

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

**OFFICER-INVOLVED SHOOTING – 032-10**

**Division**                      **Date**                      **Duty-On (x) Off ( )**                      **Uniform-Yes (x) No ( )**

Southeast                      4/6/10

**Officers(s) Involved**                      **Length of Service**

Officer A                      7 years, 11 months

**Reason for Police Contact**

Officers conducting a pedestrian stop, which resulted in an officer involved shooting.

**Subject (s)**                      **Deceased ( )**                      **Wounded (X )**                      **Non-Hit ( )**

Subject: Male, 20 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 the 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 March 22, 2011.

## **Incident Summary**

Officers A and B were driving in an area to monitor gang activity, gather intelligence and provide a high visibility police presence. Officers A (driver) and B (passenger) were traveling in a marked black and white police vehicle. The vehicle's front driver and passenger's side windows were down as they were driving. Although Officers A and B's vehicle was equipped with a Digital In-Car Video System, it was not turned on at the time of the officer-involved shooting (OIS).

Officers A and B were driving when they observed a group of approximately 10 males standing in front of a residence. The males were standing on the sidewalk and front lawn/driveway area of the residence and were holding cups in their hands. Officer A formed the opinion that they were drinking in public. Officer B also recognized several of the individuals as members of the local gang. Officers A and B stopped their vehicle in front of the driveway.

Officer A observed a male (subsequently identified as the Subject), wearing a white t-shirt and jeans look at them with a surprised look, and grab onto his waistband. Officer A formed the opinion that the Subject had grabbed a weapon. Officer A told Officer B, "he's grabbing," and the Subject turned around and started running southbound up the driveway. Officer A yelled at the Subject through the open window to "Stop!" and Officer B exited the vehicle and ran after the Subject. As the Subject ran through the group of gang members, Officer A heard someone in the group yell at him. Officer A exited the vehicle and ran around the front of the vehicle, and started to run up the driveway in Officer B's direction in order to follow the Subject's movements.

The Subject ran southbound in the driveway, and Officer A observed the Subject continue to hold his waistband. The Subject then turned left, around the southwest corner of the house, and Officer A lost sight of him. Officer B followed the Subject around the corner of the house and into the backyard, and Officer A lost sight of Officer B. Officer A then heard Officer B yell, "Gun. Gun. He's doubling back." Officer A ran east across the front yard and faced south, toward the house, where he was able to see down a walkway on the east side of the property. As described by Officer A, "And I - - I make a tactical decision, the fastest way to get to the Subject and Officer B is if I go back and go east and start, you know, broadcasting and track them being - - still track the Subject, believing that he's going to go either double back or he's going to go east."

As Officer A ran across the front of the residence, according to him, he grabbed his radio and started to broadcast when he observed the Subject turn left around the southeast corner of the house and run toward him, holding a gun in his (the Subject's) right hand. Officer A returned the radio to its holder and, believing the situation could escalate, so he unholstered his service pistol, and maintained it in a two-handed low ready position.

The Subject ran north along the walkway, toward Officer A, and Officer A yelled at the Subject to "Drop the gun. Drop the gun." The Subject continued to run. As the Subject turned the corner, he ran into a flowerbed. According to Officer A, the Subject, with his

right hand extended, raised a blue steel pistol and pointed it at Officer A's face. Officer A, believing that the Subject was going to kill him, raised his pistol, aimed it at the Subject's mid-section and fired two rounds at the Subject. The Subject fell to the ground, and started trying to crawl. Officer A believed that the Subject could still be in possession of the gun, or could have a second gun, and told the Subject, "Let me see your hands. Let me see your hands."

Officer B reported that as Officer A stopped their vehicle in front of a residence, Officer B immediately exited the police vehicle and saw that the object the Subject was holding was a handgun. Officer B told Officer A, "Partner, gun," and then he (Officer B) instructed the Subject to, "Stop. Police. Drop the gun," but the Subject ran southbound up the driveway, and Officer B ran after him. Officer B saw Officer A behind him, and continued to run after the Subject. The Subject then made a sharp turn into the backyard, and Officer B lost sight of him. Officer B unholstered his pistol, and held it in his right hand as he continued to run after the Subject.

The Subject continued to run across the backyard and made another left turn toward the front of the residence. Officer B yelled to Officer A, "Partner, he's coming back around. He's coming back northbound. He's coming back around." Officer B continued to follow the Subject across the backyard. Officer B observed the Subject holding the gun the entire time that he was running behind him. The Subject made another sharp left turn, around the corner of the house, and Officer B lost sight of the Subject. Officer B then heard Officer A yell, "Drop the gun. Drop the gun."

Officer B ran into the front yard and observed the Subject holding the gun, standing approximately 10 feet to his northwest, and Officer A standing approximately 10 to 15 feet in front of the Subject with his (Officer A's) gun raised and pointed at the Subject. The Subject then raised his gun and pointed it at Officer A. According to Officer B, he was focused on the Subject but realized there was a potential crossfire situation between him and Officer A, and he so sidestepped to his right to get out of Officer A's line of fire. Officer B heard three gunshots; however, because he was looking at the Subject at the point when he heard gunshots, he was not immediately aware of who had fired them. Upon hearing the first gunshot, Officer B looked to his right and determined that Officer A had fired his weapon and then looked back at the Subject. The Subject was on the ground with his hands out at his sides.

Officer B lost sight of the gun and believing that the Subject may have fallen on top it, holstered his weapon and approached the Subject. Officer B handcuffed the Subject, and then conducted two pat-down search of the Subject's entire body. Officer B did not find a gun when he searched the Subject. Officer B finished searching the Subject but left him on the ground when he and Officer A observed that the group of males that had been standing in front of the residence along with the Subject were becoming loud and angry, and began to yell at them. Officer B unholstered his pistol because he did not know if anyone else in the group was armed. Officer B then instructed the group to get down on the ground in a prone position, and covered them with his pistol while waiting for additional units to arrive.

Officer A broadcast, "shots fired," prompting additional units to respond to the location. Officer B directed the responding units to handcuff everyone who was standing in the driveway. As described by Officer B, "I directed officers to watch the Subject and to handcuff everybody or secure all the other people that were in the driveway. Officer A broadcast a request for a Rescue Ambulance (RA) for the Subject.

Officer C was stopped at a traffic light going when he heard Officer A's shots fired broadcast. Officer C responded to the location and notified CD of his Code Six status. Officer C stopped his vehicle directly behind Officers A and B's vehicle. Officer C exited his vehicle and then walked east toward Officers A and B, unholstering his service pistol as he did so. Officer C maintained his pistol down by his side. Officer B then directed Officer C to detain three males standing on the sidewalk in front of the residence directly west of the OIS location. Officer C approached the three males, instructed them to move from the sidewalk to a fence in front of their location, which they did, and then holstered his pistol. Officer C conducted a pat down search and completed a Field Interview (FI) card for Witness A.

According to the Subject, he and approximately five or six other people were hanging out in front of a residence when a car pulled up in front of the house and people around him started to run. The Subject ducked down, stood back up, and then started to run southbound up the driveway. As described by the Subject, "Like, in LA if you see people running, you probably should run or duck, too." He ran around the house but, according to the Subject, he did not believe that anyone chased him around the house. Further, according to the Subject, he did not have a gun nor did he have anything in his hands as he ran around the house. As the Subject came back around the front of the house, he heard someone say "Freeze," and realized that the car that had pulled up in front of the house was a police car. At that point, the Subject could not see the police officer telling him to "Freeze," because according to him, the officer was possibly "shielding himself."

The Subject raised his hands in an "L" position, with his left hand around his midsection and his right hand out in front of him at eye level, and started to kneel down by placing his left leg in front of his right leg. The police officer told him to get down. The Subject bent down, and started to go down to the ground when he heard a gunshot. The Subject could still not see the officer. The Subject put his hands over his head and saw that his left middle finger was bleeding. The Subject also observed that he had been hit by the bullet in the inside of his left thigh, and that the bullet had exited the outside of his thigh.

After he was hit by the gunshot, the Subject fell back into some bushes and saw a police officer, who, according to the Subject was a male.

According to Witness B, the Subject, in addition to several other individuals, including her boyfriend, Witness C, were standing in the street. Witness B was in the driver's seat of her vehicle, which was parked in the driveway, when she saw the police officers drive up in front of the house and shine a bright light on the group of men. Witness B

saw the Subject turn around and start walking toward the back of the residence, when the passenger officer exited the police vehicle and chased after him (the Subject), pushing Witness C and Witness D out of the way as he did. The driver officer then exited the vehicle and broadcast over his radio, "Subject in pursuit."

According to Witness B, the Subject ran around the entire house, followed by the passenger officer. Witness B then saw the Subject trip as he attempted to jump over a gate on the east side of the house, and fall into bushes in the front yard. According to Witness B, the Subject was lying at an angle, in a northwest position, with his head facing the sidewalk, toward the officer. An officer approached the Subject with his gun drawn, and according to Witness B, the officer stated to the Subject, "Put your hands up. Put your hands up. Behind your head. Behind your head," and then fired two shots at the Subject as the Subject lay on the ground. According to Witness B, she never saw the Subject with a weapon and the Subject did not have anything in his hands as he ran around the house.

**Note:** Witness B stated that her attention was on both the officer and the Subject when she heard the gunshots, but that she did not see a muzzle flash when the gunshots were fired.

After the OIS, several Department supervisors arrived at the location, including Sergeant A and B and Detective A. Sergeant A separated Officers A and B, and ordered them not to discuss the incident. Sergeant A then obtained a Public Safety Statement (PSS) from Officer B, while Detective A obtained a PSS from Officer A. A short time later, Lieutenant A arrived at the location and assumed the role of Incident Commander.

Los Angeles City Fire Department (LAFD) personnel arrived and provided emergency medical treatment to the Subject for multiple gunshot wounds. LAFD personnel transported the Subject to the hospital where he was treated for multiple gunshot wounds.

Officer D arrived at the location after the OIS had occurred and after supervisors and LAFD were already at the scene. Officer D walked to the front yard, near where the Subject had been taken into custody, using his flashlight to illuminate the ground as he did so. Officer D then observed a blue steel revolver in a plant by the northeast corner of the house. According to Officer D, someone then took photos of the gun and another officer was assigned to stand by and watch the gun.

### **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 Officer A's tactics to warrant Administrative Disapproval and Officer B's tactics to warrant a tactical debrief.

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

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

#### **C. Use of Force**

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

### **Basis for Findings**

#### **A. Tactics**

- In its analysis of this incident, the BOPC identified the following tactical considerations:
  1. Code Six

The officers intended to conduct an investigative stop, but did not notify Communication Division (CD) to update their location and status. Officer A (driver) exited the vehicle and also became involved in the incident without updating their status with CD, or requesting additional resources, which would have alerted nearby units of the unfolding tactical situation. In this case, Officer A was the secondary officer. It would have been tactically feasible for him to initiate a radio broadcast, while Officer B focused on his pursuit of the subject.

In conclusion, not advising CD of their status and location while conducting a field investigation, substantially deviated from approved Department tactical training; however in this instance, because of the rapidly unfolding and dynamic tactical situation, Officer B'S actions were justifiable due to his role as primary officer who was in position to contact the subject. It was reasonable for him to focus on the subject, and to expect that Officer A would broadcast. However, the issues of radio communications and updating status and location while conducting field investigations, will be discussed during the tactical debrief.

In this incident, Officer A was the secondary officer in the foot pursuit and was

responsible for broadcasting the foot pursuit and, Officer B reasonably relied on Officer A to do so. Officer A's failure to broadcast the code-6 location could be justified initially due to the rapidly unfolding incident, however, immediately entering into a foot pursuit without advising CD substantially and unjustifiably deviated from approved Department tactical training and placed the officers at a significant tactical disadvantage. The Department trains officers to run and attempt to broadcast the location of the foot pursuit to allow responding officers to arrive and assist as soon as possible. This topic will be thoroughly discussed during the tactical debrief and through extensive retraining.

## 2. Foot Pursuit: Apprehension vs. Containment/Suspension

In this instance, Officer B engaged in a foot pursuit of a subject who was armed with a handgun with the intent to apprehend him, rather than in a containment mode. As Officer B pursued the subject he did pass known gang members that were congregating in the front yard and driveway area of the residence. Officer B focused on the subject with the gun running past the potential threat posed by the gang members. Believing his partner was with him throughout the foot pursuit, Officer B continued to pursue the subject around the residence to the front of the location, where the OIS occurred. Officer B did so with caution, using the corner of the residence as cover as taught in Department training.

According to Officer B, he slowed his pace as he approached the first (southwest) corner of the house rather than run blindly around the corner.

According to Officer A, he lost sight of Officer B for approximately, one to two seconds. However, by pursuing the subject through the crowd, while unaware of his partner's location, B placed himself and A at a significant disadvantage. Also, in this case, Officer A had the responsibility to remain with and support his partner (B), who was focusing on the subject. Officer A deployed from the vehicle and, upon hearing Officer B yell, *he's doubling back*, decided not to follow his partner and, instead, ran east to the northeast corner of the house.

According to Officer A, he did this because he believed that it was the fastest way to *...get to Officer B and get to the subject...rather than follow the trail he (Officer B) was running in*. As Officer A approached the corner of the house, the subject was running northbound towards him with Officer B behind him; this also created a potential cross fire environment.

The actions of Officer A substantially deviated from Department approved tactical training. Officer A's decision not to follow (and remain with) his partner, and pursue the armed subject without his partner placed both officers at a significant tactical disadvantage, as neither could render aid to each other. Officer B also pursued the armed subject without his partner. However, a reasonable officer with the same training and experience would have no way of knowing that his partner was not behind him at that time. Officer B continued to communicate with his partner as though he was present. It would be unreasonable to argue that he should have looked to see if his

partner was with him in this instance as his training dictates that he not take his eyes off of the armed subject.

As primary officer, Officer B reasonably relied on Officer A to provide support and cover as the secondary officer. As a result of the separation, Officer B arrived at the Northeast corner of the residence he ran into a cross fire situation with his partner. Officer B and Officer A immediately recognized this crossfire situation and corrected their positions as the subject ran towards Officer A. Each of these topics will be thoroughly discussed during the Tactical Debrief and addressed in extensive retraining for Officer A.

- 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. Each tactical incident inherently results in considerations for improvement.

In conducting an objective assessment of this case, the BOPC and the Use of Force Review Board, critically evaluated the actions of both officers; while remaining focused on ensuring an equitable outcome based on the role and responsibility of each officer. In the end, while Officer B's (primary officer) actions appear to substantially deviated from approved Department tactical training, that deviation was justified based on the fact that he did not know he was separating from his partner during the foot pursuit, his reliance on his partner Officer A (secondary officer) to follow him as the Department trains, the position he was in regarding chasing an armed subject with caution and keeping focused on the subject with a gun and his continually communicating with his partner who he believed was present. The actions by Officer A as described in detail above did substantially deviate from Department training and the BOPC concurred with the board that there was no justification for this deviation. Therefore, each of the issues discussed will be covered in a comprehensive tactical debrief with Officer A and B and further covered with Officer A in extensive retraining.

## **B. Drawing/Exhibiting**

- Officer B observed a gun in his waistband area of the subject. Thereafter, Officer B gave chase to the rear of the residence and drew his service pistol. Officer A followed and then returned to the front of the residence in an attempt to contain the subject and subsequently drew his service pistol after he saw the subject approaching with a gun in his possession.

After the subject was shot, Officer B holstered to handcuff the subject and then drew his weapon a second time to deal with an unruly crowd that was forming.

Officer A recalls, *Officer B is yelling gun; at this point...I drew my weapon, fearing that the situation might escalate.... I see the gun and draw and exhibit my weapon.* Based on the observations of both officers, it was reasonable for Officers A and B to

believe there was a substantial risk that the situation may escalate to the point where deadly force may be justified. In conclusion, the BOPC found Officers A and B's drawing and exhibiting to be in policy.

### **C. Use of Force**

- In this instance, Officer B pursued the armed subject around the rear of the residence. Once Officer B observed the subject running back toward the front of the residence, he yelled to Officer A, "*Partner, he's coming back around. He's coming back northbound. He's coming back around.*" Once he heard his partner, Officer A decided to run eastbound across the front yard toward the northeast corner of the property line where he looked southbound and observed the subject run toward him with a gun in his right hand.

Officer A observed the subject point his firearm at him (A). Officer A's belief that the subject's actions presented an imminent threat of death or serious bodily injury was objectively reasonable; an officer with similar training and experience under the same or similar facts and circumstances would have the same belief as Officer A. In conclusion, the BOPC found Officer A's application of Use of Lethal Force to be objectively reasonable and in policy.