

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

**OFFICER-INVOLVED SHOOTING – 022-10**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On(x) Off( )</u></b>	<b><u>Uniform-Yes(x) No( )</u></b>
Mission	03/17/2010		

<b><u>Involved Officer(s)</u></b>	<b><u>Length of Service</u></b>
Officer A	3 years, 1 month

**Reason for Police Contact**

Officers responded to radio call involving a batty subject, which resulted in an officer involved shooting.

<b><u>Subject(s)</u></b>	<b><u>Deceased (x)</u></b>	<b><u>Wounded ( )</u></b>	<b><u>Non-Hit ( )</u></b>
Subject: Male, 31 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, 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 February 8, 2011.

## **Incident Summary**

Communications Division (CD) broadcasted a call about a battery subject and Officers A and B responded. Witness A met the officers in the front yard and told the officers the Subject assaulted him a few days prior and the Subject had returned to the location with a gun. Witness A told the officers that he did not know the Subject's name, but described him as having numerous tattoos, including tattoos on his face. Witness A explained to the officers that to the rear of the main house were rooms rented out to individuals and Witness A lived in one room and the Subject resided in another with Witness B.

The officers walked to the rear of the primary residence with Witness A to locate the Subject. Witness A knocked on the Subject's door and Officer B quickly grabbed Witness A and moved him to the side of the door for safety reasons. Due to the potential that the Subject could be armed, both officers unholstered their pistols and held them in low-ready positions. Officer B then knocked on the door several times. There was no response, so Officer A told Officer B that he was going to walk to the rear of the location to see if there was a window he could look into.

Officer A holstered his weapon, walked to the end of the building, turned the corner and saw the Subject and Witness B walking between two Recreational Vehicles (RVs) that were parked in the backyard alongside the residence. Officer A recognized the Subject because he saw the tattoos on his face. Officer A alerted Officer B and unholstered his gun. Officer B remained in front of the residence covering the front door, with Witness A standing near him. When Officer A called, Officer B holstered his pistol, went around the corner, and approached Officer A's position. Officer B then unholstered his pistol and held it in a low-ready position, and noticed that Officer A had unholstered his pistol.

Officer A pulled Witness B out of his way and faced the Subject. Officer A could not see if there was a weapon in the Subject's waistband, because he was wearing a baggy shirt that covered his waist. The Subject recognized Officer A as a police officer and made a motion with his hand for his waistband and bent slightly forward. Officer A ordered the Subject to put his hands on his head and turn around. The Subject initially complied, but then turned away from Officer A and placed his hands behind his head. The Subject moved his hands from his head to the rear of his back and motioned as if he was going for his waistband. Officer A ordered him to get down on his knees and the Subject bent over, put his hands all the way to his waistband and began to turn counterclockwise toward the officers. The Subject brought out a gun and Officer A fired three rounds at the Subject because he was in fear for the safety of his partner and himself. The Subject dropped the gun, and fell on top of the gun. Officer B was unable to see the Subject, because his view was blocked by one of the RVs, so Officer B moved up to a position where he could observe the Subject, and Officer A told him that the Subject had a gun and that it was underneath him.

Officer A ordered the Subject to put his hands out, and then used his radio to broadcast shots fired and a request for a Rescue Ambulance (RA).

Officers C and D arrived at the location and ran to the backyard while drawing their pistols to low-ready positions. Officer A approached the Subject and pinned his left leg against his right leg, which exposed the gun. Officer A kicked the weapon away from the Subject and Officer B recovered the Subject's gun. Officer C then handcuffed the Subject with his hands behind his back, leaving him in a face-down position.

Witness B said the gun was hers and prior to the shooting the Subject grabbed it and put it in his waistband. Witness B said the Subject did not pull out his gun but he did reach for it. Witness B said she knew the Subject was going to do "something" because he had been in prison already and did not want to go back.

Sergeant A arrived at the location, determined that the two primary officers were Officers A and B, and walked them to the front of the location. The RA arrived at the scene and the Subject was treated for three gunshot wounds to the left side of his back. The Subject was subsequently transported to a medical center, where he was treated by emergency room personnel and pronounced dead.

### **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 Officers C and D tactics to warrant a tactical debrief. The BOPC found Officers A and B tactics to warrant administrative disapproval.

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

The BOPC found Officers A, B, C and D drawing and exhibition of a firearm 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 its analysis of this incident, the BOPC identified the following tactical considerations:

In this instance, the investigation revealed that Officer A appropriately requested the PR to step out of the residence in order to make contact with the officers.

Although the officers' initial actions allowed them to maintain a tactical advantage by speaking with the PR outside of the residence, they quickly gave up their advantage by walking to the rear of the residence prior to requesting additional resources.

In conclusion, by failing to request additional resources in order to safely continue an investigation of a potentially armed subject and attempting to handle the radio call on their own, Officers A and B placed themselves at a significant tactical disadvantage. These actions unjustifiably and substantially deviated from approved Department tactical training.

In this instance, the PR informed the officers that the Subject rented one of three rooms attached to the rear of the residence. Officer B asked the PR to show them the subject's residence and both officers followed the PR to the rear of the property. Although allowing the PR to direct them to the Subject's location was appropriate, the officers must ensure that they maintain control of the PR in order to ensure his/her safety. Here, the PR directed the officers to the Subject's location, and knocked on the Subject's door thereby exposing himself to danger.

In conclusion, by allowing the PR to knock on the Subject's door, Officers A and B created a substantial tactical disadvantage and jeopardized the safety of the PR. These actions unjustifiably and substantially deviated from approved Department tactical training.

In this instance, Officer A separated from Officer B who remained with the PR while he attempted to locate a window to the rear of the Subject's residence. Based on the size of the property and the numerous large vehicles parked within the property, Officers A and B again had an opportunity to evaluate the situation and request additional units prior to separating to conduct the search.

In conclusion, although the distance between the two officers was not extensive, the building prevented Officer B from maintaining a visual on Officer A and unreasonably delayed Officer B's ability to render aide to Officer A when he encountered the Subject. Officer A and B's actions of separating unjustifiably and substantially deviated from approved Department tactical training.

In this instance, Officer A walked to the rear of the detached residences and encountered Witness B and the Subject walking northbound between two vehicles.

After recognizing the Subject as the possible Subject, Officer A remained in the open and began to verbalize with the Subject while allowing Witness B to walk past him.

Here, the investigation revealed that there was a vehicle parked directly west of Officer A's location. It would have been tactically advantageous for Officer A to seek cover behind this vehicle, thereby allowing him more time to react and minimize his exposure to the potentially armed Subject, then order both Witness B and the Subject into a high risk or prone position while awaiting the response of Officer B.

In conclusion, by allowing Witness B to walk past him and remaining in the open without seeking cover while addressing a potentially armed Subject, Officer A's actions unjustifiably and substantially deviated from approved Department tactical training.

In this instance, Officer A allowed Witness B, who was observed walking with the Subject, to pass his position without being searched. As a result, when he arrived, Officer B was forced to split his attention between Witness B and the Subject.

By allowing Witness B to pass him, Officer A placed a potential Subject to his rear, thereby leaving him vulnerable to attack and placing him at a tactical disadvantage. Additionally, the investigation revealed that Officer B was unable to observe the OIS or the Subject's actions prior to the OIS because his attention was focused on Witness B.

In conclusion, Officer A's actions unjustifiably and substantially deviated from approved Department tactical training.

In this instance, following the OIS, Officer A kicked the Subject's handgun away to prevent the Subject from using it against the officers.

Once the handgun was away from the Subject, Officer B holstered his service pistol and recovered the Subject's handgun along with a black bag from the ground.

In conclusion, although Officers A and B' actions of moving items belonging to the Subject and Witness B at the OIS scene prevented investigators from documenting the items at the final resting location, the officers' actions were justifiable based on the tactical situation.

The BOPC was concerned with the additional movement of the evidence once it was initially secured inside a police vehicle's trunk.

In conducting an objective assessment of this case, the BOPC found that the tactics utilized by Officers A and B substantially and unjustifiably deviated from approved Department tactical training, requiring a finding of Administrative Disapproval.

## **B. Drawing/Exhibiting**

In this instance, Officers A and B responded to the rear of the residence in an attempt to locate the Subject. Based on information that the Subject may be armed, Officer A drew his service pistol as he approached the rear of the residence.

After the officers were unable to locate the Subject at his residence, Officer A holstered his service pistol. Later, Officer A chose to search for a window to the rear of the Subject's residence. During the search, Officer A observed a female followed by a male walking in between vehicles to the rear of the residence. Officer A recognized the Subject based on the PR's description of tattoos on the Subject's face.

When asked if he drew his service pistol a second time, Officer A added, "Immediately as soon as I saw the Subject matching the description the PR gave us... I pulled it out, took it to a 45-degree low ready with both hands."

Officer B: In this instance, although the exact time when Officer B initially drew his service pistol remains unknown, according to Officer B, "We both had our weapons out [when they were at the Subject's residence] due to the fact that we were knocking on the Subject's front door." Officer B heard Officer A yell out to him, holstered his service pistol and responded to the location where he believed Officer A was located. Upon arrival, Officer B observed a female next to Officer A and that his service pistol was drawn at a low ready position and pointed in a southbound direction. Officer B then drew his service pistol a second time.

Officers C and D: Officers C and D responded to the shots fired radio broadcast at the location. Upon arrival the officers were directed to the location by neighbors. As Officer C and D made their way to Officers A and B's location they each drew their respective service pistol. When asked why he drew his service pistol, Officer C stated, "I could - - my - - the environment I was about to enter could escalate in the use of deadly force." When asked why he drew his service pistol, Officer D stated, "After exiting the police vehicle... There had been shots fired and I believed that it may be necessary to fire depending on the situation with the other officers."

It was reasonable for Officers A, B, C and D to believe that the situation could or had escalated to the level where the use of Lethal Force might become necessary. In conclusion, the BOPC found that Officers A, B, C and D' Drawing/Exhibiting to be in policy.

## **C. Use of Force**

In this instance, Officer A was attempting to ensure the Subject was not inside his residence by checking for additional doors or windows. As Officer A made his way through the rear of the property, he encountered the Subject walking with Witness B. Officer A immediately recognized the Subject as the Subject by the numerous tattoos on his face as described by the PR. Officer A drew his service pistol and verbally ordered the Subject to put his hands up.

Officer A later stated, "When the Subject produces a gun, I believe that he's going to injure my partner or I that's going to create death or serious great bodily injury. At that point, no other options would be feasible to stop the situation."

An officer with similar training and experience as Officer A would reasonably believe that the Subject was armed with a handgun and his actions presented a significant risk of serious bodily injury or death. As such, it was objectively reasonable for Officer A to utilize Lethal Force in defense of his own life and that of his partner. In conclusion, the BOPC found that Officer A's application of force to be in policy.