

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

OFFICER INVOLVED SHOOTING – 059-10

Division	Date	Duty-On(X) Off()	Uniform-Yes(X) No()
Harbor	07/20/10		

Officers(s) Involved	Length of Service
Officer A	11 years, 6 months

Reason for Police Contact
Officers were attacked by a suspect during a call for service.

Subject	Deceased (X)	Wounded ()	Non-Hit ()
Subject: Male, 40 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.

In accordance with state law, divulging the identity of police officers in public reports is prohibited, so 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 July 05, 2011.

Incident Summary

Officer A and Officer B were assigned to a prowler call. The officers were searching the area for the prowler when they observed the Subject, who fit the description of the prowler. Officer A positioned their police vehicle behind the Subject, using the headlights from the vehicle to illuminate him. As Officer A stopped the police vehicle, Officer B exited the vehicle and told the Subject that he needed to talk to him. The Subject stopped and faced Officer B with his hands down at his side. Officer B initially gave the Subject commands in English, but when the Subject did not respond, he gave

the commands again in Spanish. Officer B approached the Subject and told him in Spanish approximately three times to turn around, but the Subject still did not respond.

Meanwhile, Officer A exited the police vehicle and stood behind his door. The Subject turned and walked toward the officers. Officer A's view was partially obscured, but he could tell that the Subject had his right hand in his pocket and possibly his left hand as well. Officer A asked the Subject to show his hands, but the Subject ignored him and walked toward Officer B, who had exited on the passenger side of their vehicle. Officer A then yelled "manos" (hands) using the limited Spanish he knew to try and get the Subject to show his hands. The Subject then turned and walked away from them.

Officers A and B started to approach the Subject. The Subject took approximately two steps away. As Officer B was about to reach out and grab him, the Subject suddenly turned around and swung at Officer B with his fist. Officer B was able to step back and avoid the blow and countered by punching the Subject with his right fist on the left side of the Subject's face. Officer B also struck the Subject a second time with his left fist in the middle of the Subject's face. The Subject then struck Officer B on his left temple, knocking Officer B's glasses off, and struck Officer B on the top of the head. Officer B believed the Subject had a hard object in his hand because of the force of the blows. Officer B immediately felt tingling in his legs, became dizzy, and his vision became blurred, momentarily incapacitating Officer B.

Officer A saw the Subject punching Officer B. The Subject then changed from a punching motion, to an overhead striking movement and began to land blows on the top of Officer B's head. Officer A saw a gray metallic object, approximately two-and-a-half inches long with a pointed end, in the Subject's hand. Officer A believed the Subject was actually stabbing Officer B with the pointed object and he unholstered his pistol. Officer A believed Officer B was being stabbed to death, so he fired a round at the Subject. The shot did not appear to have any effect on the Subject, so Officer A fired a second round. The Subject then fell to the ground and ceased his attack on Officer B.

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 and B's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting/Holstering

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

C. Non- Lethal Use of Force

The BOPC found Officers B's use of non-lethal force to be in policy.

D. Lethal Use of Force

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

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered the following:

In this instance, although there were identified areas for improvement, the tactical considerations neither individually nor collectively "*unjustifiably*" or "*substantially deviated from approved Department tactical training.*"

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

B. Drawing/Exhibiting

In this instance, Officer A observed the Subject punching Officer B in the face. As Officer A began to move into a position to assist, Officer A believed he saw a stabbing instrument in the hand of the Subject as the Subject changed from a punching to an overhead stabbing motion.

The BOPC determined that an officer under the similar circumstances with similar training and experience would reasonably believe that the situation had escalated "*to the point where lethal force [was] justified.*"

In conclusion, the BOPC found the Drawing/Exhibiting of Officer A to be in policy.

C. Non- Lethal Use of Force

In this instance, Officer B was attacked when the Subject swung his left arm in a roundhouse manner at him. Officer B avoided the punch and countered with a closed-

fist punch to the left side of the Subject's face. Officer B responded with at least one additional punch but was uncertain whether he made contact with the Subject.

The BOPC determined that Officer B reacted as any reasonable officer with similar training and experience when he used closed-fist punches to thwart the Subject's attack. The decision to punch the Subject was "*objectively reasonable*" in that the Subject presented an immediate threat and his actions were reasonably perceived to be combative.

In conclusion, the BOPC found Officer B's application of non-lethal force to be in policy.

D. Lethal Use of Force

In this instance, Officer A observed the Subject striking Officer B in a downward, closed-fist hammer style blow, and observed Officer B immediately react, consistent with sustaining a serious and debilitating injury. Officer A also perceived that the Subject had a knife in his left hand. Officer A fired one round at the Subject, assessed, and observed that the Subject was unaffected and continued to make a stabbing motion downward toward Officer B's head. Officer A then fired a second round. The Subject stopped his attack and fell to the ground.

The BOPC determined that Officer A reacted as any reasonable officer with similar training and experience when he fired a single round, assessed, and fired a second round at the Subject. The decision to use lethal force was based on the belief that the Subject was in possession of a knife, the observed stabbing motion and Officer B's inability to defend himself. Additionally, an officer with similar training and experience would reasonably believe that the Subject's actions of striking B on the top of the head with a closed-fist hammer (resulting in Officer B's reaction) would cause imminent serious bodily injury. Consequently, Officer A's use of deadly force was objectively reasonable.

The recovery of a lighter suggests that the Subject was in possession of the lighter at the time of shooting. The lighter had a metal flame guard at the top and mini flashlight at the bottom. It was "*reasonable*" that Officer A perceived a knife blade, based on seeing either the reflection off the metal flame guard or the illuminated flashlight.

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