

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

OFFICER-INVOLVED SHOOTING – 012-12

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Harbor	03/02/12		
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Officers(s) Involved in Use of Force	Length of Service
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Officer A	18 years, 6 months
Officer B	13 years, 8 months

Reason for Police Contact

Officers A and B attempted to stop the Subject for a traffic violation. The Subject fled on his bicycle and produced a loaded handgun from his waistband and threatened the officers, resulting in an officer-involved shooting (OIS).

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 24 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 Los Angeles Police Department Command Staff presented the matter to the Chief 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 January 22, 2013.

Incident Summary

On the date of this incident, Officers A and B were patrolling in an unmarked dual purpose police vehicle, not equipped with ballistic paneled doors, assigned to crime suppression.

According to Officers A and B, they observed the Subject riding a bicycle without a light during the hours of darkness in violation of Vehicle Code Section 21201(D)(1) and decided to detain the Subject for the violation. Officer B didn't feel safe putting his hands on the radio to broadcast the officers' location at that specific time, because the Subject was approaching them at a very fast pace.

As the Subject approached, Officer B yelled out his open window, identifying himself as a police officer and telling the Subject to stop and to put his bike down. The Subject looked at the officers, stood up on his bike pedals and made a sharp left turn into a shopping center parking lot. The Subject pedaled at a high rate of speed, accelerating his bike away from the officers, through the parking lot, while Officer B repeatedly yelled for him to stop. According to Officer A, he believed that the Subject may have committed another crime or had a gun or narcotics and that was his reason for trying to elude them.

Officers A and B followed the Subject through the shopping center and observed him pedaling his bicycle at a high rate of speed along the sidewalk. Officer A decided to drive the wrong way in traffic to keep close. According to Officer A, he thought that it was safer to stay as close as possible to the sidewalk in order to give him an advantage in the event the Subject decided to run.

As the Subject was looking back at the officers, he reached into his waistband area with his right hand and appeared to attempt to arm himself. Officer B yelled at Officer A to watch the Subject's hands. At this time, the Subject lost control of his bicycle and dropped it to the sidewalk. The Subject then continued to run along the sidewalk, while continuing to pull at an object in his waistband. The Subject continued to run a short distance further, stopped, pulled a gun from his waistband and pointed it at the officers. The Subject then lowered the gun and continued to run approximately 30 to 45 feet, when he again stopped, turned and faced the officers, raised his right hand and pointed his gun at the officers.

According to Officer A, the Subject moved the gun up by raising his right arm and pointing it at him and Officer B. According to Officer B, he could clearly see a blue steel handgun coming out of the Subject's waistband and yelled to his partner that the Subject had a gun and was going to shoot.

Officer A stopped the police vehicle approximately 24 feet from the Subject and, while still seated in his car with the door partially open, drew his pistol and fired approximately two to three rounds through his open driver door window at the Subject's torso. Officer A then exited the police vehicle and moved away from the vehicle and lowered his pistol. According to Officer A, he moved away from the police vehicle in order to obtain

better cover. According to Officer B, when the Subject pointed the gun at them, the Subject's hand jerked twice and he appeared to be attempting to fire the pistol, but the pistol malfunctioned. Officer B then saw the Subject lower his pistol and rack the handgun by pulling the upper receiver portion of the gun to the rear.

Note: The Subject's pistol was determined to be functional. When recovered, the weapon was loaded with 13 cartridges in the magazine and none in the chamber. The Subject was wearing gloves during this incident.

Simultaneous to Officer A engaging the Subject, Officer B exited the police vehicle from the passenger side and drew his pistol and moved to the rear of the car, and then forward toward the Subject, to avoid a crossfire with his partner.

The Subject again raised his pistol and pointed it toward the officers. Officer A came back up on target and fired approximately four more rounds at the Subject's torso, while Officer B fired approximately two to three rounds at the Subject's torso. The Subject fell to the pavement, face down, with the pistol on the pavement. According to Officer B, the pistol landed approximately one foot away from the Subject. According to the officers, the Subject attempted to move forward and reach for his pistol. The officers were afraid that the Subject was going to rearm himself. According to Officer B, he shouted at the Subject to stay on the ground and not to move or he would be shot.

The Subject looked back at the officers, yelling out profanities, and then lunged forward and reached for the gun with his right hand. Officer B fired approximately two additional rounds at the upper torso of the Subject, who then stopped attempting to rearm himself and stated he was not going to reach for the weapon.

Officer A issued a radio broadcast that he needed help and that shots had been fired. The Subject was handcuffed and no additional weapons were found. Officer B requested a Rescue Ambulance for the Subject. Los Angeles Fire Department (LAFD) personnel responded to the scene and attempted to treat the Subject for multiple gunshot wounds, but he displayed no signs of life and was not responsive to life saving measures. The paramedics declared him deceased at the scene.

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 Officers A and B's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

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

1. Tactical Vehicle Deployment

In this instance, Officers A and B initiated contact with the Subject while still seated in their police vehicle and followed him while driving in the opposite direction of the roadway. The evaluation of this action requires that consideration be given to the unique challenges associated with the detention of a bicyclist. The inherent nature of this type of stop lends itself to a variety of tactical considerations that are neither exclusive to a pedestrian nor vehicle stop. The speed at which a bicyclist can flee and the ability of the bicyclist to traverse varied terrain creates a circumstance wherein, absent full compliance on the part of the bicyclist, the ability to initiate a detention can be hindered.

The BOPC considered the decision to remain in the police vehicle upon the initial attempt to detain the Subject and determined that, although contact initiated while seated in the police vehicle is generally discouraged, in this unique circumstance, it was reasonable given that a bicyclist possesses the ability to flee at a high rate of speed wherein the premature exiting of the police vehicle can adversely impact the ability to facilitate a detention when a bicyclist decides to flee.

The assessment of the decision to drive in opposing traffic lanes requires that consideration be given to the rationale for taking such action. Officer B recalled that there was a center divider that prevented him from going across and thought it was safer to stay as closely as possible to the sidewalk to give him the advantage in case the Subject did run. Officer B wanted to put himself in a situation where he and Officer A could both be engaged in a foot pursuit.

Furthermore, consideration must be given to the officers' knowledge and purpose for being deployed in the area, the fact that there had been a recent shots fired radio call in the area and that upon the initial attempt to detain the Subject, he ignored the direction to put his bicycle down and fled at a high rate of speed. According to Officer A, he and Officer B were working in the area due to recent gang shootings and there had been numerous guns recovered from the area. Although not conclusively determined at the time, an objective assessment of the blatant attempt to flee suggests the potential that the Subject was involved in the incident that generated the prior radio call and may be associated with criminal activity beyond that of the observed vehicle code violation.

Officers must maintain a balance between an appropriate level of officer safety and the likelihood of the successful apprehension of a fleeing subject. The BOPC determined that in this case, the actions of Officers A and B were consistent with relative tactical training and the expectation that officers take action to safeguard the public from potential harm.

In conclusion, the decision to remain in the police vehicle and drive in opposing traffic lanes did not represent a substantial deviation from approved Department tactical training. However, Officers A and B would benefit from a review of tactical vehicle deployment associated with the detention of bicyclists. This topic will be discussed during the Tactical Debrief.

2. Code-Six

In this instance Officers A and B did not broadcast their Code-Six location upon their initial attempt to detain the Subject. According to Officer B, he did not conduct a Code-Six broadcast because the Subject immediately fled as they approached and the location continually changed as the Subject fled. Officer B indicated that he did not want to broadcast the wrong location and he wanted to keep his hands free when he exited the vehicle to make contact with the Subject.

Officer B recalled that the Subject was moving at a high rate of speed, and at that point he didn't decide to go Code-Six or broadcast his location because the Subject was constantly moving, and he didn't want to put out a wrong location. According to Officer B, they were approaching so fast that he didn't want to have his hands tied up, because his initial intent was to get out of the car and make contact with the Subject.

Due to the unique circumstances associated with conducting a bicycle stop and the fluid nature of the incident after the Subject fled, it was reasonable for Officers A and B to temporarily delay making a Code-Six broadcast until the situation provided a tactically prudent time to initiate the broadcast. Officers are required to balance officer safety considerations against the need to make timely Code-Six broadcasts. That being said, officers must be afforded some discretion in determining the appropriate time to make the broadcast. Department tactical training allows for officer safety concerns to take precedence over making an immediate Code-Six

broadcast. Therefore, the BOPC determined that Officer B was reasonable in his judgment to delay the Code-Six broadcast.

In conclusion, the BOPC determined that based on an objective assessment of the previously mentioned circumstances, Officer A and B's actions regarding the delay in the Code-Six broadcast did not substantially deviate from approved Department tactical training. Nevertheless, Officers A and B are to be reminded of the importance of a Code-Six broadcast. This topic will be discussed during the Tactical Debrief.

- 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, there was an identified area where improvement could be made and 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.

In conclusion, the BOPC found Officer's A and B's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

- In this instance, Officers A and B observed the Subject remove a handgun from his waistband as he ran down the sidewalk. Officer B warned his partner that the Subject had a gun. The Subject briefly pointed the handgun in their direction, then lowered it and continued running. As Officer A stopped the vehicle, the Subject stopped and faced the officers a second time as he pointed the handgun at them.

Officer A, observing the Subject raise his handgun and begin to point it in their direction, believed that the situation had escalated to the point where deadly force had become necessary, and drew his service pistol, aiming it at the Subject through his open driver's window. Officer A drew his weapon when the Subject turned in his direction and raised the handgun.

The BOPC determined that an officer with similar training and experience, 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.

In conclusion, the BOPC found Officer A's drawing and exhibiting of a firearm to be in policy.

Officer B observed the Subject point the handgun at him on two separate occasions. Officer B believed that the Subject's handgun malfunctioned as the Subject raised the handgun toward the officers a second time. Officer B exited the vehicle as he heard gunshots and, believing that the situation had risen to the point where deadly force may become necessary, drew his service pistol as he re-deployed to Officer A's left to prevent a crossfire situation.

Officer B jumped out of the car and heard gunshots as he was coming around the back side of his vehicle. According to Officer B, he could see the Subject pointing a gun directly at him and Officer A. As Officer B was coming out of the car and hearing the gunshots, it was obvious that the situation was escalating to the use of deadly force, so he unholstered his weapon.

The BOPC determined that an officer with similar training and experience, 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.

In conclusion, the BOPC found Officer B's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

In this instance, the Subject turned and pointed his handgun at Officers A and B, at which time Officer A stopped the officers' police vehicle approximately 24 feet from the Subject. While still seated in his police vehicle, with the door partially open, Officer A, believing that the Subject was going to shoot him or his partner, drew his service pistol and fired three rounds at the Subject to stop his actions.

According to Officer A, he believed that the Subject intended to shoot him and his partner to injure them. As the Subject presented a deadly threat, that's when he fired two or three rounds at him. The Subject then lowered his handgun and Officer A exited the vehicle and moved toward the front of the police vehicle with his service pistol at the low ready position. The Subject again pointed his handgun at Officers A and B. Officer A believed that they were about to be shot and fired four additional rounds at the Subject to stop his actions.

Given the totality of the circumstances, an officer with similar training and experience as Officer A would reasonably believe that the Subject posed an imminent threat of serious bodily injury or death and that the use of lethal force would be justified.

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

Officer B observed the Subject point a handgun at him. According to Officer B, the Subject jerked his hand in a forward motion as if to attempt to fire. The Subject then then lowered his handgun and manipulated it as if he were pulling the upper receiver

portion of the handgun to the rear. Since Officer B neither observed a muzzle flash nor did he hear gunshots, he assumed that the Subject had experienced a handgun malfunction.

Officer B observed the Subject raise his handgun a second time and point it in his direction. As the Subject continued to point the handgun at them, Officer B fired three rounds at the Subject to stop his actions.

According to Officer B, he believed that the Subject was trying to kill him and Officer A, because the Subject immediately fled and was watching the officers over his shoulder the entire time. According to Officer B, he believed that the Subject already had a plan regarding what he was going to do. Officer B recalled that once he and Officer A were parallel to the Subject, he immediately jumped off the bike, and with no hesitation withdrew the weapon and pointed it at him and his partner. Officer B heard gunshots and there was no doubt in his mind that the Subject was attempting to kill him and his partner.

The Subject then spun in a counterclockwise direction and fell face down onto the pavement. Officer B heard the Subject's handgun strike the pavement and saw the handgun slide next to the Subject's head. According to both officers, the Subject attempted to move forward in an apparent attempt to reach for his handgun and rearm himself. Officer B continued to move toward the Subject and shouted to him to stay on the ground and not to move or he would be shot. The Subject looked at Officer B over his shoulder and responded with expletives.

The Subject lunged forward and reached for the handgun with his right hand, resulting in Officer B firing two additional rounds at the Subject to prevent him from rearming himself. According to Officer B, the Subject then stopped reaching for his handgun and said that he wasn't going to reach for it again.

Officer B recalled that he clearly saw the gun in front of the Subject and ordered him not to move or he would be shot. The Subject responded with expletives and began to get up, extending his right hand toward the weapon. According to Officer B, it appeared that the Subject lunged towards the weapon, and at that point Officer B fired another volley of rounds to stop the Subject's threat.

Given the totality of the circumstances, on both accounts, an officer with similar training and experience as Officer B, while faced with similar circumstances, would reasonably believe that the Subject's actions of pointing a weapon at them represented an imminent threat of serious bodily injury or death and that the use of Lethal Force would therefore be justified.

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