

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

**OFFICER-INVOLVED SHOOTING 056-10**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On (X) Off () Uniform-Yes (X) No ()</u></b>		
Newton	07/10/10			

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	5 years, 7 months

**Reason for Police Contact**

Officers conducted a vehicle stop, which resulted in an officer-involved shooting (OIS).

<b><u>Subject</u></b>	<b><u>Deceased ()</u></b>	<b><u>Wounded ()</u></b>	<b><u>Non-Hit(X)</u></b>
Subject: Male, 25 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.

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 21, 2011.

## **Incident Summary**

Officers A and B were on patrol when they observed a vehicle, occupied by the Subject and Witness A, passing by them. According to Officer A, "They [the occupants] looked at us. And they give us that -- that look, like that -- that look. So I told my partner, 'did you see them?' So we made a U-turn. As the vehicle proceeded down the street, the Subject turned off the vehicle's lights and drove slowly down the middle of the street. The Subject then pulled his vehicle over to the curb and stopped on his own initiative. Officers A and B pulled behind the Subject's vehicle. The Subject and Witness A exited the vehicle. Officer A exited the police vehicle, observed the Subject raise his hands above his head and heard him say in an aggressive tone, "What, what the [expletive]? What do you want?" Officer A ordered the Subject to get back in the car, but the Subject refused. Officer B exited the police vehicle and unholstered his pistol because Witness A started walking toward the police vehicle. Officer B heard Officer A tell the Subject to get back into the vehicle. Once Witness A reached the rear of his (Witness A's) vehicle, Officer B observed that he did not have anything in his hands and holstered his weapon. Officer B then advanced toward Witness A and ordered him to place his hands behind his back. Witness A complied and Officer B began to handcuff him.

As Officer B was handcuffing Witness A, the Subject looked around and began running in the middle of the street. Officer A ran after the Subject, having looked into the Subject's vehicle to ensure that no other subjects were present. As Officer A pursued the Subject, he observed him holding his right pants pocket and believed it was a handgun he was holding. Officer A broadcast he was in foot pursuit of a man with a gun.

Officer B finished handcuffing Witness A, placed him by the front of the police vehicle and told him to stay there. Officer B did not place Witness A into the police vehicle as his priority was to follow his partner. Officer B estimated that Officer A was approximately 40 yards to 45 yards ahead of him when he joined the foot pursuit.

The Subject ran to a parking lot, which was enclosed by a six-foot cinder block wall and a wrought iron fence on two sides. The Subject jumped over the wall into the parking lot and upon reaching the wall, Officer A observed the Subject running through the parking lot. Officer A saw that the Subject had a gun in his hand. Officer A then observed the Subject jump over another wall, into an alley. When Officer A was midway through the parking lot, he observed the Subject point his handgun at him through the wrought iron fence. Officer A drew his weapon and fired four rounds at the Subject from a distance of approximately 30 feet. The Subject was not struck by any of Officer A's rounds. The Subject yelled and threw the gun, and ran down alley toward a street. Officer A stated that when the Subject threw the gun to the ground, he heard the gun collapse because the Subject threw it hard. Officer A believed that the Subject was trying to break the gun or destroy it. Officer A broadcast that the Subject had dropped his gun, there were shots fired, and requested help.

Meanwhile, Officer B observed the Subject jump over the wall, followed by Officer A. Upon reaching the wall, Officer B observed the Subject on the other side of a fence. As Officer B was about to jump over the wall, he saw the Subject turn around and point a handgun toward Officer A. Officer A fired shots in the Subject's direction. The Subject dropped his gun and took off running.

After jumping over the wall, Officer A positioned himself whereby he could observe the gun, which the Subject had thrown, while Officer B proceeded down the alley toward the street to determine if he could see the Subject. Upon reaching the street, Officer B could not see the Subject. Officer B returned to Officer A's location to await the arrival of units responding to the help call. While guarding the handgun dropped by the Subject, Officer A positioned himself so he could observe Officer B walking down the alley toward the street. Officer A then began to establish a perimeter.

Meanwhile, Officers C, D, E and F responded to the help call. Upon arrival, the officers observed Witness A standing handcuffed in front of Officers A and B's police vehicle. Officers E and F exited the vehicle and stayed with Witness A, while Officers C and D proceeded to Officers A and B's position to assist with the establishment of the perimeter.

Sergeant A also responded to Officer A and B's location. Upon arrival, Sergeant A observed a gun and a magazine on the ground. Sergeant A determined that Officer A was involved in an OIS, separated him from Officer B, and obtained a Public Safety Statement from Officer A. Sergeant A continued to monitor Officers A and B until the arrival of other supervisory personnel. After relinquishing his monitoring duties, Sergeant A, along with Officers C and D, door-knocked several residences in the immediate area of the OIS to determine if anyone had been injured as a result of the shooting.

Following the establishment of the perimeter and a subsequent K-9 search, the Subject was found hiding behind a residence. A K-9 contact occurred during the search and the Subject was transported to a local hospital for the treatment of minor injuries. Following treatment, the Subject was booked.

### **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's tactics to warrant a finding of Administrative Disapproval. The BOPC found Officers B's tactics to warrant a Tactical Debrief.

### **B. Drawing/Exhibiting**

The BOPC found Officers A and B's Drawing/Exhibiting to be in policy.

### **C. Lethal Use of Force**

The BOPC found Officer A's Lethal Use of Force to be in policy.

## **Basis for Findings**

### **A. Tactics**

In adjudicating this incident, the BOPC considered that:

In this instance, the Subject unexpectedly pulled his vehicle to the curb and both occupants exited. Meanwhile, Witness A ignored commands and walked toward Officer B. The situation rapidly unfolded and required that attention be given to the actions of the uncooperative and belligerent vehicle occupants. Tactical training accounts for circumstances wherein immediate officer safety concerns make it impractical to broadcast the officers' status and location; however, the broadcast should be made when practical.

Based on the totality of the circumstances, the lack of a broadcast did not "*unjustifiably*" deviate from approved Department tactical training. However, Officers A and B are to be reminded of the importance of a timely broadcast in the event a rapid response of additional personnel becomes necessary.

In this instance, Officers A and B had discussed foot pursuit tactics and established their roles of contact and cover, with Officer B delineated as contact and Officer A as cover. Although the roles of contact and cover are not absolute and at any given time an officer's predetermined role may have to change from cover to contact officer, the concept of providing protection to one another cannot be compromised.

When Officer A made the decision to initiate the foot pursuit, he believed that Officer B had already handcuffed Witness A. Regardless of the sequence of events, Officer A placed his partner in a compromised position when he initiated the foot pursuit without communication with Officer B. In order to prevent separation from his partner, Officer B was forced to leave an unsearched handcuffed passenger alone adjacent to an unsecure police vehicle with the keys in the ignition and the engine left running. Officer

B estimated that he handcuffed Witness A in approximately five seconds, positioned him at the front of the police vehicle and ordered him not to move in order to engage in the foot pursuit.

Although Officer B's actions "*substantially*" deviated from approved Department tactical training, it was justified in that the only alternative was to become separated from his partner. Regarding his decision not to place the handcuffed passenger in the police vehicle, Officer B stated, "*I want to follow my partner. My partner was my first priority.*" Officer A created the circumstance when he independently initiated the foot pursuit. Officer B was forced to rapidly assess the potential consequences of his options to either engage in the foot pursuit or remain with the Witness A, which would certainly result in separation and his inability to render aid to his partner. To that end, Officer B mitigated the circumstances to the best of his ability when he handcuffed Witness A before he proceeded to engage in the foot pursuit. Officer B understood the tactical disadvantages associated with failing to maintain control of Witness A; however, Officer B assessed the potential eventualities and the safety of Officer A was of paramount concern.

Officer A was fully culpable for the tactical shortcomings of the incident. The decision to engage in the foot pursuit without the tactical support of his partner "*substantially*" and "*unjustifiably*" deviated from approved Department tactical training. The Department trains officers to work together as a team and remain together during foot pursuits.

In this instance, the investigation revealed that Officer A broadcast inaccurate locations during the foot pursuit. Furthermore, after the OIS, Officer A provided an inaccurate location with regard to where responding units could find them.

In conclusion, although inaccurate location information could delay the arrival of responding personnel, it did not "*unjustifiably*" deviate from approved Departmental tactical training in that Officer A was involved in a rapidly unfolding and dynamic tactical situation wherein it was reasonable that inaccuracies may occur in broadcast information. However, Officer A is reminded that when circumstances warrant an emergent response of additional personnel, as occurred in this instance, it is vital that CD has accurate information to facilitate the response of additional personnel and that officers can properly respond and make the most appropriate tactical decisions. In conducting an objective assessment of this case, the BOPC critically evaluated the actions of both officers; while remaining focused on ensuring an equitable outcome based on the role and responsibility of each officer. In the end, while Officer B's actions appear to have substantially deviated from approved Department tactical training, that deviation was justified based on the fact that Officer B's actions of leaving an unsearched handcuffed individual next to an unsecured police vehicle was done solely to follow his partner during the foot pursuit as the Department trains. The actions by Officer A did substantially deviate from Department training and there was no justification for this deviation.

Therefore, the BOPC found Officers A's tactics to warrant a finding of Administrative Disapproval, and Officers B's tactics to warrant a Tactical Debrief.

### **Drawing/Exhibiting**

In this instance, Officer A was engaged in a foot pursuit and observed the Subject running with a handgun in his right hand. The Subject then turned his body to the right and pointed the handgun at Officer A. At that point Officer A unholstered his handgun.

The BOPC determined that an officer under the circumstances with similar training and experience would reasonably 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 Officer A's Drawing/Exhibiting to be In Policy.

In this instance, the Subject's vehicle unexpectedly pulled to the curb and both occupants exited and began to yell obscenities and engage in uncooperative and belligerent behavior. Officer B drew his service pistol after he exited the passenger side of the police vehicle. Officer B was unable to see Witness A's hands, which is a significant officer-safety concern.

Officer B was the secondary officer involved in the foot pursuit and observed the Subject holding his right hand in his waistband, an action consistent with an individual concealing a firearm. When Officer B reached the cinder block wall, he observed Officer A engaging the suspect through the wrought iron fence. Officer B observed the Subject turn around and saw a handgun coming towards Officer A. Officer B jumped over the wall and then drew his pistol. Again, Officer B holstered his service pistol to climb over a second fence to enter the alley. Once in the alley, Officer B drew his service pistol a third time since the tactical scenario was still active.

The BOPC determined that in these instances an officer under the circumstances with similar training and experience would reasonably believe that there was *"a substantial risk that the situation may escalate to the point where deadly force may be justified."*

Therefore, the BOPC found Officer B's Drawing/Exhibiting to be In Policy.

### **Lethal Use of Force**

In this instance, Officer A observed the Subject turn his body to the right and point a handgun at him. Officer A believed the Subject was going to kill him. Officer A reacted, as any reasonable officer with similar training and experience, when he fired four rounds at the Subject. The decision to use lethal force was *"objectively reasonable"* in that the Subject pointed a handgun at Officer A and posed an *"imminent threat of death or serious bodily injury."*

Therefore, the BOPC found Officer A's use of Lethal Force to be In Policy.