

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

OFFICER-INVOLVED SHOOTING – 026-08

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Wilshire	03/10/2008		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	5 years, 5 months

Reason for Police Contact

Officers A and B located Subject 1, a homicide suspect. Officers A and B pursued Subject 1, who fired several rounds at the officers. Officer A fired two rounds in response.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
Subject 1: Male, 35 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 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 Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on 02/03/09.

Incident Summary

Officers A and B attended a roll call briefing regarding a gang-related homicide that had occurred earlier that day. The suspect, Subject 1, was a known gang member. During roll call, the officers received a photograph and detailed description of Subject 1, along with a description of his vehicle.

Eight officers were assigned to plainclothes surveillance detail of Subject 1's residence. Officers A and B were assigned to remain in the area for high visibility patrol and to attempt to locate Subject 1 or his vehicle. If the officers saw Subject 1 driving his vehicle, they were instructed to inform Communications Division (CD), follow the

vehicle, wait for additional resources, and conduct a high-risk stop. If Subject 1's vehicle was located unoccupied, the officers were instructed to notify their supervisor, who would redeploy the surveillance units to that location.

Officers A and B initially intended to follow-up on one of Subject 1's known addresses. However, prior to beginning their patrol, Officers A and B learned of two additional possible addresses for Subject 1. The officers decided to direct their patrol to one of these locations.

The officers drove to the location, but could not locate the specific address. The officers decided to check the rear of two other apartment buildings on the street in an attempt to locate Subject 1's vehicle. The officers did not inform CD of their status and location.

As he returned to the police vehicle, Officer B observed the shadow of an individual's head and shoulders behind a stairway in the driveway of another building. The individual then moved behind the stairway out of view. Officer B approached the driveway and slid open the fence leading into the driveway.

Officer B then observed the individual's head and shoulder peering out from the building's rear carport area. The individual's head then disappeared behind the building, and the individual began running.

Officer B ran along the driveway to the building's rear carport area. He slowly moved around the wall of the building prior to entering the carport area and heard the clanging of a metal fence. Officer B believed that the individual had jumped a fence and was running toward the front of the house. Officer B instructed Officer A to remain at the rear of the location in case the individual doubled back, while he ran to the front of the building to see where the individual was running.

Officer B ran back to the sidewalk. He observed the individual at the corner of the yard trying to jump over the fence. The male had both hands on the fence and was not holding anything in either hand. Officer B ran into the middle of the street and used a vehicle as cover between himself and the individual. He made eye contact with the individual and recognized that the person was Subject 1.

Officer B unholstered his service pistol and commanded Subject 1 to get on the ground. Subject 1 jumped over the fence and partially fell onto the sidewalk. Officer B commanded Subject 1 to stop running and to get on the ground.

Subject 1 pushed himself into a standing position and ran on the sidewalk. Officer B ran in the street parallel to Subject 1, keeping vehicles between himself and the sidewalk. Subject 1 then turned into the driveway of an adjacent residence.

Meanwhile, while still in the rear of the first location, Officer A observed a vehicle matching the description of Subject 1's vehicle. Knowing that Subject 1 was an armed homicide suspect, Officer A drew his service pistol and also took out his flashlight.

As he slowly moved around the corner of the building, Officer A heard footsteps, voices, and commotion toward the area of the sidewalk, but his view of the sidewalk was obstructed by a fence and foliage. Officer A ran along a narrow walkway on the side of the building to the front yard and exited the location through the open driveway fence. He heard Officer B running and followed him.

Shortly before reaching the driveway of the adjacent residence, Officer B broadcast that the officers were in foot pursuit. Officer B then turned into the driveway and pursued Subject 1. As they approached the rear carport area, Officer B observed Subject 1 reach both hands down toward his front waistband area. Officer B believed Subject 1 was attempting to arm himself.

Officer B slowed down and moved around the corner of the apartment building, but could not see Subject 1. Officer B believed that Subject 1 had run the length of the carport and was on the opposite end of the apartment building. As he moved through the carport, Officer B saw a small walkway that ran along the far side of the building. He heard a rapid succession of gun shots.

Officer B retreated and broadcast that shots had been fired. Moments after broadcasting, Officer B heard several additional gunshots.

At that same time, Officer A heard gunshots. Officer A dropped his flashlight, removed his radio, and broadcast a help call. While making the help broadcast, Officer A suddenly saw Subject 1 run onto the sidewalk from the apartment building. Subject 1 extended his arm, turned his upper torso toward Officer A, and fired several rounds in Officer A's direction while running away from Officer A.

Officer A dropped his radio and, from his position on the sidewalk, fired two rounds in Subject 1's direction. When he attempted to fire a third round, Officer A experienced a pistol malfunction. Officer A cleared the malfunction and observed that Subject 1 had increased his speed as he continued to run. Officer A holstered his service pistol while running after Subject 1.

Meanwhile, upon hearing the exchange of gun fire, Officer B ran to the sidewalk. Officer B observed Officer A running on the sidewalk in front of him, but could not see what was in front of his partner. Officer B believed that Officer A was pursuing Subject 1 and joined the foot pursuit.

Subject 1 turned onto a perpendicular street and out of sight of the officers. The officers began to establish a perimeter to contain Subject 1. It was later determined that Subject 1 had entered a converted garage area and had barricaded himself inside. When Subject 1 surrendered, he was handcuffed and taken into custody.

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 A and B's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A and B'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 adjudicating this incident, the BOPC considered that:

1. The BOPC noted that the officers did not advise CD of their code-six status upon arrival at the location. The purpose of notifying CD of their status is to enhance officer safety. When circumstances warrant an emergency response of additional personnel, as occurred later in this instance, CD has the pertinent information readily available to provide to the responding units, maximizing their ability to properly respond and make the most appropriate tactical decisions.
2. Officer B did not communicate to Officer A that Subject 1 was fleeing on foot or his intention to chase Subject 1. Communication between partners is paramount for officer safety. In this instance, Officer A did not know that his partner was engaged in a foot pursuit with the subject until he heard a disturbance at the front of the apartment complex. Officer B should have alerted his partner of his observations and his intention to chase a murder suspect on foot, therefore working as a team.

3. The officers separated and maintained no verbal or visual communication with each other. The BOPC noted that officer safety requires that partner officers be aware of their partner's location and possess the ability to respond in order to render immediate aid. In this instance, the officers admittedly did not know the whereabouts of their partner, constituting separation.
4. Officers A and B ran with their pistols drawn. The BOPC evaluated the circumstances of this incident and concluded that the officers were justified in their decision to run with their service pistols drawn. The subject was wanted for murder and later fired several rounds at the officers, justifying their reason to have their pistols drawn during the foot pursuit.
5. Officer A dropped his flashlight and radio onto the sidewalk to engage a subject actively shooting at him. Officer A then chased the subject on foot leaving his flashlight and radio on the ground. After exchanging rounds with the subject, Officer A decided to pursue Subject 1 without his flashlight or radio. Knowing the severity of the situation, Officer A should have picked up his radio and flashlight off the ground and then tracked the subject down the street. A radio is a critical piece of equipment that provides a communication link to other officers.
6. Officers pursued a subject on foot that who believed to be armed. The BOPC determined that the officers used appropriate tactics during the first portion of the foot pursuit. Officer B initially utilized parked vehicles as cover while paralleling Subject 1 on foot. Furthermore, Officer B did not blindly chase Subject 1, but instead slowed down and tactically deployed around the corner. Had Officer B blindly chased the subject around the corner, the rounds fired by the subject may have struck him.

The BOPC found Officers A and B's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC evaluated the circumstances relevant to Officers A and B's drawing and exhibiting and determined that they had sufficient information to reasonably believe that the situation may escalate to the point where deadly force may become necessary.

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

C. Use of Force

The BOPC evaluated the circumstances relevant to Officer A's lethal use of force. The BOPC determined that Officer A's use of lethal force reasonably appeared necessary to protect himself from the immediate threat of serious bodily injury or death.

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