

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

**OFFICER-INVOLVED SHOOTING – 058-12**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ()</b>	<b>Uniform-Yes (X) No ()</b>
77 <sup>th</sup> Street	9/3/2012		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	2 years, 4 months
Officer B	2 years, 4 months

**Reason for Police Contact**

Officers were on patrol and driving by a known nightclub when they heard gunshots coming from the location. When officers subsequently observed people running from the location and an unknown subject pointing a firearm at a victim on the street, an officer-involved shooting occurred.

<b>Subject</b>	<b>Deceased ()</b>	<b>Wounded ()</b>	<b>Non-Hit ()</b>
Unidentified male, unknown if injured.			

**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 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 July 16, 2013.

## **Incident Summary**

Officers A and B were on patrol and driving at an approximate speed of 15 to 20 miles per hour. As they approached an intersection, Officer A suddenly saw a large group of people running away from a location that was known to be a weekend club, and believed that a crime had just occurred or was about to occur. Officer A had previously responded to radio calls at that location. Both officers had their respective windows rolled down. Officer A slowed the patrol vehicle to a crawl. He heard approximately four to six shots fired emanating from one side of the street, but could not pinpoint the exact location the shots were coming from or who may have been shooting. Officer A did not see any muzzle flashes when the shots were fired.

**Note:** The Digital In-Car Video System (DICVS) did not activate because the officers' emergency equipment had not been turned on.

Unbeknownst to the officers, Victim A, who was at a party nearby, had been shot in the inner left thigh. She was shot by an unknown subject just prior to the officers' arrival. She was transported to a local hospital for treatment.

According to Victim A, she was at the party with her friend when she heard what she thought were balloons popping. She saw people running and realized what she had heard were gunshots. Victim A began running and heard her friend state that she thought someone was shooting. Victim A ran from the sidewalk into the street, and as she was about to look back to see who was shooting she heard additional gunshots. Victim A never saw who was shooting. She initially stated that she did not know where the shots were coming from, but later stated that the gunshots were coming from behind her.

Officer B observed a large crowd spilling into the street. He heard yelling at approximately the same time as the shots were fired, but he could not determine what that person had yelled.

**Note:** Officer B heard seven to ten shots fired. Detectives recovered a total of 16 discharged cartridge casings from the immediate area of the large party. However, it is unknown how many of those casings can be specifically attributed to this incident. Neither officer believed that they were the intended target of the shooting and there was no evidence at scene to suggest they were.

Officer A placed the police vehicle in reverse and attempted to back away from the location to gain distance from the threat. However, there was traffic behind him and he was unable back up. Prior to exiting the police vehicle, Officer A told Officer B to broadcast an officer needs help call. Officer A placed the police vehicle in park and both officers exited their police vehicle and utilized the ballistic door panels for cover.

**Note:** Officer B broadcast an officer needs help, shots fired call and included the officers' location.

Officer A unholstered his pistol because he heard shots fired, people were running toward him, and he did not know if the people running toward him were possibly armed. Officer B stepped out of the police car and unholstered his pistol immediately after broadcasting the help call because Officer B heard shots being fired and believed the situation could quickly escalate to the use of deadly force.

Officer A looked downrange and saw an unidentifiable male on the curb pointing what he believed was a gun at an unknown victim. The victim was on the street approximately two car lengths away from the male subject. The male subject had both arms in a forward position, both of his legs were bent at the knees, and he was holding an unknown type handgun. Officer A said that he could not be sure from his position if the subject was pointing his gun at a male or female victim.

**Note:** Officer B indicated that the unknown victim was a male.

**Note:** The approximate distance from the subject to the officers was 230 feet.

Officer A believed the victim and the subject were approximately 40 to 50 yards away from him. Officer A believed that when he saw the subject, the subject was underneath a street light, but due to the distance, he could not discern the subject's facial features. Officer A could see that the victim had their right knee on the ground, and the victim's arms and hands waved in a side-to-side motion, as if pleading with the subject not to shoot.

Officer A feared that the male subject was going to shoot the victim and believed he did not have any time to yell commands at the subject. Officer A fired one shot at the subject. Officer A assessed and noted that there was no reaction from the subject and the threat continued. He then fired a second shot. Officer A noted that there was still no reaction from the subject and fired a third shot at him. Officer A's shots were fired from an approximate distance of 230 feet. Officer A indicated that the subject turned to his right, tucked his left hand into his waistband area and ran eastbound.

**Note:** Officer A described Victim A as being approximately two car lengths west of the subject, and that Victim A was trying to move slowly behind a car to gain cover from the subject.

In her interview, Victim A stated that after hearing additional gunshots, she hid under a vehicle that was parked two cars east of her friend's vehicle. Based on where Victim A indicated her friend's vehicle was positioned on a diagram, it would appear that Victim A was at the approximate location where Officer A had observed the victim on the ground. Victim A stated

that her friend had made it to her vehicle and began honking her horn to get Victim A's attention. After the gunshots stopped, Victim A moved toward her friend's vehicle and crawled into her car. Victim A felt something wet on her leg and saw blood. Victim A did not realize she had been shot in the leg until she was about to enter her friend's vehicle. As she and her friend were about to drive away, Victim A observed a police vehicle stop adjacent to their vehicle and saw officers exit with their guns drawn. Victim A indicated she did not hear any additional gunfire after she entered her friend's vehicle.

**Note:** Officer A told investigators that when he fired his rounds, there were people in the background area of the subject, but perceived it to be an Immediate Defense of Life (IDOL) situation.

**Note:** Officer A specifically recalled firing three rounds during the incident; however, the magazine count of his weapon determined he was four rounds short from full capacity. Officer B recalled hearing Officer A fire two to three rounds during the incident.

Officer B saw a male subject, clothed in a white shirt and blue jeans, his arms extended outward, holding a dark handgun. The male subject was pointing his gun at another male. Officer B believed that the subject was going to shoot the victim. The subject suddenly turned in Officer B's direction, which caused him to believe the subject was going to shoot at him instead. Officer B fired at the subject one time from a distance of 204 feet. The subject turned and ran eastbound.

**Note:** Officer B stated that upon firing, his background was clear.

Officer A took approximately six steps toward the subject, and communicated to Officer B to maintain their positions and advise Communications Division (CD) that the male subject was running eastbound.

**Note:** Officer B broadcast the description of the subject as a male wearing a white shirt.

Officers A and B ran after the subject. Officer B stated that she did not know if Officer A told her to stop or if someone tried to get her attention, but she believed that something caused her to slow down, and she momentarily lost sight of the subject. The officers continued to pursue the subject.

Officers A and B ran over to a gas station at a corner. Officer A saw that there were several males at the gas station dressed in white shirts and blue pants, matching the description of their subject. Officer A asked them where the subject had gone, but no one answered. Officer A believed that the subject still had the gun in his possession. Officer A checked the sidewalk, but did not see anyone fleeing from the area.

Officers C and D responded to the help call and met Officer A at the intersection. Officer A told them where the subject was last seen. Officers C and D drove their police vehicle on the street in search of the subject and did not have any other contact with Officers A or B. Officer A stated that he holstered his pistol and broadcast, "Officer needs help. Shots fired."

During this broadcast, Officer A provided the subject description as a male Black with a white shirt and blue pants. Officer A broadcast that the subject was armed with an unknown type weapon.

Sergeant A arrived at the scene and asked the officers if they were involved in an Officer-Involved Shooting (OIS). Officer A said that he and Officer B had been involved.

**Note:** Officer B stated that she holstered her pistol between the arrival of Sergeant A at the scene and Officer A's broadcast of their location.

As soon as Officer A told him that he and Officer B were involved in an OIS, uniformed Sergeant B arrived at the location. Sergeant A separated the officers. Sergeant A obtained a Public Safety Statement (PSS) from Officer A and Sergeant B obtained a PSS from Officer B.

According to Security Officer B, she was in the parking lot of the location when she heard a gunshot. She did not see who fired the shot. As she was assisting people exiting the location, she saw a male, wearing a white V-neck T-shirt and blue jeans, run down the street with what appeared to be a black handgun in his right hand. Security Officer B saw the subject shoot twice, then saw an unknown female drop to the ground. Security Officer B later stated that the female victim was on her knees.

The unknown female was identified as Victim A, female, 23 years of age, the gunshot wound (GSW) victim previously identified in this report.

**Note:** Security Guards A and B observed an unidentified female run, fall to the ground, and they both ran to assist her. Security Guard B did not specifically describe where the female had fallen, or what happened to the female after she fell to the ground. Both security officers were armed, but never unholstered their firearms.

Security Guard B stated that she did not unholster her pistol, but yelled at the male subject to get down on the ground several times. The subject did not comply and yelled that he did not have a gun. The subject attempted to hide in between parked vehicles while holding his black pistol in his right hand. Security Officer A was next to Security Officer B, and he also yelled at the male subject to get down on the ground. The male subject motioned as if he were throwing the gun under the parked vehicles, but maintained the gun in his right hand.

Security Guard B indicated that Officers A and B stopped their police car in the street near the party location. The officers got out of the car and yelled commands for the male subject to get on the ground. Security Guard B saw that the male subject pointed his gun in the direction of Officers A and B and fired his pistol twice at the officers. Officer A then returned fire. Security Guard B was 10 to 15 feet from the subject. Although Security Guard B did not see any muzzle flash from the subject's gun, she saw the recoil and heard a "crackling" of it.

Security Guard A indicated he heard someone yell, "gun," and then saw a male with a grey shirt and dark color pants running from the party location. Security Guard A heard several shots coming from one side of the street and walked out to investigate when he saw a male with short hair, medium build, 5 feet 10 inches to 6 feet tall, and approximately 180 to 200 pounds, shooting at people as they ran away. He then saw a female on another side of the street being picked up by an unidentified person and carried away from the area. The male subject ran as Security Guard A verbalized commands to the male subject to drop his gun. The male subject attempted to hide near a parked black vehicle. As the male subject crouched near the black vehicle, Security Guard A looked at his hands and did not see any weapon. The male subject then fled the area.

Force Investigation Division personnel reviewed all documents surrounding the separation, monitoring and the admonition not to discuss the incident to officers prior to being interviewed by FID investigators and determined all protocols were complied with and properly documented.

During the crime scene investigation, detectives recovered two additional firearms. It was unknown if they were related to this incident.

### **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 made the following findings.

#### **A. Tactics**

The BOPC found Officers A and B's tactics to warrant a tactical debrief.

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

The BOPC found Officers A and B's drawing and exhibiting of a firearm to be in policy.

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

The BOPC found Officers A and B'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 considerations:

#### **1. Communication/Broadcasting**

When Officer A told Officer B to request help, Officer B issued a broadcast the request; however she indicated the wrong location. After several attempts by Communications Division (CD) to contact them, Officer B provided a second broadcast with the subject description; however she once again broadcast the wrong location even though she believed it was the correct location.

Department tactical training stipulates that officers should always strive to place clear, accurate radio broadcasts while performing field activities and they must always strive to maintain a tactical advantage during critical incidents such as this. Although Officer B's broadcast was inaccurate, the subject's aggressive actions required the officers to think quickly and respond immediately to the deadly threat posed before them to protect the public.

Additionally, Officer B was faced with numerous simultaneous tactical decisions as the incident unfolded; therefore, it was the BOPC's belief that an officer with similar training and experience, while faced with similar circumstances could have also placed an inaccurate broadcast. Subsequently, the quick arrival by responding officers mitigated any further tactical concern of this broadcast inaccuracy.

In conclusion, the BOPC determined that based on the totality of the circumstances, Officer B's actions did not substantially deviate from approved Department tactical training.

#### **2. Communication – Foot Pursuit Broadcast**

Following the OIS, the subject fled down the street. As Officers A and B pursued the subject, Officer B broadcast a description of the subject's clothing but omitted

the direction of travel. Officers A and B lost sight of the subject as he ran. Officer A broadcast the subject's last known direction of travel.

The BOPC evaluated the circumstances surrounding the foot pursuit of the subject and noted that Officers A and B remained together and maintained a safe distance from the subject. Shortly after losing sight of the subject, sufficient resources arrived and addressed additional tactical necessities. Cognizant that tactics are conceptual and intended to be flexible and incident specific, the BOPC found that the absence of a foot pursuit broadcast did not present an officer safety concern. As such, the BOPC found the officers' actions did not substantially deviate from approved Department tactical training. However, chasing an armed subject is inherently dangerous and in order to reinforce the importance of having CD and resources aware of the officers' location and status, the BOPC will direct that this topic be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:

1. Radio Discipline

In this instance, several units responded to the Help Call. During a review of the CD recording, it was determined several units continued to request location updates and command post locations while the air unit was attempting to establish a perimeter. Additionally, several officers broadcast that the weapon had been recovered and the subject was in custody prior to establishing the perimeter or confirming the correct subject was detained. Officers are to be reminded that while there is an ongoing tactical situation, keeping the radio frequency as clear as possible, while broadcasting accurate information, contributes significantly to officer safety. The BOPC will direct the Area Commanding Officer to ensure that this topic be discussed during future Roll Call briefings.

2. Preservation of Evidence

Special unit personnel responded and observed a handgun under a vehicle. Appropriately believing someone from the crowd of people fleeing the location could kick or move the handgun, Officer E picked up the handgun and casings. However, Officer E downloaded the pistol and placed the items into an envelope and secured them in the trunk of his police vehicle. Officer E is to be reminded to not unnecessarily handle evidence or manipulate recovered firearms in order to preserve evidence. The BOPC will direct the Area Commanding Officer to ensure Officer E is aware of this concern and to ensure that this topic be discussed at future Roll Call briefings.

### 3. Field Interview (FI) Card

Prior to the arrival of FID detectives, responding personnel conducted field show-ups to identify the subject. The possible subjects were not formally identified and no Field Investigation (FI) cards were provided to FID regarding the subjects' identities. The BOPC directed the Area Commanding Officer to ensure that this is a topic of discussion during future Roll Call briefings.

### 4. Notifications

The notifications to Real-Time Analysis and Critical Response Division (RACR) and FID were made two hours after the conclusion of the OIS resulting in a delay of responding investigative personnel. The BOPC directed the Commanding Officer of the Area to ensure that this topic be discussed with all supervisors.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incidents specific, which requires that each incident be looked at objectively and that the tactics be evaluated based on the totality of the circumstances.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and the individual actions that took place during this incident.

In conclusion, the BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

## **B. Drawing/Exhibiting**

- As Officers A and B drove eastbound, they heard several gunshots from a known problem location. Believing the situation had escalated to the point where deadly force may become necessary, Officers A and B exited their police vehicle and drew their respective service pistols.

Officer A drew his weapon because he heard four to six shots fired and observed multiple people running.

Officer B knew that somewhere in the area, there was a subject with a gun and gunshots are very distinctive. Officer B did not know if the subject was going to shoot again, if there was a gunfight between two other people or if the people were shooting at the officers.

Officer B drew a weapon was because he heard shots and felt that the situation could escalate to a point where deadly force was going to be needed. In fear of his life and the lives of others, he drew his weapon.

In evaluating Officers A and B's actions, the BOPC took into consideration that Officer A was aware that the area was known for gang activity and narcotics sales. Both officers heard gunshots and citizens were observed fleeing the location. Additionally, based on the fact that the officers were uncertain as to which person was armed with a handgun, the officers drew/exhibited their service pistols in order to be prepared to respond to a potential deadly force situation.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B while faced with similar circumstances 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 Officers A and B's drawing and exhibiting of a firearm to be in policy.

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

- As Officers A and B monitored the approaching crowd, they observed the male subject pointing a handgun at another person. Fearing for the safety of that person, the crowd exiting the location and themselves, both Officers A and B discharged their respective service pistols at the subject to stop his actions.

#### **Officer A** (pistol, four rounds)

Regarding the first round discharged by Officer A, Officer A shot to protect the victim from being shot and killed by the subject, as well as to protect himself and his partner, given that they were in the line of fire of the subject. Officer A also shot to protect the lives of the multiple individuals running from the location.

Regarding the second round discharged by Officer A, when asked if the subject's actions changed following the firing of his first round, Officer A indicated that the subject's actions appeared to be the same.

Regarding the final two rounds discharged by Officer A, Officer A believed the subject remained in the same position. Officer A tilted the front side of his weapon down to view the subject, and he continued to point his weapon towards the victim.

#### **Officer B** (pistol, one round)

Officer B recalled that the weapon was coming in his direction, and there were also people on the sidewalk. Officer B was thinking the subject was possibly going to shoot the bystanders on the sidewalk. If the subject didn't shoot one of the sidewalk

people, the subject was coming at Officer B's way, and she was in fear of her life. Officer B felt as though she was going to get shot and thought that if someone did not shoot the subject, somebody was going to get shot.

Based on the subject and victim's actions it appeared as if the victim was pleading for their life and taking no action could have resulted in serious bodily injury or death to that person.

The BOPC concluded that an officer with similar training and experience as Officers A and B would reasonably believe that the subject's actions of pointing a handgun at the victim and in the direction of Officer B presented an imminent threat of death or serious bodily injury and that the use of lethal force would be reasonable to address the threat.

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