

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

**OFFICER-INVOLVED SHOOTING – 001-08**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On (X) Off()</u></b>	<b><u>Uniform-Yes(X) No()</u></b>
West LA	01/04/2008		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	10 years, 4 months

**Reason for Police Contact**

Officer A observed Subject 1 commit a theft and drive away from the location. Officer A, driving an unmarked police vehicle, followed Subject 1 until such time that Subject 1 suddenly stopped in the middle of the street and approached Officer A, threatening him with what appeared to be a handgun. Officer A exited his vehicle and fired ten rounds at Subject 1.

<b><u>Subject</u></b>	<b><u>Deceased (X)</u></b>	<b><u>Wounded ()</u></b>	<b><u>Non-Hit ()</u></b>
Subject 1: Male, 47 years.			

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate the 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 and addenda items); the 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 12/09/08.

**Incident Summary**

Officer A, working a patrol surveillance detail, was assigned to patrol a commercial area for criminal activity. Officer A worked alone and drove an unmarked vehicle. Officer A was in a full uniform that was concealed with a plain zip-up style jacket.

Officer A observed a vehicle parked along the curb next to a lumber store that was closed. Officer A took note of the vehicle due to seeing it driving in the area only minutes earlier. Officer A observed Subject 1 walking away from the vehicle toward the parking lot of the lumber store and then out of sight.

Officer A drove to a nearby strip mall and watched the vehicle. With the use of binoculars, Officer A was able to observe and record the license plate of the vehicle.

Officer A contacted Communications Division (CD) and requested a registration check on the vehicle. In the meantime, Subject 1 returned carrying a bag of steer manure and put it into his vehicle. Subject 1 then drove away without turning on his vehicle headlights. Just as Officer A began to follow Subject 1, CD reported that the license plate number provided by Officer A on Subject 1's vehicle did not belong to that car.

**Note:** Officer A had inadvertently recorded the wrong license plate number on Subject 1's vehicle by transposing one letter.

Officer A broadcast a request for an additional unit and followed Subject 1's vehicle as it traveled at a high rate of speed.

Officer A subsequently broadcast his location, direction of travel and, due to Officer A's understanding that the license plate did not belong on Subject 1's vehicle, that he was following a stolen vehicle. Officer A believed Subject 1 knew he was being followed in that he cut across three traffic lanes to make an illegal right turn then proceeded to drive through a red signal. Officer A made an additional broadcast reporting the red light violation and requesting an airship and back-up unit.

Subject 1 was proceeding down a residential street at 45 to 50 miles per hour when he abruptly came to a stop in the middle of the roadway. Officer A stopped his vehicle 25 feet behind Subject 1. Subject 1 exited his vehicle and walked back toward Officer A carrying what appeared to be a handgun and pointing it at Officer A.

**Note:** Subsequent investigation established that Subject 1's handgun was a cigarette lighter replica of a Beretta M84 semiautomatic pistol.

Subject 1 reached Officer A's vehicle before the officer had time to broadcast his location, unclasp his seatbelt, unzip his jacket or draw his service pistol. While pointing his gun at Officer A, Subject 1 tapped on Officer A's closed window with either his hand or the gun. Subject 1 spoke to Officer A, who was unable to understand what was said.

Officer A unzipped his jacket, which partially exposed his gun belt, badge and nametag. Officer A opened his vehicle door and simultaneously drew his service pistol. Subject 1 backed away from Officer A's vehicle as he pointed his gun at Officer A. Officer A said, "Police. Stop." Subject 1 ignored the command and kept his gun pointed at Officer A.

Officer A fired at Subject 1. Officer A continued to fire as Subject 1 retreated back to his car. Subject 1 reached his vehicle and leaned into the front seat while still holding his gun. Officer A fired until Subject 1 dropped his gun to the ground. Officer A then broadcast a radio call of, "shots fired, officer needs help" and waited for units to arrive.

Officers B and C were first to arrive on scene. As they exited their vehicle, both officers observed Officer A standing in the street with his gun drawn. Officers B and C drew their pistols.

Officer B observed Subject 1 kneeling on the ground with his torso inside his vehicle. What appeared to be a small semi-automatic pistol lay on the ground within Subject 1's reach. Officer B gave Subject 1 several verbal commands to put his hands up but there was no response. Officer B holstered his weapon, approached Subject 1 and pulled him away from his car and out of reach from his gun.

Officers D and E were second to arrive on scene and drew their pistols as they exited their vehicle. Officers D and E then assisted Officer B in taking Subject 1 into custody. The officers handcuffed Subject 1 without incident. Officer A requested a rescue ambulance (RA).

Los Angeles Fire Department personnel responded to scene and subsequently determined Subject 1's death.

### **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, D and E's tactics to warrant a tactical debriefing.

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

The BOPC found Officers A, B, C, D and E'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 adjudicating this incident, the BOPC considered that:

1. Officer A did not broadcast an immediate request for a back-up unit and air ship or state the nature of the request.

Officer A's observations and belief that Subject 1's vehicle was potentially stolen warranted an immediate request for a back-up unit and air ship, along with a detailed broadcast relative to the nature of his request. This would have initiated the response of the appropriate resources to maintain a tactical advantage throughout the resolution of the incident.

2. Officer A violated the rules of the road.

Although Officer A drove through a red signal in an unmarked vehicle without emergency equipment, the BOPC determined that Officer A exercised sound judgment and maintained the appropriate balance between enforcement action and public safety. Officer A believed he was following a burglary subject in a stolen vehicle and only proceeded through the signal after taking precautions to ensure the safety to other motorists. The lack of vehicular and pedestrian traffic was also taken into consideration when evaluating his decision.

3. Officer A was not prepared to engage the threat.

When following a fleeing suspect, officers should always be prepared for the potential termination. Once it became apparent that Officer A's surveillance was compromised, he should have unzipped his jacket, moved it around his holster and ensured his Los Angeles Police Department badge was clearly visible, thereby maintaining a tactical advantage.

4. Officers A, B, C, D and E did not devise a tactical plan prior to approaching and handcuffing Subject 1.

Officers B, C, D and E arrived at the termination of the incident and were minimally informed of the circumstances that culminated in an OIS. At this point, the officers were unaware of the number of suspects involved and that Subject 1's handgun was on the roadway adjacent to his body. With so many unknown variables, it would have been tactically prudent for Officer A and the responding officers to discuss the tactical concerns from a position of cover and determine the safest approach.

The BOPC found Officers A, B, C, D and E's tactics to warrant a tactical debriefing.

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

The BOPC evaluated the circumstances relevant to Officers A, B, C, D and E's drawing and exhibiting and determined that they had sufficient information to reasonably believe that the situation may escalate to the point where deadly force may become necessary.

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

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

The BOPC evaluated the circumstances relevant to Officer A's lethal use of force. The BOPC determined that Officer A's use of lethal force reasonably appeared necessary to protect himself from the immediate threat of serious bodily injury or death.

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