

**ABRIDGED SUMMARY OF AN OFFICER-INVOLVED SHOOTING AND FINDINGS
BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

OFFICER-INVOLVED SHOOTING – 029-08

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Harbor	03/13/08		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Sergeant A	19 years, 3 months
Officer A	12 years, 2 months
Officer B	4 years, 7 months
Officer C	4 years, 7 months
Officer D	5 years, 11 months

Reason for Police Contact

On duty officers were already at the scene of an officer-involved shooting (OIS), when a subject armed with a gun exited his residence and fired several rounds at the officers.

<u>Subject (s)</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject: Male, 49 years			

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 (UOFRB) 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 the 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 March 3, 2009.

Incident Summary

Sergeants A, B,C, and Officers A, B, C, D, E, F, G, H, I, J,K, and Captain A, were at the scene of an officer-involved shooting (OIS) that had occurred earlier in the evening. The officers were assigned to various duties at the Command Post (CP), and were in full uniform, with the exception of Captain A, who was in plainclothes.

Officer B was standing near the driver's side front tire of his hybrid black and white police vehicle, which was parked diagonally on the perimeter of the crime scene. Officer A was standing in front of the driver's side door facing north. Officer C was sitting in the driver's seat of the vehicle, picking up items from the center console. Witness A was standing on the porch of a residence speaking with the Subject, who suddenly walked into the residence. The Subject came back out to the porch, and without saying anything, walked out the gate that separated the front yard from the west sidewalk. The Subject turned right on to the west sidewalk of the street and started walking southbound toward the location where the officers were standing. Witness A reported that the Subject reached into his pocket and pulled out a gun with his right hand.

Officer A observed the Subject walking southbound toward the officers on the west sidewalk of the street, but momentarily lost sight of the Subject when he walked behind a blue minivan that was parked along the west curb of the street. When the Subject emerged from behind the van, Officer A observed the Subject raise his right hand as he held a pistol and began to fire at the officers. Officer A ducked behind the trunk area of the police vehicle and dropped to his right knee. Officer A unholstered his pistol and fired at the Subject.

Simultaneously, Officer B heard gunshots and dropped to his left knee behind the police vehicle's engine block. Officer B turned while unholstering his pistol and observed the silhouette of a male standing on the sidewalk next to a parked van. Officer B observed muzzle flashes coming in his direction. Officer B extended his forearms over the hood of the police vehicle and fired at the Subject, who then crouched down and appeared to lose his balance. The Subject then lowered his right arm and began to fall backward onto the sidewalk. As he fell, the Subject's right hand was still holding the pistol, and was raised upward. Officer B fired additional shots at the Subject.

Officer C heard gunshots, and exited the driver's side of the police vehicle. Officer C moved to the front of the police vehicle, next to Officer B and unholstered his pistol. Officer C observed the Subject falling down onto his back while holding a gun. The Subject fell to the sidewalk with his head to the north and his legs to the south. The Subject's legs were pulled up toward his torso, and his knees were bent. It appeared to Officer C that the Subject was attempting to roll over toward the east, by leaning on his left shoulder. Officer C believed the Subject was pointing the gun in his direction, so Officer C fired his pistol at the Subject. Officer C observed the Subject drop his shoulder, lay supine, and drop the gun from his right hand onto the sidewalk approximately six inches from the right side of his head. The Subject then began to rock

left to right on the ground. The officers began yelling commands at the Subject, but he did not comply.

Officer C saw the Subject lean to his side and appear to reach for the gun with his right hand. Officer C fired additional rounds at the Subject. Officer D also observed the Subject almost touch the handgun and ordered him not to reach for the handgun. When the Subject did not comply, Officer D fired at the Subject. Simultaneously, Sergeant A, who also believed the Subject was attempting to arm himself, also fired at the Subject. The Subject then brought his right empty hand, forward to his stomach area.

Meanwhile, several officers who were performing duties related to the previous OIS investigation heard gunshots and responded to the intersection. In response to the rounds being fired, these officers and supervisors unholstered their pistols.

The Subject's gun, a .380 caliber Bersa semiautomatic pistol, was recovered from the scene.

Note: When Scientific Investigation Division (SID) later inspected the gun, SID determined that the gun's chamber and magazine were empty. SID also recovered two .380 caliber casings from the west sidewalk area which were subsequently determined to have been fired from the Bersa pistol.

The Subject was taken in custody at that time and medical treatment was requested. It was later determined that the Subject had sustained multiple gunshot wounds to his left knee, left thigh area, left lower leg, right ankle, right forearm, right buttocks and upper right abdomen area. He also had fractures to his right forearm, right ankle and left lower leg. The Subject tested positive for opiates and benzodiazepines and had a Blood Alcohol Content of 0.26.

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 while 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 that the tactics utilized by Captain A, Sergeants A, B and C, and Officers A, B, C, D, E, F, G, H, I and J warranted a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found that the drawing/exhibiting/holstering by Captain A, Sergeants A, B and C, and Officers A, B, C, D, E, F, G, H, I and J was in policy.

C. Lethal Use of Force

The BOPC found that the lethal use of force by Sergeant A and Officers A, B, C and D was in policy.

Basis for Findings

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

A. Tactics

When Sergeant A and Officer D arrived on scene, neither sought available cover and found themselves exposed in the middle of the intersection.

Although the suspect was already lying on the ground, he still posed a threat to officers. Both Sergeant A and Officer D should be reminded to use any available cover to minimize exposure and ensure they are available to render assistance to other involved officers.

The BOPC found that the tactics utilized by Captain A, Sergeants A, B, and C, and Officers A, B, C, D, E, F, G, H, I and J warranted a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

The BOPC evaluated the circumstances relevant to Captain A, Sergeants A, B, and C, and Officers A, B, C, D, E, F, G, H, I and J'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 also noted that several other officers arrived on scene and drew their service pistols after the OIS. The BOPC determined that their participation in this incident was not significant enough to warrant a finding.

The BOPC found that the drawing/exhibiting/holstering by Captain A, Sergeants A, B, and C, and Officers A, D, B, C, E, F, G, H, I, and J was in policy.

C. Lethal Use of Force

The BOPC evaluated the circumstances relevant to Sergeant A and Officers A, B, C and D's lethal use of force. The BOPC determined that Sergeant A and Officers A, B, C and D's use of lethal force was objectively reasonable to protect themselves from the immediate threat of serious bodily injury or death.

The BOPC found that the lethal use of force by Sergeant A and Officers A, B, C and D was in policy.