffs and taken into custody without incident. During this time, Officers A and B were designated as cover officers.

Uniformed Sergeant A approached Officer B, who indicated that during the traffic stop, the Subject in the front passenger seat exited the vehicle and pointed a shotgun in the officers' direction. Officer B also stated that he fired approximately four to five rounds from his service pistol towards three subjects, and one subject was shot. Sergeant B approached Officer A, obtained his PSS and began to monitor him.

Officer A advised CD via his ASTRO radio, "[L]et me get an RA for a male, conscious and breathing suffering from several gunshots to his body." LAFD personnel began arriving at scene and assessed Subject 2's injuries.

LAFD personnel subsequently transported Subject 2 to a local hospital, where he was treated for one gunshot wound to the left buttock and a gunshot wound to the left lower leg/ankle area. He was ultimately admitted to the intensive care unit and listed in critical condition.

Subjects 1 and 2 were arrested for Assault with a Deadly Weapon on a Police Officer. Subject 3 was arrested for a probation violation.

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 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

The BOPC found Officer A and B's drawing and exhibiting of a firearm to be in policy, no further action.

C. Lethal Use of Force

The BOPC found Officer A and B's lethal use of force to be in policy, no further action.

Basis for Findings

A. Tactics

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

1. Simultaneous Commands (Non-Conflicting)

A review of the Digital In-Car Video System (DICVS) revealed Officers A and B giving simultaneous commands to Subjects 1, 2 and 3. All commands were non-conflicting throughout the incident. Although these commands did not influence the outcome of the OIS, Officers A and B were reminded that issuing simultaneous commands can cause confusion during dynamic tactical incidents. Therefore, the BOPC directed that this topic be discussed during the Tactical Debrief.

2. Use of Profanity to Gain Compliance

Officers A and B's use of profanity during the traffic stop and subsequent OIS was brought to the attention of the Area's Commanding Officer. The BOPC reviewed the circumstances and the actual language used. Subject 2 exited the car with a gun resulting in an OIS. The remaining subjects appeared hesitant in their decision to cooperate, as they did not immediately place their hands out of the vehicle windows. Under these circumstances, the use of profanity to gain the compliance of potentially armed subjects was for tactical purposes and was successful, ultimately resulting in the subjects' compliance. The Commanding Officer addressed this issue with Officers A and B; however, in an effort to enhance future performance, the BOPC directed that this topic be discussed during the Tactical Debrief.

3. Digital In-car Video System

Officers F and G transported Subject 1 to the police station and did not activate their DICVS.

The investigation revealed that it was Officer G's first day as a probationary officer and he was unfamiliar with the proper operation of the DICVS equipment. In addition, Officer F indicated a belief that the DICVS was activated during the transportation of Subject 1, until he got back to the station and discovered that it had not been activated.

The issue was brought to the attention of the Area Commanding Officer, who stated that this issue was addressed at the Divisional level. The BOPC determined no further action was required.

Officers H and I transported Subject 3 to the police station. Officers H and I completed an Investigative Action/Statement Form regarding spontaneous statements that Subject 3 made just prior to and during the transport. However, Detectives from FID checked for DICVS audio and video captured for Officers H and I's assigned police vehicle and discovered that the statements documented by Officer H were not captured by the DICVS.

Officers H and I were interviewed by FID detectives regarding this issue and indicated their belief that the DICVS was activated at the time Subject 3 made his statements while in custody near and inside the police vehicle. The officers further stated that they had no recollection of why the DICVS was not activated during this time.

A review of the DICVS captured during the transportation of Subject 3 from the OIS scene to the station revealed that Officer H instructed Subject 3 to, "[S]hut up." This issue was brought to the attention of the Captain, who addressed the concern at the Divisional level. The BOPC determined that no further action was required.

- 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.

After a thorough review of the incident, the BOPC determined that the identified areas for improvement neither individually nor collectively substantially deviated from approved Department tactical training. Therefore, a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident with the objective of improving overall organizational and individual performance.

The BOPC found that Officers A and B's tactics warrant a Tactical Debrief and that the specific identified topics be covered.

B. Drawing/Exhibiting

- In this instance, Officers A and B conducted a traffic stop for multiple vehicle code violations. The officers observed Subject 2 abruptly exit the front passenger side of the vehicle while it was still in motion, turn and advance toward them. Based on their training and experience, Officers A and B believed that it was unusual for occupants to immediately open the door and exit during a traffic stop. Believing that the situation may escalate to the use of lethal force, Officers A and B drew their service pistols upon exiting their police vehicle.

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.

Note: In addition to the above listed employees, there were additional personnel that drew or exhibited firearms during the incident. This drawing/exhibiting was appropriate and requires no specific findings or action in regard to these officers.

C. Lethal Use of Force

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

In this instance, upon conducting the traffic stop, the vehicle slowed and Subject 2 abruptly exited. Subject 2 turned toward Officers A and B and pointed a shotgun at them. Believing that he and his partner were about to be shot, Officer A fired two

rounds at Subject 2 to stop his actions. Subject 2 did not appear to be affected by the rounds and continued to advance toward Officer B with the shotgun in hand. Officer B fired three rounds at Subject 2 and he fell to the ground. Officer A observed Subject 2 reaching for the shotgun with his right arm, which was located near his feet approximately two feet away. Fearing that Subject 2 would re-arm himself and fire the shotgun at himself or his partner, Officer A fired an additional four rounds at Subject 2 to stop his actions.

An officer with similar training and experience would reasonably believe that Subject 2's actions of advancing toward the officers while pointing a shotgun in their direction represented an imminent threat of serious bodily injury or death and that the use of lethal force would be a reasonable option. Additionally, that same officer would reasonably believe that Subject 2's actions of attempting to re-arm himself represented an imminent threat of serious bodily injury or death and that the use of lethal force would be a reasonable option.

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

- **Officer B** – (pistol, three rounds)

Officer B was faced with the same circumstances as Officer A. After Officer A fired the initial two rounds, Subject 2 continued to advance toward Officer B while pointing the shotgun in Officer B's direction. Believing that Subject 2 was going to shoot him, Officer B fired three rounds from his service pistol at Subject 2 to stop his actions.

An officer with similar training and experience would reasonably believe that Subject 2's actions of advancing toward them while pointing a shotgun in their direction, represented an imminent threat of serious bodily injury or death and that the use of lethal force would be a reasonable option.

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