

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

**OFFICER-INVOLVED SHOOTING – 079-10**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
77 <sup>th</sup> Street	10/09/10		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	5 years, 3 months
Officer B	3 years, 9 months
Officer C	2 years, 9 months

**Reason for Police Contact**

Officers were patrolling an area when an officer-involved shooting occurred.

<b>Subject</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
Subject: Male, 36 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 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 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, 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 August 23, 2011.

## Incident Summary

Officers A, B and C were assigned to a special unit and deployed to combat recent shootings, robberies and vehicle thefts.

According to Officer A, he was driving in the area of a location, when he heard shots being fired. He also recalled observing people who were running and trying to get into their apartments.

According to Witness A, who overheard the gunshots while washing dishes in her apartment, the shots were continuous and rapid fire, possibly from a machine gun.

Additional witnesses indicated they heard anywhere between two and 16 rounds being fired.

### Officer A's account

According to Officer A, his attention was then drawn to a male running with an AK-47 in his hand. Officer A also indicated he immediately yelled, "Gun," put the police vehicle in park and turned on the vehicle's spotlight when he first saw the male, later identified as the Subject.

According to Officer A, when he first saw the Subject, the Subject was holding the weapon such that the barrel of the rifle was facing upwards and in both hands and he was running at a full sprint. Officer A indicated he then saw the Subject bring the weapon down into a firing position, with the barrel pointing at the officers. Officer A immediately exited his vehicle. The Subject ran toward Officer A. Officer A then fired what he believed to be three rounds at the Subject because the Subject was pointing the AK-47 at Officer A.

According to Officer A, the Subject continued to run in a westbound direction on the sidewalk, still holding the weapon and pointing it at Officer A.

Officer A then lost sight of the Subject, as the Subject disappeared behind a car. According to Officer A, he didn't want to move forward on the sidewalk because he could not see the Subject. Officer A turned around and continued moving westbound in the street and saw the Subject reappear seconds later, and then observed the Subject turn and look at the officers.

According to Officer A, the Subject continued to run and hold the weapon in both hands in a horizontal position, pointing it at Officer A, as well as at Officers B and C. Officer A indicated that the Subject's whole body as well as the weapon was turned at Officer A's partners.

According to Officer A, his partners started firing, and Officer A also fired at the Subject. Once again, Officer A believed he fired three rounds, but he knew from the post-incident firearms investigation that he fired another one or two rounds from this position.

According to Officer A, he observed the Subject drop the AK-47, turn and attempt to flee, toward the sidewalk. The Subject was staggering and stumbling and Officer A observed the Subject immediately drop to his stomach, and Officer A's partners approached the Subject with their firearms drawn, instructing the Subject, "Don't move, don't move."

#### Officer B's account

According to Officer B, he heard Officer A verbally point out the Subject and simultaneously observed the Subject run past the officers' vehicle with an AK-47 in his hand.

Officer B exited the police vehicle, ran behind it and observed the Subject cross into the street and then behind another vehicle. Officer B unholstered his weapon because the Subject started looking in his direction.

Officer B pointed his weapon at the Subject and put his finger on the trigger as soon as the Subject started turning counterclockwise, and as Officer B saw that the AK-47 was starting to point in his direction. According to Officer B, the Subject acquired a target on Officer B, spun around in Officer B's direction and Officer B fired two-round bursts at the Subject. Officer B indicated he believed he fired nine rounds, and that he struck the Subject.

The Subject then dropped his weapon, stumbled, fell onto the ground and crawled away. Officers B and C approached the suspect and took him into custody.

#### Officer C's account

According to Officer C, he saw the Subject running on the north side of the street and appeared to be holding an AK-47 rifle in his left hand. Officer C indicated that the Subject was running fast and that the muzzle of the weapon was pointing toward the ground.

All three officers exited the vehicle and ran westbound after the Subject. Officer C saw the Subject point the gun at him and Officer C fired at the Subject in defense of his life and his partners' lives.

Officer C observed the Subject fall to the ground, and Officer C stopped firing. Officer C then indicated that he and Officer B approached the Subject to verify that he didn't have any additional weapons on him. According to Officer C, he did not know what happened to the AK-47 and whether or not the Subject tossed it or it fell, he could not

be certain, but by the time he and Officer B got to the Subject he no longer was in possession of the gun.

Officer C observed gunshot wounds to the Subject's lower back and possibly to one of his legs, and heard him say, "you know, just go ahead and kill me."

#### Witness accounts

According to Witness A, he heard approximately 20 gunshots, ran outside of his residence, and saw two males, one with an AK-47 rifle. According to Witness A, he saw the Subject turn and after he turned, the officers started shooting him. Witness A saw the Subject holding his arms up at waist level as he pointed the rifle in the officers' direction.

According to Witness A, the officers shot once and then they paused and they just started shooting more.

Also according to Witness A, he saw the officers handcuff the Subject, and then they moved the AK-47 away from him.

According to Witness B, he heard approximately 10 shots that sounded like firecrackers, exited her apartment and observed a rifle in the middle of the street and the Subject already down and trying to get up, but an officer was telling the Subject to stay down. The Subject continued to move but the officer had his foot on him telling him to stay down so he wouldn't get up.

According to Witness C, who observed the incident from a second-story window of his apartment building, the Subject noticed the officers as he ran down the street, and the Subject got scared. Also according to Witness C, the officers exited the police vehicle, while the Subject moved and continued running and the officers fired at him and he threw the gun.

Witness C indicated that when the Subject saw the cops, he appeared startled, and he raised the weapon. Witness C also indicated that when the Subject saw the officers, he raised the weapon in the same direction as the officers, up, but also stated that the Subject never pointed the weapon at the officers directly.

According to Witness D, the Subject was walking down the street when three officers told him to stop, and, he didn't stop. Witness D also indicated that the Subject looked at the officers with the rifle. Witness D then heard gunshots and threw himself on the floor.

The Subject was transported by ambulance to a hospital for treatment.

## **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**

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

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

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

## **Basis for Findings**

### **A. Tactics**

In their analysis of this incident, the BOPC identified the following tactical considerations:

#### **1. Code Six**

In this instance, as the officers drove to an area in an attempt to locate the source of the gunfire, their attention was drawn toward a number of activities.

Having obtained limited information, the officers continued to drive around the area. Moments later, they observed the Subject running toward them armed with an assault rifle. At that point, the officers were forced to exit their police vehicle and address the deadly threat. When it was reasonable to do so, Officer A broadcast over the radio their status and location.

Until the officers were confronted by the Subject there was no demonstrated intention on the part of the officers for them to remain at a specific location.

Furthermore, officers are discouraged from initiating a Code Six broadcast at a location when, as in this case, the investigation clearly was not going to take place at the location where the shots fired were heard. To provide a Code Six location at that point would have created a circumstance wherein Communications Division would have an inaccurate unit location in the event a subsequent "Help Call" was initiated as occurred in this case. Therefore, given these circumstances, a Code Six broadcast was not required.

In conclusion, the officers' decision to not make a Code Six broadcast did not substantially deviate from approved Department tactical training. However, it would have been appropriate to provide an information broadcast that advised other units in the area of the incident of shots having been heard.

## 2. Utilizing Cover

In this instance, Officer A simultaneously exited the police vehicle, drew his service pistol and fired one to two rounds at the Subject. The Subject appeared unaffected as he continued running in a westerly direction behind a parked vehicle and out of the officers' lines of sight while still in possession of the assault rifle. In an attempt to regain visual contact with the Subject, Officers A, B and C deployed west of the police vehicle and into the street.

Although Officers A, B and C moved away from the police vehicle and into the open roadway, the vehicle parked along the north curb served as an object of cover between the officers and the Subject. The BOPC also noted the officers' movements were not done blindly or without forethought.

In reviewing the officers' deployment, the BOPC noted that there is no requirement that they utilize cover. Rather, the BOPC's expectation was that officers evaluate the use of cover given the circumstances with which they are faced. The BOPC found that the involved officers in this incident gave due consideration to utilizing cover and deployed appropriately.

In this case, although there were identified areas where improvements could be made, the tactical considerations neither individually nor collectively unjustifiably and substantially deviated from approved Department tactical training.

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

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

In this situation, the officers encountered the Subject who was armed with an assault rifle. This represents an incredibly dangerous tactical situation in which there is a substantial risk that the situation may escalate to the point where deadly force may be

justified. As such, the BOPC determined that the officers' drawing of their weapons was appropriate and within Department policy.

In conclusion, the BOPC found Officers A, B and C's Drawing/Exhibiting to be in policy.

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

Based on the circumstances described above, officers with similar training and experience as Officers A, B and C would reasonably believe that the subject, armed with a superior weapon system, posed an imminent threat of death or serious bodily injury when he aimed the rifle in their direction and that the use of lethal force to defend their lives would be justified. The Subject was in close proximity of the officers, had the present ability while in possession of the assault rifle, and demonstrated the desire to cause the officers serious bodily injury or death when he brandished the weapon in the assaultive manner. Therefore, the BOPC found that Officers A, B and C's use of lethal force in defense of their lives was objectively reasonable and consistent with Department guidelines.

In conclusion, the BOPC found Officers A, B and C's use of lethal force to be in policy.