

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

OFFICER INVOLVED SHOOTING – 076-10

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Rampart	09/28/2010		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	8 years, 1 month
Officer B	3 years, 2 months

Reason for Police Contact

Officers A, B and C attempted to conduct a vehicle stop, which resulted in an officer involved shooting.

<u>Subject</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
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 August 16, 2011.

Incident Summary

Officers A (driver), B (front passenger) and C (right rear passenger) were assigned to work together in a plain vehicle to search for a male burglary subject in a certain area of the City. While driving in their vehicle, the officers observed a vehicle that was in front of them pull over to the curb next to an unidentified male who was on the sidewalk. Officer A observed that the driver of the vehicle, subsequently identified as the Subject, had a shaved head and appeared to have tattoos, which led him to believe that the Subject was possibly a gang member. The officers observed the Subject talking to the male on the sidewalk. The male looked disturbed and "waved his hands as if saying no."

Based on his training and experience, Officer B believed the Subject was asking the male his gang affiliation. Officer B contacted Communications Division (CD), provided the Subject's vehicle's license plate number and requested a want and warrant check. CD advised that the vehicle was reported stolen and considered armed and dangerous.

The Subject continued driving and Officer A followed behind the Subject's vehicle. Officer B advised CD that they were following the stolen vehicle, provided their direction of travel and requested a backup unit and an airship to respond. Officer B also advised CD that they were in a plain vehicle. Officers D, E, F and G advised CD that they were responding to the backup request.

The Subject drove past the next intersection and then turned into an alley. Officer A hesitated for a second before entering the alley, because he was not familiar with that area, and was not sure if there was an outlet on the other side. When the Subject reached the end of the alley, he negotiated a turn into a parking lot and stopped his vehicle in the middle of the parking lot. Within seconds, Officer A drove into the parking lot and stopped approximately 10 feet behind the Subject's vehicle. Officer B advised CD of their status and location. Officers A, B and C exited their vehicle, took cover behind their respective doors and drew their pistols.

Officer A issued verbal commands and yelled eight to ten times, "Let me see your hands. It's the police. Let me see your hands." The Subject ignored the verbal commands. Officer A saw the Subject looking at him from his rear view mirror, and they made eye contact. Officer B indicated that the Subject's vehicle's windows were clear and he could see the top of the Subject's head and right shoulder.

Officer A then observed the Subject "rifling" through the center console, front seat and the back seat area. Officer A ordered the Subject to place his hands out the window. Officer B observed the Subject's driver's side door slightly open and saw the Subject "fumbling with something" in the middle console. Officer B began ordering the Subject to get down on the ground.

The Subject swung the driver's side door wide open and exited in a crouched position, holding a rifle in his hands. The rifle was tucked into the Subject's chest and the barrel

was pointed at Officer A. Officer A fired two rounds using his pistol from a distance of approximately 25 feet, from behind the driver's side door of his vehicle. The Subject continued to point the rifle at him. Aware that their vehicle was not equipped with ballistic panels, Officer A moved back to the rear of their vehicle to seek better cover. Officer A fired approximately eight to nine rounds at the Subject as he moved back. Officer A was aware that his rounds were going through his (Officer A) driver's side window and he observed the glass shattering, but he also believed that the Subject was firing rounds at him. When Officer A arrived at the rear of his vehicle, he observed the Subject on the ground, with his rifle also on the ground, a short distance from him. The Subject began crawling toward the rifle and was extending his hand toward it. Officer A believed the Subject was trying to re-arm himself and moved forward, firing another two rounds at the Subject. The Subject then rolled away from the rifle and remained on the ground.

Officer B observed the Subject open the driver's side door and exit his vehicle holding an "AK-47" rifle. The Subject then faced the officers and pointed the rifle toward them. In response, Officer B fired 13 rounds from his pistol at the Subject from a distance of approximately 27 to 32 feet, from behind the passenger's side door of his vehicle, and observed the Subject fall down to the ground. Officer B then observed a male standing by a vehicle to his right and initially believed that he was a possible subject. Officer B advised Officers A and C of the possible second subject, but then saw a child with the male. Officer B told Officers A and C to disregard. Officer B moved back to take cover behind a parked vehicle and reloaded his pistol. Officer B then walked over next to Officer A and waited for backup units to arrive.

Officer C identified himself as Los Angeles Police Department and ordered the Subject to come out with his hands up. Officer C heard Officers A and B telling the Subject to step out of the vehicle. Officer C then heard Officer B say that there was another possible subject to their right, just outside a neighboring residence. Officer C turned to monitor the neighboring residence, while Officers A and B continued to issue verbal commands to the Subject. Officer C glanced back and forth between the residence and the Subject's vehicle to see if the Subject would comply with Officers A and B's commands. Officer C then observed the Subject exit his vehicle with an assault rifle, and point the barrel of the rifle toward the officers. Officer C heard six to seven gunshots and was aware that his partners had engaged the Subject. Officer C felt he did not have adequate cover and moved to the rear of their vehicle. Officer C broadcast shots fired, officer needs assistance. Officers A, B and C held their positions and waited for backup units to arrive.

While en route to the location, responding units heard the "shots fired, officer needs assistance" broadcast. Officers D, E, F and G arrived at the mouth of the alley, in their respective vehicles. The officers exited their vehicles, drew their pistols and saw people, including Witness B, pointing down the alley. Witness B advised the officers to be careful, because there had been a shooting. The officers holstered their pistols and walked toward the OIS location. The officers reached the parking lot and observed Officers A, B and C standing by their vehicle with their guns drawn. Officer F observed

Officer C pointing his pistol at the residence to their right, and took a position next to Officer C. Officers D, E and G observed the Subject's vehicle approximately 10 feet in front of the officers' plain vehicle and the Subject on the ground moving around. Officer D saw the Subject on the ground approximately five feet away from his vehicle and a rifle four to five feet away from him, which caused Officer D to draw his pistol.

Officer D holstered his pistol, directed all the officers at the scene to hold their positions and directed three officers who were on the passenger side of the plain vehicle to approach and clear the Subject's vehicle for any additional subjects. The three officers then cleared the vehicle without further incident.

Officer D then designated officers to form an arrest team to take the Subject into custody. Officers B, D, E and G approached the Subject, who was still moving on the ground. Prior to approaching, Officer E holstered his pistol and donned a pair of gloves to avoid making direct contact with the Subject's blood. When they reached the Subject, Officer D handed his handcuffs to Officer E who then handcuffed the Subject. Officer E searched the Subject and recovered a small revolver from his right front pants pocket, which he handed to Officer G, and a wallet, which he placed on the floor. Officer E observed gunshot wounds to the Subject's head and stomach area. He then re-positioned the Subject on his side to allow him to breathe easier. The remaining officers holstered their pistols after the Subject was handcuffed. Officer E was directed to guard the rifle on the ground. A Rescue Ambulance (RA) was requested for the Subject.

Officer G picked up the Subject's wallet from the ground, and carried both the wallet and the Subject's revolver, to the trunk of his police vehicle. Officer G unloaded five cartridges from the revolver and placed them on the trunk floor, along with the revolver and the wallet.

Sergeant A approached the officers, asked who was involved in the shooting and was advised by Officers A and B that they had fired their weapons. Officer C advised that he did not fire his weapon, but was with Officers A and B. Sergeant A separated the officers and obtained a Public Safety Statement (PSS) from Officer A. Detective A, who had also arrived at the scene, obtained a PSS from Officer B.

Los Angeles Fire Department (LAFD) personnel arrived at the scene, assessed the Subject and noted that he had no pulse and was not breathing. LAFD personnel also noted that the Subject had sustained multiple gunshot wounds, and was determined to be dead.

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

B. Drawing/Exhibiting/Holstering

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

C. Use of Force

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

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that, after the OIS, Officer C redeployed to the rear of their police vehicle and broadcast the following to CD, "*Shots fired, officer needs assistance!*" As the "assistance" request has been eliminated from Department policy, Officer C's actions deviated from approved Department tactical training; however, Officer C was faced with a stressful situation where he was confronted by a subject armed with an assault rifle. As Officer C included the nature of the request, the units were made aware of the seriousness of the threat facing the requesting unit. To conclude, while Officer C's request for "Assistance" substantially deviated from Department tactical training, it was justifiable given the circumstances that he was faced with and that he conveyed the nature of the situation to CD and responding officers.

The BOPC found Officers A, B and C's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC noted that Officers A, B and C were following a stolen vehicle which CD described as "*armed and dangerous.*" When the vehicle following terminated in the parking lot, in preparation of taking the Subject into custody, the officers exited their vehicle and drew their service pistols. The BOPC determined that another officer with similar training and experience would reasonably believe that when confronting the driver of a stolen vehicle that was reported as being armed and dangerous; the situation could escalate "to the point where deadly force may be justified."

The BOPC found Officers A, B and C's Drawing /Exhibiting to be In Policy.

C. Use of Force

The BOPC noted that in this instance, Officers A and B observed the Subject exit the driver's side door of his vehicle armed with an assault rifle and point it at them. In response, Officer A fired two rounds from a distance of approximately 25 feet. The Subject appeared unaffected and continued holding the rifle. Officer A redeployed rearward, continually firing at that Subject because he still had the rifle, and he believed that the Subject was firing rounds at him. Officer A fired approximately eight additional rounds from an increasing distance of 25 to 33 feet at the Subject. Upon obtaining a position to the rear of his vehicle, Officer A observed the Subject was down on his hands and knees and the rifle was next to him. Officer A further stated the Subject was crawling toward the rifle and his hands were extended towards it. Officer A's decision to fire the last two rounds was based on the belief that the Subject was going to re-arm himself. Officer B recalled that when the Subject exited his vehicle, the Subject faced towards him. Officer B further stated that within a few seconds the rifle was pointed in the officers' direction

Based on the circumstances listed above, an officer with similar training and experience would reasonably believe that the Subject, equipped with superior weapon system, posed a threat of serious bodily injury or death and would have reasonably reacted in the same manner. Consequently, it was objectively reasonable for Officers A and B to perceive the Subject's actions as a deadly threat and utilize Lethal Force in defense of their lives.

The BOPC found Officers A and B's Use of Force to be objectively reasonable and In Policy.