

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

OFFICER INVOLVED SHOOTING 016-10

<u>Division</u>	<u>Date</u>	<u>Duty-On () Off(X)</u>	<u>Uniform-Yes() No(X)</u>
Outside	02/20/10		

<u>Officer(s) Involved</u>	<u>Length of Service</u>
Officer A	2 years, 2 months

Reason for Police Contact

Officer was off duty and was confronted by an armed subject, which resulted in an officer involved shooting.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
Subject: Male, unknown 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 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 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 either male or female employees.

The following incident was adjudicated by the BOPC on February 11, 2010.

Incident Summary

According to Officer A, he was walking on the sidewalk when he felt a tug on his right rear shoulder, as if someone had grabbed his jacket. When Officer A turned around, he saw three males with shaved heads and wearing baggy clothing, standing there. One of the males demanded Officer A's property. Believing the subject was trying to rob him, Officer A drew his service pistol and identified himself as a Los Angeles Police Officer. Two of the three males turned and ran, and the other walked away southbound.

According to Officer A, after the males departed, he placed his pistol into the right rear pocket of his jeans and continued to walk. After walking for 15 to 20 seconds, Officer A observed a silver vehicle. The vehicle then turned and stopped directly in front of Officer A. The vehicle was occupied by four males, with shaved heads, but Officer A did not recognize any of them as participants in the earlier attempted robbery. The front passenger asked Officer A where he was from and reached down toward his lap. Officer A began to run, fearing the vehicle occupants were gang members. The vehicle then pulled forward, stopped, and all four doors opened. The passenger, who initially made contact with Officer A, ran past the back passenger, and extended his arm toward Officer A. Officer A then heard three gunshots and saw muzzle flash.

Officer A turned and fired one round at the male who had fired at him. According to Officer A, the males continued to follow him and the male with the weapon still had it pointed at him. Officer A fired one additional round at the male but was unsure if he hit the subject.

After firing his weapon a second time, the subjects returned to their vehicle. Officer A indicated that he continued to run toward a hotel while holding his gun in his hand.

Once the vehicle left the scene, Officer A called 911.

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 the tactics of Officer A to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officer A's drawing and exhibiting to be in policy.

C. Use of Force

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

Basis for Findings

A. Tactics

In this instance, Officer A was confronted by three subjects who attempted to rob him. In response, Officer A drew his service pistol, identified himself as a Los Angeles Police Department (LAPD) officer and the subjects fled. Officer A elected not to immediately telephone 911 to report the crime and continued to walk.

In conclusion, although he eventually made the proper notifications, Officer A is to be reminded that whenever an officer takes action while off-duty, in order to ensure that responding personnel are aware of the off-duty officer's status and to prevent a potential officer vs. officer scenario, it is imperative that proper notifications are made to the appropriate entities as soon as practicable. However, as the subjects had fled and the proper notification was made timely to the incident, Officer A's actions did not substantially deviate from approved Departmental tactical training. This will be a topic of discussion at the Tactical Debrief.

According to Officer A, following the attempted robbery, he continued walking. Officer A reached the location, "no more than 15 to 20 seconds" after the attempted robbery. There, he was confronted by four male subjects riding in a silver vehicle. All had shaved heads. One of the occupants asked Officer A, "Hey, [expletive omitted], where you from," a phrase commonly used by gang members as a challenge. The subject moved his hand from the window toward his lap, as he asked the question. Officer A ran, believing the subject was reaching for a gun. Officer A continued to look back toward the vehicle and held onto his service pistol inside his right rear pocket in an effort to secure it as he ran.

According to Officer A, all the subjects got out of the vehicle and the subject who had asked the question, fired "three shots." Officer A pulled his pistol, turned, and fired one round at the subject. All four subjects continued toward Officer A so he fired a second round.

In conclusion, a Tactical Debrief is the appropriate mechanism for Officer A to evaluate the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future.

In this instance, as Officer A was fleeing, he observed muzzle flashes, heard shots and perceived the subject was firing at him. In response Officer A returned fire, while running. In conclusion, the potential issues that can arise while running with a pistol drawn will be discussed during the Tactical Debrief.

B. Drawing/Exhibiting

In this instance, Officer A was confronted by three subjects who attempted to rob him. In response to the attempt robbery, Officer A drew his service pistol.

In conclusion, the BOPC determined Officer A's Drawing/Exhibiting to be In Policy.

C. Use of Force

In this instance, according to Officer A, he observed the subject point a handgun in his direction and fire at him approximately three times. In fear for his life, Officer A drew his service pistol from his right rear pocket as he was running in a northeast direction and fired two consecutive rounds at the subject.

In conclusion, although the subject may have been armed with a revolver and it is unknown how proficient the subject was with the handgun, both of which may have resulted in a lack of physical evidence such as casings or bullet impacts, the lack of physical evidence coupled with the witnesses statements that only two shots were fired, establishes a preponderance of evidence that the subject did not fire at Officer A.

The BOPC found that there was a preponderance of evidence, however slight, to support that Officer A did face a deadly threat and did react reasonably, and that any similarly trained officer in similar circumstances would have also responded with lethal force.

Therefore, the BOPC determined Officer A's application of Lethal Force to be In Policy,