

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

OFFICER-INVOLVED SHOOTING – 044-08

Division	Date	Duty-On (X) Off()	Uniform- Yes(X) No()
Newton	05/17/2008		

Officer(s) Involved in Use of Force **Length of Service**

Officer C	7 years, 6 months
Officer D	1 year, 5 months

Reason for Police Contact

Witness A observed a man carrying a gun who appeared to be chasing another man. The witness' boyfriend called 911 and reported the incident. When officers first saw the subject, they did not recognize him. Shortly thereafter, Officer C observed the subject carrying a gun.

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

Subject 1, Male, 17 years.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate the 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. 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 03/31/2009.

Incident Summary

Communications Division (CD) received a report of a man with a gun and requested a patrol unit to respond. Air Support Division Officers A and B arrived overhead in the area. Subsequently, uniformed Officers C and D heard the broadcast as they prepared for their tour of duty and indicated that they would respond from the station.

Officers E, F, G and H, working a uniformed crime suppression detail in the area and driving marked police vehicles, broadcast that they also had responded to the location. Based on an observation by the air unit, the officers contacted three subjects who were later determined not to be involved in the incident.

Meanwhile, uniformed Police Officers I and J, driving a marked police vehicle, were the first officers to arrive on scene, although they did not broadcast that they had done so. Upon arrival, the officers observed the units that had detained the three subjects.

Officers C and D arrived on scene. Officer C contacted the units on scene and confirmed that the three subjects detained were not involved with the incident. CD advised Officers C and D that the involved subject was bald, wearing a black sleeveless undershirt and was currently standing near a white van or truck.

Officers C, D, I and J entered their respective vehicles and drove away, attempting to locate Subject 1 in the area where they had observed several parked white vehicles. Officers I and J drove past a white truck and white van without locating Subject 1. Subjects 1 and 2 approached from the opposite direction. Neither officer initially recognized Subject 1 based on his description. After passing Subjects 1 and 2, Officer I began a U-turn and told Officer J that one of the pedestrians could have been Subject 1. As Officer I looked back, he observed Officers C and D turning their vehicle into a driveway near Subjects 1 and 2 and believed the officers were preparing to contact the two pedestrians.

As Officers C and D drove, Officer C observed Subjects 1 and 2 standing on the sidewalk near a truck. Officer C, however, did not recognize Subject 1 and decided to ask the two subjects if they had seen anyone matching Subject 1's description. Officer C told Officer D, driver of the vehicle, to turn around and pointed to a driveway. As Officer D turned toward the driveway near the two subjects, Officer C observed Subject 1 wearing a black sleeveless undershirt under his open shirt and observed the handle of a handgun in his waistband.

Officer D also observed that Subject 1 had a handgun in his waistband; Officer D said to Officer C, "Sir, that's him right there. He's got a gun."

Officer D stopped the vehicle, and both officers took cover behind their respective vehicle doors. Officers C and D drew their service pistols. In English, Officer D issued commands. Subject 2 immediately raised his hands above his head, whereas Subject 1 failed to comply. In Spanish, Officer C said several times, "Put your hands up".

Meanwhile, Officer I completed his U-turn and returned to Subject 1's location. As Officers I and J exited their vehicle, they both heard Officer C issue a command to drop the gun. Officers I and J drew their service pistols.

Officer D observed that Subject 1 had a blank look on his face and stood with his hands down to his sides. Subject 1 then reached for his gun. Officer D observed Subject 1

reach for his gun with his right hand but did not observe Subject 1 take hold of or remove the gun from his waistband. At that point, Officer D fired five or six rounds at Subject 1. Subject 1 slowly collapsed to the ground and out of the sight of Officer D.

Officer C said that Subject 1 took a step or two toward Officer D and himself, raised his hands to chest level and then abruptly reached with his right hand for the gun in his waistband. Officer C yelled, "No," repeatedly, but observed Subject 1 grab and remove his handgun from his waistband. Officer C fired one or two rounds at Subject 1 and then observed Subject 1 raise his left hand and left leg as if to block the bullets. Subject 1, still holding the handgun, pointed the weapon at Officer C while holding the handgun close to his chest. Officer C fired one or two additional rounds at Subject 1. Subject 1 spun around but maintained his grasp on the handgun as he dove in front of a parked car. Only Subject 1's knees and feet were visible to Officer C once Subject 1 went to the ground.

Officer C broadcast that shots were fired and that the officers needed help. Officer D redeployed from behind his vehicle door to the front of his vehicle so he could observe Subject 1. Officer I took Officer C's position behind the vehicle door, allowing Officer C to redeploy behind his police vehicle. The officers waited for additional units to arrive.

Officers E, F, G and H responded to the scene. The officers observed Subjects 1 and 2 on the ground as the on-scene officers had their guns drawn and pointed at the individuals. Officers E, F, G and H formed an arrest team. Officer G retrieved his rifle from the trunk of his vehicle and used it to cover Officers E, F and H as they approached Subject 1. Officers E and H handcuffed Subject 1 without further incident. Officer H searched Subject 1 for weapons with negative results. Officer H then observed a handgun underneath the parked car next to Subject 1. Officer D then handcuffed Subject 2.

Officer C broadcast a request for a rescue ambulance (RA). Believing the RA would not respond to Subject 1's location because the scene had not yet been secured, Officers E, H, K and L carried Subject 1 away from the shooting scene. Officers E and L began CPR on Subject 1 until Los Angeles Fire Department personnel arrived.

Subject 1 was transported to a local hospital, where he failed to respond to medical treatment and was pronounced dead.

Note: The weapon brandished by Subject 1 was subsequently determined to be a realistic-looking plastic replica of a semi-automatic handgun.

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 C, D, I and J's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers C, D, I, and J's drawing to be in policy.

C. Lethal Use of Force

The BOPC found Officers C and D's lethal use of force to be in policy.

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

1. Officers I and J responded and arrived at the radio call location but did not advise CD of their status and location.

Upon arriving at the location, Officers I and J should have advised CD. Such notification could have prompted Officers C and D to downgrade their emergency response, thus increasing their safety, the safety of other motorists and pedestrians on the roadway.

2. Officers I and J believed they had located Subject 1, but did not notify Officers C and D of their observations. The officers also did not notify CD of their updated location.

Officers I and J should have communicated their observations and intentions to Officers C and D as well as updated their status and location with CD; communication between officers is critical to ensure officer safety.

The BOPC found Officers C, D, I and J's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

Officers C and D observed Subject 1 with a handgun in his waistband. When Subject 1 began to remove the handgun from his waistband, Officers C and D believed the incident had escalated to the point where lethal force would be necessary and drew their service pistols.

As Officers I and J approached the subject, they heard Officer C yell, "Drop the gun." Believing that Officers C and D were confronting an armed subject and that the situation could escalate to the point where lethal force would be necessary, Officers I and J drew their service pistols.

The BOPC found Officers' C, D, I, and J's drawing to be in policy.

C. Lethal Use of Force

A reasonable officer would believe that a subject attempting to draw a handgun from his waistband was an indicator that the subject was going to shoot at the officer or another person. In this situation, Officer C observed the subject pulling a handgun from his waistband. Fearing for his life and the life of his partner, Officer C fired two to three rounds at Subject 1. Subject 1 spun around and continued to hold his handgun in a close contact position against his chest with the barrel pointed at Officer C. In fear that Subject 1 could still shoot him, Officer C fired an additional one to two rounds at the subject. Officer D also saw Subject 1 reach for his waistband, where the gun was located, with his right hand. Fearing for his life, as well as the life of his partner, Officer D fired five rounds at Subject 1. In this situation, the officers believed the subject posed an immediate threat of death or serious bodily injury.

The BOPC found Officers C and D's lethal use of force to be in policy.