

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

OFFICER-INVOLVED SHOOTING – 046-10

Division	Date	Duty-On()	Off(X)	Uniform-Yes()	No(X)
77th Street	06/04/10				

Officers(s) Involved	Length of Service
Officer A	10 years, 6 months

Reason for Police Contact
An armed suspect confronted an off-duty officer resulting in an officer-involved shooting.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
Subject: Male, 36 years old.			

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 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 Chief 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 May 17, 2011.

Incident Summary

Officer A was off-duty at his residence and was preparing to report to work. Officer A walked out to his personal vehicle and placed a duffle bag containing his back-up weapon and other work-related items in the trunk of his vehicle.

Prior to driving away, Officer A decided to wipe down the interior of his vehicle. Officer A removed his back-up weapon from the bag and placed it on the floor of his trunk. Officer A left his vehicle's trunk open.

As Officer A cleaned his vehicle, he saw a van travelling eastbound and stop in the middle of the street. According to Officer A, the van did not park along the curb, but instead pulled up along side his vehicle, facing in the opposite direction. Officer A exited his vehicle and stood in the street next to his vehicle's driver's side door. The Subject then got out of his van and walked up to Officer A.

The Subject exited the van and walked to within a foot-and-a-half of Officer A. While holding a handgun in his hand, the Subject asked Officer A what gang he was from. Officer A noticed movement coming from within the van and saw that there was at least one other person in the van, so he decided not to attempt to disarm the Subject.

Officer A decided to make an attempt to retrieve his back-up gun from the trunk of his vehicle, so he began to walk/side step away from the Subject and toward the trunk of his vehicle but the Subject followed him. Meanwhile, Witness A pulled up and parked behind Officer A's vehicle, but did not get out.

Officer A grabbed his gun from the trunk of his vehicle and repositioned himself using his vehicle as cover.

According to Officer A, when he moved to the passenger side of his vehicle, he lost his footing and fell onto his knees, while at the same time trying to grasp a hold of his weapon. In his attempt to grasp a hold of his weapon in his hand, he put his finger on the trigger and when he fell, he discharged a round from his weapon into the rear passenger door of his vehicle.

Officer A then heard approximately three gunshots. Fearing that he and/or Witness A were being shot at by the Subject, Officer A decided to engage the Subject.

Officer A saw the Subject standing in the street, pointing his pistol in Officer A's direction. Officer A fired two rounds from his pistol at the Subject and re-positioned himself. Officer A heard additional gunshots as he did so.

At this point, Officer A saw that the Subject was down in the street, holding the gun in his hand, pointing it in Officer A's direction. Officer A yelled at the Subject, telling him not to move. The Subject continued pointing the gun in Officer A's direction. Fearing that the Subject was going to shoot at him, Officer A fired two additional rounds at the Subject.

According to Officer A, after he fired two rounds at the Subject, the Subject managed to get to the opened driver's door of the van. The Subject was trying to lift himself into the van.

Meanwhile, Officer A, thinking that the Subject was injured, walked into the street, using the rear of the van as partial cover/concealment. The Subject was still holding his gun in his hand and pointing it at Officer A, as he was lifting himself into the van. Fearing that the Subject was going to shoot him, Officer A fired his weapon at the Subject again. The Subject managed to pull himself into the van, closed the door and the van drove away at a high rate of speed. The Subject was later arrested at a nearby hospital with a non-life threatening gunshot wound.

Witness A saw the majority of the shooting and corroborated Officer A's account of events.

Witness B heard three gunshots. She looked out of her window (which was open) and saw Officer A standing on the sidewalk behind his vehicle, pointing his gun at the Subject, who was lying in the street next to the van. Witness B said that she heard Officer A yell, "Don't do it, put it down, put it down." At that time, she saw the Subject pull a gun out of the van, point and fire two or three shots at Officer A and then throw the gun into the van. The Subject managed to lift himself into the driver's door of the van and drive away.

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 actions to warrant a tactical debrief.

B. Drawing/Exhibiting

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

C. Use of Force

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

Basis for Findings

A. Tactics

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

1. Cover/Concealment

In this instance, Officer A utilized four sequences of fire to address the deadly threat presented by the Subject. During the first three sequences of fire, Officer A utilized his vehicle as cover. Between the third and fourth sequence of fire, however, Officer A left cover and entered the roadway to confront the Subject. Officers are encouraged to remain behind cover and summons the response of additional personnel to assist with the apprehension of an armed suspect; however, Officer A was off-duty and summoning the assistance of additional personnel was not an option. Furthermore, Officer A was not in a position due to the imminent threat to dial 9-1-1.

The BOPC found Officer A's actions did not unjustifiably or substantially deviate from approved Department tactical training.

In conclusion, the BOPC found Officer A's actions to warrant a tactical debrief.

B. Drawing/Exhibiting

In this instance, while cleaning the interior of his personal vehicle, Officer A was confronted by the Subject. According to Officer A, the Subject stopped about a foot and a half away from him and took a "fighting stance." Almost immediately, the Subject asked Officer A, "What set are you from?" Looking down, Officer A observed that the Subject held a handgun in his right hand.

Based on the Subject's actions, an officer with similar training and experience as Officer A would reasonably believe that the situation had escalated to the level where the use of deadly force may be justified. As such, it was reasonable for Officer A to retrieve his backup pistol from the trunk of his car in order to defend himself.

In conclusion, the BOPC found Officer A's drawing and exhibiting to be in policy.

C. Use of Force

In this instance, Officer A utilized four sequences of fire to address the deadly threat presented by the Subject.

In this instance, the Subject, armed with a semi-automatic pistol, initiated an unprovoked confrontation with Officer A. The Subject then inquired into Officer A's gang status. With his training and experience as a police officer, Officer A knew the dangers associated with this line of questioning. Officer A knew that gang members often ask those types of questions as a distraction just before they shoot an individual regardless of that person's gang affiliation. As Officer A attempted to retrieve his backup pistol from the trunk of his vehicle in order to defend himself, the Subject fired several rounds at Officer A. Officer A then fired at the Subject.

Officer A also observed a second unidentified individual quickly exit the passenger door of the van and run toward the front of the van. Officer A immediately crouched down below the windows of his vehicle and redeployed toward the front passenger tire. As Officer A moved, he heard several more gunshots. Upon reaching the front tire, Officer A stood up, assumed a shooting stance and fired several more rounds at the Subject.

An officer with similar training and experience would reasonably believe that the Subject presented a threat of serious bodily injury or death and that lethal force would be justified in order to stop that deadly threat. As such, it was objectively reasonable for Officer A to perceive the imminent deadly threat and utilize Lethal Force in defense of his life.

In conclusion, the BOPC found Officer A's use of lethal force to be in policy.