

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

**OFFICER-INVOLVED SHOOTING – 082-10**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes(X) No ( )</b>
Northeast	11/07/10		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer B	12 years, 7 months
Officer C	5 years, 6 months
Officer D	7 years, 10 months

**Reason for Police Contact**  
Officers A and B were monitoring residences connected to a robbery suspect.

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded ( )</b>	<b>Non-Hit (X)</b>
Subject: Male, 18 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 Chief 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 September 20, 2011.

## **Incident Summary**

During a roll call briefing, Officers A and B received information regarding the Subject, who was a gang member and was wanted for two robberies.

On the date of the incident, Officers A and B were in full uniform and were assigned to a plain unmarked police vehicle. Because Officers A and B had prior contact with the Subject and could recognize him, they were deployed to monitor two residences directly connected with the Subject. If the Subject was observed at either residence, Officers A and B would call in additional marked patrol units to make the arrest.

Officers A and B drove past the two residences and they eventually positioned their vehicle to monitor one of the residences.

After approximately 30 minutes of inactivity at the residence, Officer A advised Sergeant A and Officer E over the radio that they (Officers A and B) wanted to change locations and set-up on the other residence. Sergeant A and the other officers were going to meet to discuss a plan if the Subject was located at the other residence.

As Officers A and B were driving away from their initial location, the Subject walked out into the street from between two parked vehicles.

According to Officer B, as the Subject was walking across the street and was by the corner of the officers' vehicle, the Subject pulled out a silver handgun from his right front jacket pocket and pointed it at Officer B's head or face. Officer B opened the driver's side door and simultaneously heard Officer A yelling, "police, police." Thinking the Subject was going to shoot at him, Officer B fired two rounds at the Subject.

The Subject ran and continued to point his handgun at Officer B. Officer B chased after the Subject on foot. The Subject continued to point the gun straight at Officer B and tried to manipulate the gun. Officer B fired another round at the Subject. Officer B thought he was going to be killed by the subject.

Meanwhile, Officer A moved for cover behind vehicles that were parked along the curb, and he could still see the subject pointing his gun toward Officer B. Officer A broadcast a call for help over the radio and continued following the Subject. Although he unholstered his weapon, Officer A did not fire it because he did not have a clear view of the Subject.

Officer B was not sure if Officer A had heard him earlier saying that the Subject had a gun, so Officer B kept yelling, "He's got a gun. He's got a gun." Officer B could not see Officer A running in the street, but knew where Officer A was, as Officer B could hear Officer A's footsteps and could hear Officer A broadcasting over the radio. The Subject continued running southbound and then turned a corner. When Officer B turned the corner he saw Officers C and D taking the Subject into custody. The Subject no longer

had a gun. Officer B holstered his weapon once he saw that the Subject was being taken into custody.

Meanwhile, Officers C and D were at an intersection assisting other patrol units when they heard three gunshots. According to Officer D, they got into their vehicle and as they drove eastbound they heard a radio broadcast from Officer A regarding the officer-involved shooting and the Subject's direction of travel. As they were driving, they saw the Subject running on the sidewalk. Officers C and D stopped their police vehicle and chased after the Subject on foot. Both Officers C and D unholstered their pistols as they chased after the Subject.

After trying to climb over a wall, the Subject continued to run and then tripped and fell onto the sidewalk. The Subject landed face-down on the ground, with both of his hands under his body and out of sight. Officers C and D told the Subject to show them his hands. The Subject did not comply with their order. Both officers placed their body weight on top of the Subject. Officer D placed his knee on the Subject's back until the officers were finally able to grab his hands and place the handcuffs on him. Officers C and D transported the Subject to the police station.

Meanwhile, according to the Subject, he was talking with his girlfriend as they were outside of her house. When he left, he walked across the street and saw a black vehicle stop. He saw the vehicle doors open and he thought the occupants were rival gang members who were going to start shooting him, so he ran. The Subject said that he has been shot in the past, so he did not look back as he ran. The Subject did not hear the officers identify themselves as police nor did he hear the officers tell him to stop.

The Subject denied having a gun and said that he was holding his cell phone. A cell phone was recovered approximately five feet from where the Subject was taken into custody.

After the Subject was taken into custody, Officer A went back to the area where he had heard what sounded like metal striking the pavement. Utilizing his flashlight, he found a semiautomatic handgun in the gutter next to the curb. He assigned Officer F to monitor/cover the handgun. Officer B identified the handgun as being the same gun the Subject had pointed at him.

### **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, C and D's tactics to warrant a tactical debrief.

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

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

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

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

#### **D. Lethal Use of Force**

The BOPC found Officer 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 consideration:

##### 1. Written Operations Plan

The officers notified a supervisor of the operation and, although the investigation did not establish the level of consideration or rationale, the supervisor did not require a written plan be completed. The intent of a written plan is to ensure that tactical considerations are addressed and a sufficient level of supervisory and managerial oversight is maintained. When applied in this circumstance, the involved personnel were thoroughly briefed on the tactical plan before the operation commenced, in compliance with the applicable standard. Furthermore, the supervisor ensured another supervisor was assigned to monitor the operation, as required. Therefore, the tactical planning and supervisory and managerial oversight of the operation was consistent with Department expectations.

In conclusion, the absence of a written tactical plan did not substantially deviate from approved Department tactical training or oversight expectations.

## 2. Simplex Frequency

The involved personnel utilized the simplex frequency and personal cell phones to maintain communications. The use of a simplex frequency has inherent limitations. It has a reduced effective communications range; is neither monitored by Communications Division (CD) nor heard throughout the entire geographic boundaries of the Area; and does not capture communications for later review. However, this was a pre-planned, self-contained tactical operation with sufficient personnel resources to handle nearly any conceivable eventuality. In addition, Sergeant A provided supervisory oversight and remained apprised of the operation as it progressed.

In conclusion, although the use of a tactical frequency is preferred, the use of the simplex frequency did not substantially deviate from approved Department tactical training. However, while ultimately the use of the simplex frequency did not interfere with the help request or coordination of the suspect's apprehension, the involved personnel are to be reminded of the inherent limitations associated with the use of a simplex frequency.

## 3. Foot Pursuit/Utilization of Cover

Officers A and B engaged the Subject in a foot pursuit immediately following the initial OIS. During the foot pursuit, Officers A and B worked together and exhibited the intent to monitor the Subject's progress in order to coordinate the response of additional personnel resources with the objective to contain the Subject. The teamwork and tactical communication was exemplified by Officer B who repeatedly yelled to his partner that the Subject had a handgun. In addition, Officer B was cognizant of his partner's position and actions.

Officers A and B were faced with an unexpected and immediate life threatening situation and their ability to survive the confrontation required that they respond to the rapidly unfolding tactical scenario. While Officer B engaged the Subject as he exited his police vehicle, Officer A sought cover while attempting to obtain a sight picture. Officer B was unaware if his police car door afforded him any protection, however, he engaged the Subject regardless, defending his own life while maintaining visual contact to facilitate the Subject's apprehension with the assistance of responding personnel. While Officer B may have tried to secure cover, the events occurred in such rapid succession, he was unable to do so as he pursued his attacker while still yelling to his partner that the Subject had a gun.

Although Officer A was unable to engage the Subject due to an obstructed view, he quickly pursued the Subject on foot in an attempt to coordinate the response of other officers to contain the Subject. Officer A clearly communicated their location, direction of travel and a description of the Subject. Additionally, Officer A maintained his focus as events unfolded, and heard what he believed to be a metal object, presumably the subject's handgun, drop to the pavement.

In conclusion, Officers A and B's foot pursuit tactics did not substantially deviate from approved Department tactical training. Rather, they responded in a manner consistent with their training and experience.

The BOPC determined that the tactics utilized did not substantially and unjustifiably deviate from approved Department tactical training.

In conclusion, the BOPC found Officers A, B, C, and D's actions to warrant a tactical debrief.

## **B. Drawing/Exhibiting**

Officers A and B encountered the Subject as he walked in front of their unmarked police vehicle. The Subject removed a handgun from the pocket of his jacket and pointed it directly at Officer B. Believing the situation had risen to the point where deadly force may be justified; both officers drew their service pistols.

Officers C and D responded to an "Officer Needs Help, Shots Fired" radio broadcast and observed the Subject, who matched the description given in the broadcast, being chased by Officers A and B. As they exited their vehicle, Officers C and D drew their service pistols.

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 Officers A, B, C, and D's drawing exhibition of a firearm to be in policy.

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

**Officer C:** Firm grip, bodyweight.

**Officer D:** Firm grip, bodyweight.

Officers C and D were faced with the Subject who refused to comply with both officers' verbal commands. The Subject stumbled and fell to the ground on his stomach after a failed attempt to climb a cinder block wall. Both officers placed their body weight on the Subject and verbalized to him to give them his hands. The Subject resisted and clenched his hands under his torso. Officer D placed his left knee on the Subject's right shoulder and was able to retrieve the Subject's right hand from underneath him. Officer C was able to gain control of the Subject's left hand and place it behind his back to facilitate handcuffing.

In this situation, Officers C and D used reasonable force options to take the Subject into custody. The use of firm grips and bodyweight under these circumstances was objectively reasonable and consistent with the level of resistance by the Subject and within Department guidelines.

In conclusion, the BOPC found Officer C and D's use of non-lethal force to be in policy.

#### **D. Lethal Use of Force**

The officers encountered the Subject as he emerged from between two vehicles and stepped immediately in front of their moving vehicle. The Subject began to step backwards, and simultaneously removed and pointed a handgun at Officer B.

According to Officer B, the Subject had his right arm extended straight as he held the weapon and pointed it at Officer B's head. The Subject placed his left hand on top of the slide as though attempting to manipulate the weapon as he was jerking the pistol in a downward motion, attempting to fire. Out of fear for his life and believing the Subject was going to shoot him, Officer B fired two rounds in rapid succession at the Subject.

The Subject continued to flee. As the Subject fled in a southerly direction, he continued to point the weapon at Officer B in a northerly direction, while simultaneously attempting to manipulate the weapon. Again in immediate defense of his own life, Officer B fired one additional round at the Subject.

Another officer with similar training and experience as Officer B, after being confronted with the Subject pointing a handgun at him, would reasonably conclude that the Subject intended to shoot him and represented an imminent threat of death or serious bodily injury.

Therefore, the BOPC determined that Officer B's decision to use lethal force was objectively reasonable and within Department guidelines.

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