

**ABRIDGED SUMMARY OF AN OFFICER-INVOLVED SHOOTING AND FINDINGS
BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

Officer-Involved Shooting – 108-08

<u>Division</u>	<u>Date</u>	<u>Duty-On() Off(X)</u>	<u>Uniform-Yes() No(X)</u>
Outside City	12/30/08		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Police Officer A	2 years, 9 months

Reason for Police Contact

While off-duty, officer intervened when the subject pointed a gun at two individuals and then carjacked another individual.

<u>The subject(s)</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Male, Unknown 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 the 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 Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on December 2, 2009. 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.

Incident Summary

Officer A was driving out of state, accompanied by relatives. Officer A was off-duty and wearing civilian clothing. Officer A stopped at a truck stop to use the restroom. Officer A and his relative, Witness A, entered the convenience store area and walked to the rear of the store.

Meanwhile, an unidentified male, the subject, approached the convenience store counter and requested a carton of cigarettes, which the clerk, Witness B, provided to

him. The subject then produced a handgun from his waist area, pointed it at Witness B and demanded the money from the cash register. After taking the money from Witness B, the subject walked from the service counter and exited the building through its north doors. The interior of the store was equipped with a closed circuit camera system.

Officer A finished using the restroom facilities, exited the north doors and waited for Witness A.

Meanwhile, Witness B activated the store's public address (PA) system and requested assistance by stating "911." Upon hearing this, Witness C and Witness D ran to Witness B's location in the belief that a theft had occurred. According to Witness C, Witness B said, "he just robbed me' and he pointed [the subject] out." Witness B did not mention to Witness C that the subject had a gun. Witness C and Witness D then exited the north doors.

As the subject left the building, Officer A heard "911" over the store's PA system. Officer A then observed the subject go north through the parking lot, chased by Witness C and Witness D.

Forming the opinion that a minor crime had occurred, Officer A decided not involve himself in the foot pursuit and maintained his position by the door in order to act as a witness.

The subject continued north through the parking lot, passing by the gasoline pumps. As he ran, the subject turned and pointed a blue steel handgun toward Witness C and Witness D. According to Officer A, "the suspect, he drew a gun on the other two gentlemen that went after him, and I thought that he was going to shoot at them for going after him."

Officer A, fearing for the safety of Witness C and Witness D, drew his pistol from the holster on his right hip. Officer A verbally identified himself as a police officer and ordered the subject to stop, but the subject continued to flee.

Officer A made his way north through the parking lot, using parked vehicles for cover as he did so.

The subject continued to go north through the parking lot and entered a nearby intersection. The subject then ran towards a recreational vehicle (RV) that was making a left turn from the westbound turn lane. The subject pointed his pistol at the driver, however, the RV did not stop and left the intersection.

The subject moved west in the intersection to a Chevrolet Cobalt. The vehicle was stopped at the limit line and was waiting to make a left-turn onto the northbound lanes. The subject pointed his pistol through the window of the windshield at the vehicle's driver, Witness E, and told him to get out of the car.

According to Officer A, “the the subject ran through the eastbound lanes [...] to where a little black car was waiting for the light. At that time, I observed the subject point the gun at the driver of the vehicle. I thought he was going to shoot the driver of the vehicle, and at the same time he was grabbing the driver, pulling the driver out of the car. He pulled the driver out of the car. By his silhouette, I could see him pointing the gun at him.”

Officer A made his way down a landscaped slope at the southwest corner of the intersection and took a kneeling position in the lowest point of a drainage ditch at the side of the road, approximately 63 feet from the Chevrolet Cobalt.

From his position, Officer A saw the subject pointing the gun in the direction of the position where he believed Witness E to be. As described by Officer A, “I could see his body bladed [...] and I could see him going like this holding the gun to where the at (*sic*) the driver’s head probably.”

Note: Officer A demonstrated that the subject’s right arm was straight and at a downward angle.

Note: After Witness E had been pulled from the car, Officer A lost sight of him. According to Officer A, “I couldn’t see him but I think he was on the left side [...] on the ground.”

Officer A formed the opinion that the subject was going to shoot Witness E. Officer A fired two rounds from his pistol in a “controlled pair” at the subject from a distance of 63 feet, then reassessed. Officer A still could not see Witness E and believed that he was on the ground. Officer A saw the subject getting into the Chevrolet Cobalt, but did not see the pistol in the subject’s hand at that time.

Officer A then rapidly fired five additional rounds at the subject. According to Officer A, “I discharged my gun believing he [the subject] was going to shoot at her [Witness E]. I was aiming for him. I continued shooting until I observed [Witness E] ran westbound to a safe location outside of harm’s way.” According to Officer A, he believed that the Chevrolet Cobalt remained stationary throughout his firing sequence. The Chevrolet Cobalt, driven by the subject, then turned left into the intersection and drove out of Officer A’s field of vision.

Note: According to Witness E, the subject was “already in the car” when Officer A fired. When Officer A started firing, Witness E had moved “off to the side of the car” and was kneeling by some rocks on an incline. When asked if his vehicle was stationary when the officer first started firing, Witness E replied, “Uh-huh.” The interviewing detective then asked, “[The vehicle] hadn’t moved [...] when the rounds started going off from the officer. And then at some point the subject started to start the vehicle and then you heard additional [...] rounds being fired?” Witness E replied, “Yes.”

According to Witness F, the vehicle moved a distance of “eight feet” as the “first two or three shots” were fired. Witness F recalled that the last one or two shots were fired as the subject was “speeding away.”

Witness G was asked if the vehicle was stationary or moving at the time the rounds were fired. According to Witness G, “it was moving already. He’s taken off.”

According to Witness H, “the multiple rounds were fired after he [the subject] turned left.”

According to Witness I, “he [the subject] stopped at the light. And then as soon as the light changed, he took off. And the officer was still shooting at him.”

According to Witness J, “the officer didn’t shoot until the gentleman [the subject] was heading away from me going down the street in the vehicle.”

Note: Impacts revealed that a total of four rounds struck the vehicle, two struck its passenger side and two struck from the rear. The reported trajectories of the impacts are consistent with the vehicle negotiating a left turn during the sequence of fire.

Officer A, along with Witness E, walked back to the rest stop. Due to several 911 calls regarding the robbery, the local police department responded to the scene. Officer A identified himself to uniformed outside agency Officer B and provided a Public Safety Statement.

Officer A telephonically contacted his division of assignment’s watch commander, Sergeant A.

Later, the stolen Chevrolet Cobalt was located in a parking lot approximately one mile north of the scene of the officer-involved shooting (OIS). A black Airsoft replica of a Sig-Sauer 9mm semiautomatic pistol was recovered from the right front floorboard of the stolen vehicle. The area was searched for the subject but he was not located and remains unidentified.

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's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A's drawing to be in policy.

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

- In its analysis of this incident, the BOPC identified the following considerations:

1. Officer A took enforcement action while in an off-duty capacity.

Although it is preferred that an off-duty officer refrain from taking enforcement action and instead act as a good witness, the rapidly unfolding circumstances warranted immediate intervention to preserve life.

Therefore, it was reasonable for Officer A to take immediate action to safeguard the lives of the public.

2. Officer A ran with his service pistol drawn.

In this instance, Officer A observed a violent felony in progress and drew his pistol with the belief that the use of deadly force may become necessary. Although there is a heightened concern for an unintentional discharge when an officer runs with his/her service pistol drawn, the tactical concerns associated with the reasonable belief that an incident could escalate to a use of deadly force takes precedence.

Therefore, it was reasonable for Officer A to continue in the foot pursuit with his pistol drawn.

The BOPC found Officer A's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

In this instance, Officer A observed Witness C and Witness D running through the parking lot chasing after what he believed to be a theft suspect. The suspect suddenly produced a handgun and pointed it at Witness C and Witness D, resulting in Officer A drawing his service pistol. According to Officer A, "I observed the first male which is now the suspect, he drew a gun on the two other gentlemen that went after him and I thought he was going to shoot at him - - I mean, that he was going to shoot at them for going after him." The situation had clearly escalated to the point where it may have become necessary to use deadly force.

The BOPC found Officer A's drawing to be in policy.

C. Lethal Use of Force

Officer A fired seven rounds at the subject in defense of a victim at whom Officer A saw the subject pointing a pistol, presenting an apparently deadly threat.

Although Officer A believed he fired all seven rounds while the vehicle stolen by the subject was still stationary, the physical evidence and witness statements support that the vehicle was in motion at the time at least when some of the rounds were fired.

In determining whether Officer A's use of lethal force was compliant with the Department policy regarding shooting at moving vehicles, human reaction/response time was considered. Scientific research regarding the time it can take for an officer to react to the cessation of a threat has demonstrated that additional rounds may be fired during a brief period of time during which the officer is still processing and reacting to the change in threat level. The BOPC believed that this could account for Officer A's perception that the vehicle was stationary throughout the time he fired his rounds.

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