

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

OFFICER INVOLVED SHOOTING – 039-10

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Topanga	05/10/2010		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Officer A	9 years, 9 months
Officer B	7 years, 10 months
Officer C	7 years, 2 months
Officer D	4 years, 6 months
Officer E	3 years, 7 months
Officer F	4 years, 6 months

Reason for Police Contact

Officers responded to a traffic stop of an armed homicide subject which resulted in an Officer Involved Shooting.

<u>Subject(s)</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject: Male, 34 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 suspect 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.

In accordance with state law, divulging the identity of police officers in public reports is prohibited, so 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 May 3, 2011.

Incident Summary

The Subject was wanted for questioning in the murder of his ex-wife, which had occurred earlier in the day in another city. The weapon used was a handgun.

The Subject drove to the home of a family friend and while wearing blood stained clothing, admitted he had shot someone. The Subject told the family friend he would not surrender to the police and was contemplating suicide. The Subject left in a vehicle, and the family friend notified LAPD Communications Dispatch and gave them the information. Officers A and B monitored the broadcast as did Sergeant A. All were driving marked black and white police vehicles.

While checking an underground parking structure of a retail store, plain clothes police officers saw a parked vehicle matching the description of the Subject's vehicle. The vehicle backed out of the parking stall and started to leave. The officers started to follow the vehicle and confirmed it was the Subject inside. Officers A, B and Sergeant A responded, as did the airship. The Subject turned into the parking lot of a large department store. Officer A activated his overhead lights and "chirped" the siren, but the Subject did not yield. The Subject continued driving through several parking aisles. In the meantime, Officers C, D, E and F arrived.

Meanwhile, the Subject produced a handgun and pointed it at his own head, as he drove through the lot.

The Subject drove to the front of the department store and stopped. Officers A and B stopped their vehicle approximately 70 to 75 feet west of the Subject's vehicle. Officers D and C stopped their police vehicle behind Sergeant A. The Subject got out of his vehicle, turned and faced the officers. Several officers commanded him to drop his weapon but he did not comply. The Subject turned his head and looked in the direction of the doors to the department. Sergeant A gave instructions to the officers not to allow the Subject to enter the department store. The Subject then started to side-step toward the doors of the department store.

As the Subject moved toward the department store, he moved the gun away from his head and appeared to be moving it in the direction of the officers, and an Officer-Involved Shooting (OIS) ensued, involving Officers A, B, C, D, E, and F. Their individual accounts of the OIS are described below:

Officer A fired three rounds from his handgun, while the Subject was on his feet.

Officer B fired approximately three rounds from his Glock hand gun. The Subject fell to the ground but was still reaching for his gun, so Officer B fired three more rounds at the Subject.

Officer C fired a total of eight rounds and believed he fired once when the Subject was on his feet, and the remainder, after the Subject fell to the ground and reached for his gun.

Officer D fired four rounds from a shotgun and fired three times while the Subject was standing, then another round after the Subject fell and reached for his gun.

Officer E did not fire initially but fired two rounds at the Subject, after the Subject fell to the ground and reached for his gun.

Officer F did not fire initially but fired four rounds after the Subject fell to the ground and reached for his gun.

Sergeant A did not fire but unholstered his weapon and instructed officers not to allow the Subject to get inside the department store. Officer G also unholstered his weapon, but did not fire.

After the OIS, an arrest team was formed and the Subject was taken into custody.

Witnesses A through N saw all or a portion of the OIS. The statements of the witnesses corroborated officer accounts.

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 through F and Sergeant A's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officers A through F and Sergeant A's drawing and exhibiting to be in policy.

C. Use of Force

The BOPC found Officers A through F Use of Force to be in policy.

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered the following:

In this instance, Officer A indicated he broadcast the suspect's information to personnel over the area's simplex frequency. Based on the serious nature of the involved crime, it would have been prudent for information broadcasts to be simulcast over the area base frequency. Doing so would have ensured that the information was immediately available to all area personnel and not just the personnel within the range of the simplex frequency.

In conclusion, the action did not "*unjustifiably or substantially*" deviate from approved Department tactical training. However, Officer A is reminded of the importance of broadcasting pertinent information over the appropriate base frequency.

In this instance, the investigation revealed that Officers A and B did not discuss where or when they would attempt to stop the Subject as he drove through the parking lot.

While the BOPC appreciates that Officers A and B were proactive in their efforts, the inherent risks associated with the detention of a potentially armed murder suspect, warranted the development of a tactical plan of some kind. Factors for consideration included, but are not limited to, the Subject's access to weapons, presence or lack of citizens in the area, potential escape routes and assessment of geographic area (i.e. business district, residential area, etc.) Both officers should have discussed a tactical plan and communicate it to responding officers.

In conclusion, while the officers' actions did not "*unjustifiably or substantially*" deviate from approved tactical training, the involved officers are reminded of the importance of having a tactical plan.

In this instance, two teams were formed. One team had the responsibility to clear the Subject's vehicle and the other team was responsible for taking the Subject into custody. As the team approached to clear the vehicle, Sergeant A was slowly driving the police SUV forward providing cover to the arrest team. Although Sergeant A was cognizant of the search teams' locations, both teams were actively moving parallel to each other. The Incident Commander, Sergeant A, should have considered slowing the pace of the arrest team, thereby allowing the vehicle search team sufficient time to clear the vehicle prior to the arrest team initiating contact with the Subject.

In conclusion, although there is area for improvement, the sergeant and officers' actions did not *"unjustifiably or substantially"* deviate from approved Department tactical training. However, the involved personnel are to be reminded of the importance of maximizing officer safety and the preferred practice of thoroughly clearing potential threat areas before engaging in further apprehension activities.

The BOPC found Officers A through F and Sergeant A's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting/Holstering

The BOPC noted that in this instance, Sergeant A, and Officers A through F and Officer G observed the Subject armed with a handgun with the muzzle pointed at his head. Additionally, the officers had information that the Subject was involved in a homicide in another city. In response, Sergeant A and Officers A, B, C, E, F and Officer G drew their service pistols and Officer D exhibited a Department shotgun.

The BOPC determined that, based on the homicide investigative information and the Subject's possession of a handgun, Sergeant A and Officers A through G were reasonable to believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Sergeant A, and Officers A through G's Drawing/Exhibiting to be In Policy.

C. Use of Force

In this instance, the Subject stopped his vehicle and exited with a handgun pointed at the right side of his head. Believing the Subject was going to enter the business where he would have access to additional victims, the officers discharged their respective weapons.

The Subject was struck by the gunfire, dropped his handgun and fell to the ground. According to the officers, while on the ground, the Subject reached for his handgun. As a result, several officers again fired their respective weapon at the Subject and ceased fire once the Subject stopped moving and the threat had ceased.

In assessing the individual perceptions of each of the involved officers, it is clear that each had an objectively reasonable belief that the Subject presented an imminent deadly threat to individuals within the department store, should he be allowed to escape into the store. All officers were aware that the Subject was a wanted murder suspect, and observed him holding a firearm. Each of the officers were present as Sergeant A directed them not to allow the Subject to get inside the department store. Officers A, B, C, D and F articulated that they initially fired to prevent the escape of the Subject, a violent fleeing felon because he posed a significant threat of death or serious bodily injury to officers or others within the store. Furthermore, Officers B, C, D and E articulated that they fired in defense of life based on the Subject actions.

In objectively evaluating this incident, the Subject did present a deadly threat to officers and to innocent patrons and passers-by, and the officers on scene had a clear responsibility to prevent him from entering that store. Accordingly, in light of the facts and circumstances of this incident, each sequence of fire by Officers A, B, C, D and F was consistent with Department policy, in defense of the lives of individual officers and others, and to prevent the escape of a violent fleeing felon, which would have likely resulted in a hostage situation within the department store, ultimately jeopardizing the life of many innocent persons.

Any Los Angeles Police Officer with similar training and experience would have reasonably perceived the same imminent deadly threat and would have reacted in the same manner. Consequently, the deadly force used by each officer was objectively reasonable and within Department policy.

In conclusion, the BOPC found Officers A through F's application of lethal force to be in policy.