

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

OFFICER INVOLVED SHOOTING – 079-08

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Northeast	08/27/08		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Police Officer A	3 years, 2 months

Reason for Police Contact

Officers responded to a radio call of an armed robbery.

<u>Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject: Male, 28 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 BOPC; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

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 4, 2009.

Incident Summary

Uniformed Police Officers A (passenger) and B (driver) were driving in a marked police when Communications Division (CD) broadcast that a robbery had just occurred over the radio. The broadcast described two subjects last seen running, one wearing a beige shirt and blue jeans, the other wearing a blue shirt and armed with a handgun.

The officers responded to the robbery area and notified CD that they were Code Six. While driving, the officers observed The Subject wearing a tan shirt with blue jeans and standing on a street corner.

Officer B conducted a u-turn, and drove past the Subject. Officer B then parked the police vehicle. The officers exited the vehicle, and Officer B asked The Subject if the officers could speak with him. The Subject did not reply and ran across the street.

Both officers ran after The Subject, and as the Subject ran, Officer A closed the distance to within five feet. Officer A was about to broadcast the direction of the foot pursuit when the Subject suddenly stopped, turned, and faced him. The Subject was holding a knife in his right hand and swung it toward Officer A, but missed him. The Subject swung the knife a second time, and Officer A held up his left arm to block the knife from hitting him. The Subject continued to swing the knife at Officer A and struck him on the left side of his head, which caused Officer A to fall backward onto his buttocks. Officer A drew and fired two rounds from his pistol at the Subject. Two fired rounds did not stop the Subject's attack who continued to swing the knife at Officer A. Officer A fired three additional rounds at the Subject who turned and ran.

Officer B reported that he observed the Subject holding a knife and swinging it toward Officer A. Officer B observed the knife strike Officer B in the chest. Officer B drew his pistol, and Officer A began firing rounds the Subject. Officer B made a "Shots fired, broadcast, and assumed a low ready position, but did not shoot because he did not have a shot.

Meanwhile, Detectives A and B were in plainclothes and driving a marked police vehicle. The detectives were responding to the location of the robbery to search for the subjects. The detectives observed Officers A and B in foot pursuit of the Subject and observed Officer A, and the Subject engaged in a fight on the southwest corner of the location. The detectives observed Officer A backing up as the Subject attempted to strike him. As the detectives drove their vehicle, a bus blocked their view, and that is when they heard at least three gunshots. The detectives drove past the end of the bus, as the Subject ran from behind the rear of the bus, and across the street holding a knife in his hand.

Officers A and B holstered their pistols and pursued the Subject and ordered him to stop. As Officers A and B caught up to the Subject, he stopped with his hands behind his back and faced the officers. Officers A and B drew their pistols and Officer B ordered the Subject to put his hands up, but he did not comply.

The detectives parked their vehicle, and went to assist the officers. Both detectives drew their pistols and ordered the Subject to surrender. The Subject then brought his hands from behind his back and tossed the knife over his shoulder. The Subject then complied with the officers' commands and laid face-down on the ground. Detective B holstered his pistol and placed his knee on the Subject's neck. Detective A holstered his pistol and then handcuffed the Subject. Detective A then searched the Subject for weapons, but did not find any on the Subject. Officer A requested an ambulance, and personnel from the Los Angeles Fire Department arrived at the scene and treated the Subject, who was struck with one single round on the right side of his buttocks. The Subject was transported him to the hospital for a gunshot wound to his buttocks. Officer A also was treated at the scene, and then transported to the 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 Officer A and B's, and Detective A and B's, tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

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

C. Use of Force

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

Basis for Findings

A. Tactics

In its analysis of this incident, the BOPC noted the following tactical considerations identified in the Department's investigation:

1. Code 6 / Status and Location

Department policy directs that, "When a unit is conducting a field investigation and no assistance is anticipated, a 'Code Six' followed by the location shall be broadcast." In this instance, Officers A and B responded to the radio call and used the Mobile Digital Computer to notify CD of their arrival.

Approximately three blocks away from the original call location, the officers observed a subject that matched the description given in the comments of the call; however, they did not update their status and location prior to initiating the stop. Although there may be circumstances that prevent officers from advising CD of their updated status and

location, in this situation, the officers had adequate time to notify CD, prior to making contact with the suspect.

Detectives A and B were in a marked hybrid police vehicle, and were in the area. The detectives were also responding to the radio call when they observed the officers in foot pursuit. The detectives did not broadcast their location due to the volume of traffic on the radio. The detectives' intention was to keep the radio frequency available for the primary officers. Although reasonable, it would have been appropriate for Detectives A and B to attempt to broadcast their location and request help for the primary officers.

Detectives A and B, along with Officers A and B were reminded to notify CD of their updated status and location when conducting field activities.

2. Requesting back-up

The officers were confronted with a man who was possibly involved in an armed robbery. Given the inherent dangers associated with confronting an armed robbery suspect, Officers A and B should have requested a back-up, and the officers were reminded to request a back up when circumstances indicate that a back-up should be utilized.

3. Deployment of the police vehicle

The California Commission on Peace Officer Standards and Training instructs that when officers make contact with subjects during a pedestrian stop, they should position themselves for the greatest safety and tactical advantage, including making it more difficult for a subject to point a weapon at the officer.

In this instance, Officer B stopped the police vehicle after having driven past the possible armed robbery suspect. This position placed the officers at a tactical disadvantage. Officer B was reminded to position the police vehicle in a manner that gives officers the greatest tactical advantage.

4. Foot pursuit broadcast

Department training instructs that it is the primary officer's responsibility to broadcast the progress during a foot pursuit. In this instance, The Subject ignored the officers' commands and fled on foot, followed by Officers A and B. During the foot pursuit, Officer A believed he used the radio microphone clipped to the front of his shirt to broadcast, and Officer B advised that he also broadcast the foot pursuit. However, a review of the Area radio frequency revealed that neither broadcast was discernible. Therefore, Officers A and B were be reminded it is their responsibility as the primary officers to ensure CD acknowledges their broadcasts during a foot pursuit.

5. Foot pursuit of armed suspects

Department training instructs that officers should not attempt to follow a suspect who is reasonably believed to possess a firearm. The exception is if the surroundings provided a reasonable amount of cover to allow the officer to move from one position of cover to the next. Officers are reminded that cover is any object that is believed to be capable of stopping a bullet fired by the suspect.

In this instance, the officers went in foot pursuit of a possible armed robbery suspect. Based on the comments of the radio call, an officer with similar training and experience would reasonably believe that the suspect was armed. Although the foot pursuit was relatively short, Officers A and B should have transitioned into containment mode, utilized available cover, and broadcast the foot pursuit, rather than remaining in an apprehension mode. Therefore, due to their reasonable belief that the suspect was armed, the officers were reminded that “containment” rather than “apprehension” is the preferred tactic.

6. Simultaneous commands

At the termination of the foot pursuit, multiple officers gave commands to the suspect. Officers are trained to utilize the concept of contact and cover in which one officer gives verbal commands to the suspect while the other provides cover.

Therefore, the involved detectives and officers are reminded that when multiple officers give commands, it may create confusion in the mind of the suspect.

7. Positive aspects

The involved personnel performed notably in several areas. Officers A and B had discussed tactics, specifically the roles of the contact and cover officers, and had worked together for approximately three months prior to this incident; the officers interrupted a traffic stop and requested that CD assign the call to them to the robbery call in their vicinity; they observed a possible suspect that matched the description of one of the suspects involved; and Officer B broadcast shots fired and their location. Also, Detective A ensured that evidence was preserved at the scene, and Detective B ensured there were no citizens struck by gun fire by searching the trajectory path of the rounds fired.

The BOPC concurred that a Tactical Debrief is the appropriate mechanism for the substantially 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

During this incident, Officer A was confronted with an armed subject who was swinging a knife at him. Believing that the situation had escalated to the point where lethal force was necessary, Officer A, drew his service pistol, and fired five rounds at the subject. Detectives A and B and Officer B heard the gunshots and believing the situation had escalated to the point where lethal force may become necessary, drew their service pistols.

Therefore, the drawing and exhibiting by Officers A and B, and Detectives A and B, warrants a finding to be in policy.

C. Use of Force

Department Policy directs that an officer is authorized to use of lethal force when it reasonably appears necessary to protect himself or others from an immediate threat of death or serious bodily injury.

According to Officer A, he began shooting while the Subject was attacking him. The Subject suddenly stopped his attack, turned away from Officer A and was struck in the buttocks before Officer A could have reasonably been expected to cease fire.

Therefore, the BOPC found it was objectively reasonable for Officer A to perceive that it was necessary to protect himself from the immediate threat of death or serious bodily injury presented by the subject's actions, and that Officer A's use of lethal force warrants a finding to be policy.