

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

OFFICER INVOLVED SHOOTING – 042-08

| <u>Division</u> | <u>Date</u> | <u>Duty-On(X) Off()</u> | <u>Uniform-Yes(X) No()</u> |
|------------------------|--------------------|---------------------------------|------------------------------------|
| Newton | 05/02/08 | | |

| <u>Involved Officer(s)</u> | <u>Length of Service</u> |
|-----------------------------------|---------------------------------|
| Police Officer A | 8 years, 1 month |
| Police Officer B | 6 years, 1 month |

Reason for Police Contact

Officers responded to a call of shots fired, and were directed to a residence that the armed subject. When officers entered the residence, the subject pointed a handgun at officers, resulting in an officer-involved shooting.

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

Because state law prohibits divulging the identity of police officers in public reports, for 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 April 14, 2009.

Incident Summary

Witness A called 911 and reported that several shots had been fired by a subject who then ran into a residence next door. Communications broadcast the call as an "ADW [Assault with a Deadly Weapon] shots fired just occurred."

Police Officers A and B notified Communications that they would handle the call. When they arrived at the location, Detective A and Officer C were already present and speaking with the witness. Officer C informed Officers A and B of the circumstances conveyed by the witness, confirming that a male subject was standing in front of the house, pointed a gun at the witness, then fired several rounds into the air.

As the officers continued with their preliminary investigation, several other uniformed supervisors and officers arrived in response to the radio broadcast, including Sergeants A and B, and Police Officers D, E, F, G and H.

Sergeant A determined that the officers needed to check the neighboring house to try and locate the subject with the weapon, and to insure there were no assault victims inside the residence. Sergeant A formed a tactical plan using the available personnel, and subsequently approached the residence.

The officers contacted several people outside the residence, including a witness sleeping in a car who provided a set of keys to the residence. A team of officers approached the front door and knocked, and loudly announced themselves as police. When no one answered, the officers tried the keys without success.

Sergeant A then took officers to the rear door of the residence, which perimeter officers had advised was ajar. At this point, all of the officers had their pistols unholstered, with the exception of Sergeant A.

Officer A recalled that upon approaching the rear door, he found that the security screen door was wide open and the interior door was ajar. The officers loudly announced their presence, and called for anyone inside to come out, but there was no response.

Officers A and B then pushed open the interior door and moved inside the residence into a well lit living room. Officers A and B moved 3-5 feet inside the residence. Both officers then saw Subject 1 lying on his back on a couch, with his feet pointed toward the officers. Subject 1 had a pistol in his left hand, which was resting on his chest.

Both Officer A and Officer B believed that Subject 1 saw them, and made eye contact with them as they entered and stopped. According to Officer B, as soon as he saw the pistol, he began issuing commands to Subject 1 saying, "Drop the gun. Drop the gun. Put your hands up. Drop the gun." Officer A heard the orders, as did Sergeant A

According to Officer B, Subject 1 began to raise the gun with his left hand off of his chest, and point it at Officer A. Officer B raised his pistol and fired three rounds at Subject 1.

According to Officer A, Subject 1 canted the gun upwards, pointing it towards Officer A. Officer A then fired three rounds at Subject 1.

Officer D recalled hearing Officer B say, "Drop the gun. Drop the gun." Officer D then saw a gun come up from the couch and point towards Officer A.

According to Officer B, after he fired he saw Subject 1 begin to lower his left arm, then the gun fell out of the subject's hands, and Subject 1's arm went limp alongside the couch.

An ambulance responded and declared Subject 1 deceased.

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 Sergeant A's, and Officer A, B, D, E, F, G, and H's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

The BOPC found Officer A, B, D, E, F, G, and H's drawing and exhibiting of a firearm to be in policy.

C. Use of Force

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

Basis for Findings

A. Tactics

In its analysis of this incident, the BOPC noted the following tactical considerations:

1. Metropolitan Division should have been notified to evaluate the appropriateness of a response by personnel from Special Weapon and Tactics Section (SWAT).

In this instance, the officers were containing a residence in which they believed an armed, Assault with a Deadly Weapon subject had entered. There were no

observations made that would have led the officers to form the opinion that an immediate and rapid entry to the residence was necessary. When time is available, officers are trained to evaluate the situation, ensure that proper notifications are made and that appropriate personnel are at scene.

The BOPC agreed with the Department's determination that , although the criteria for a response from SWAT personnel was not necessarily met and most likely would have resulted in a refusal to respond, it would have been appropriate for SWAT to be notified of the unfolding tactical situation; therefore, affording them the right to refusal.

2. The tactical plan established by the officers and Sergeant A did not address several critical issues.

In this incident, the officers and Sergeant A had ample time available to ensure that a proper tactical plan was established. Based on the tactical advantage possessed by the subject while officers were entering an unfamiliar location, the tactical plan should have included a mandate that the officers were properly equipped to handle any tactical situation that may have arisen. For instance, it would have been tactically advantageous for the entry team to have donned helmets prior to making entry.

Other equipment that the tactical plan should have assigned to officers included less-lethal tools such as a TASER and searching tools such as search mirror. A request for an air unit should also have been considered to assist in establishing containment around the location and to direct officers to the subject's location should he have decided to flee.

Additionally, a proper tactical plan would take into consideration the need for enhanced communication between the entry team, team leader and perimeter officers. In this incident, there was no request for a tactical frequency and the officers relied on a simplex channel. History has shown that simplex frequencies are somewhat unreliable and that occasionally, important communications between officers are missed. Tactical frequencies are not only more reliable than simplex channels, but monitored and recorded by Communications Division (CD). In the event of an emergency being broadcast over a tactical frequency, CD personnel would be able to assist in the response of additional resources; however, since simplex channels are not monitored, the request for help may go unheard.

3. Officer A, B, D, E, F, G, and H did not check out Department shotguns on the day of the incident.

In this instance, Officer A, B, D, E, F, G, and H did not check out Department shotguns on the day of the incident. By not checking out Department shotguns, the officers created a circumstance wherein they did not have them available as the officers made entry into the residence.

4. The officers entered the residence through the rear door without advising officers deployed at the front of the residence.

In this incident, there was an apparent lack of communication between officers making entry to the residence and the officers assigned to the perimeter. The designated communications officer has the responsibility to ensure that communications are made at crucial times of a tactical situation, such as the time entry is being made; therefore, lessening the chance of a potential crossfire situation should the perimeter officers observe the entry team's movement inside the location.

The BOPC found Sergeant A, and Officers A, B, D, E, F, G, and H's tactics to warrant a tactical debrief.

Drawing/Exhibiting

Officers A, B, D, E, F, G, and H responded to the location and were advised that an armed subject either ran inside or along the side of a residence. As the officers prepared to search the rear yard, door knock the front door, and enter the residence through the rear door, it was reasonable for the officers to believe that they may have to utilize their service pistols to defend themselves against an armed assailant.

Therefore, the BOPC found Officers A, B, D, E, F, G, and H's drawing to be in policy.

Use of Force

Officers A and B entered the residence and observed Subject 1 lying on the couch, while armed with a handgun. After Officer B repeatedly ordered Subject 1 to drop the weapon, Subject 1 pointed the handgun at Officer A. Therefore, the BOPC found it was objectively reasonable for Officers A and B to perceive that it was necessary to protect Officer A from the immediate threat of death or serious bodily injury presented by the subject's actions, and, therefore, that Officer A and B's use of lethal force was in policy.