

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

OFFICER-INVOLVED SHOOTING – 051-10

Division	Date	Duty-On(X) Off()	Uniform-Yes() No(X)
Foothill	06/24/10		

Involved Officer(s)	Length of Service
Detective A	20 years 4 months
Detective B	20 years 7 months
Detective C	17 years 1 month
Detective D	28 years 5 months

Reason for Police Contact

The Subject was suspected of being involved in a series of armed robberies. The detectives had stopped the Subject, in an effort to take him into custody, when an officer-involved shooting occurred.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
Male, 24 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 BOPC and made itself available for any inquiries by the BOPC.

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 June 7, 2011.

Incident Summary

Detectives obtained information regarding a series of robberies that had occurred at various check cashing stores. During one of the robberies, a witness obtained the license plate details of the Subject's vehicle.

Detectives responded to the address of the Subject and initiated a surveillance of his vehicle. Detectives A and B were in one vehicle, and Detectives C and D were in a separate vehicle. Detectives followed the Subject and observed him as he walked into a check cashing store. Once inside the store, the Subject committed a robbery, during which he threatened victims with a handgun.

The detectives then followed the Subject as he fled the location and ultimately forced the Subject to stop his vehicle.

According to Detective A, he exited the passenger side of his vehicle armed with his shotgun. Detective A had a clear view into the Subject's vehicle and recalled that the windows were rolled up, the side windows were clear and the rear windshield was tinted. As he exited his vehicle, Detective A stated, "Police, hands up." He could also hear other detectives yelling the same commands. According to Detective A, when they first stopped the Subject, his hands were on the steering wheel; however, he could not see the Subject's right arm. As Detective A exited his vehicle, he observed the Subject with a handgun. Detective A further explained that the Subject's right arm came across the front of his body, and he could see that the Subject was holding a blue steel semiautomatic handgun in his right hand. It appeared to him that the Subject was pointing the gun in the direction of Detective B, and that the Subject was making eye contact with Detective B. Detective A, in fear for Detective B's life, fired his shotgun two to three times as the Subject was pointing the gun at Detective B. Detective A then observed the Subject turn to his right and saw gunfire striking Detective C's windshield. Although Detective A could no longer see the Subject's gun, he now believed that the Subject was shooting at Detective C, and he fired an additional two to three rounds at the Subject, until his shotgun was empty.

Detective B was about to exit his vehicle when he observed the Subject, still in his (the Subject's) vehicle, turn toward him with what appeared to be a handgun. Detective B then heard the sounds of gunshots, which he assumed were from either Detective A or C. Detective B described the Subject's weapon as a blue steel handgun and was unsure if it was a revolver or a semiautomatic. Detective B stated that he fired his shotgun as the Subject's upper torso was turning to the left, toward Detective B, and the Subject's gun was pointed toward the street.

Detective C observed glass breaking out of the rear windshield of the Subject's vehicle and believed that the Subject was shooting at the detectives. Detective C was in fear for his life and, without exiting his vehicle, fired four rounds through his own windshield in the direction of Subject 1. Detective C indicated that due to the tint on the rear windshield of the Subject's vehicle, he could not see the exact movements of the

Subject, but believed that the Subject had fired a shot through his (Subject 1's) rear window. After firing the shots through his windshield, Detective C exited his vehicle in an effort to see inside of the Subject's vehicle.

Detective D, heard shots being fired and observed the Subject lean to his right, with what Detective D believed to be a gun in the Subject's hand. Detective D thought the Subject was attempting to acquire either himself or another detective as a target and fired one round from his shotgun at Subject 1.

Following the shooting, Detectives A, B, and D placed their shotguns in their respective vehicles and drew their pistols. Detective A gave commands to the Subject, ordering him numerous times to "show his hands" and to "open the driver's side door." The Subject finally opened the door, and pulled himself partially out of the vehicle. The Subject was then taken into custody and handcuffed.

Meanwhile, Witness A went outside and, prior to hearing gunshots, heard the detectives yelling commands at the Subject. Witness A indicated that the detectives were giving the Subject commands and that the Subject was not obeying them. Witness A observed the Subject making sudden movements within the vehicle prior to shots being fired. At one point, it appeared that the Subject had his palms together and was reaching to his right. It also appeared to Witness A that the Subject reached down under the passenger side of the front seat. According to Witness A, when the Subject made a quick motion to his right, he observed Detective A fire four shots. Witness A did not see the Subject in possession of a gun. According to Witness A, after the shots were fired, the Subject continued to ignore the detectives' commands and was moving around within the vehicle. The Subject finally came out of the vehicle as though he was falling, with his legs remaining within the vehicle.

A Rescue Ambulance arrived at the scene and treated the Subject for gunshot wounds to his left shoulder, neck and head. The Subject was subsequently transported to a hospital.

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 Detectives A, B, C and D's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Detectives A, B, C and D's drawing and exhibiting to be in policy.

C. Use of Force

The BOPC found rounds 1-3 discharged by Detective A to be in policy, and rounds 4-6 to be out of policy.

The BOPC found Detective B, C and D's uses of force to be in policy.

Basis for Findings

A. Tactics

The BOPC found that the tactics used during this incident did not unjustifiably and substantially deviate from approved Department training, and noted that a Tactical Debrief is the appropriate mechanism for the significantly involved personnel to evaluate the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Detectives A, B and C exited their respective vehicles and exhibited their shotguns in preparation of confronting a possible deadly threat. Additionally, Detective C believed the Subject was firing his weapon in his direction and drew his service pistol from his tactical vest to confront the perceived deadly threat.

The BOPC found Detectives A, B, C and D's Drawing/Exhibiting to be in policy.

C. Use of Force

The BOPC found the first three rounds discharged by Detective A to be in policy. The BOPC found the discharge of the subsequent three rounds by Detective A to be out of policy. The BOPC noted that the preponderance of the available evidence did not support an objectively reasonable belief that the Subject presented an imminent threat of death or serious bodily injury at the time those rounds were discharged. Specifically, Detective A did not observe the Subject in possession of a gun at the time the rounds were fired, and impacts to the windshield of Detective C's vehicle, which were caused by Detective C's gunfire, did not constitute the basis for an objectively reasonable belief that the Subject was firing at Detective C.

The BOPC noted that Detective B immediately exited his vehicle with his Department issued shotgun and took a position behind his open door. Detective B observed the Subject turn his head to the left in his direction. The Subject then continued to turn his body to the left and raised his right arm while holding what Detective B perceived to be a “blue steel handgun”.

Detective B’s decision to use lethal force was objectively reasonable, in that an officer with similar training and experience would have reasonably perceived the Subject’s actions to constitute an imminent threat of death or serious bodily injury.

The BOPC noted that Detective C heard a gunshot and perceived that he was being fired upon by the Subject. This belief was a result of his observation that the rear window of the Subject’s vehicle was “broken.”

Detective C’s decision to use lethal force was “*objectively reasonable*,” in that an officer with similar training and experience would have reasonably perceived that the situation posed an imminent threat of death or serious bodily injury.

The BOPC noted that Detective D heard gunshots. Looking into the passenger compartment of the Subject’s vehicle, Detective D saw the Subject lean to this right and observed what he believed to be the silhouette of a gun in his hand.

Detective D’s decision to use lethal force was objectively reasonable, in that an officer with similar training and experience would have reasonably perceived the Subject’s actions to constitute an imminent threat of death or serious bodily injury.

The BOPC found rounds 1-3 discharged by Detective A to be in policy, and rounds 4-6 to be out of policy.

The BOPC found Detective B, C and D’s uses of force to be in policy.