

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

OFFICER INVOLVED SHOOTING 090-08

Division	Date	Duty-On(X) Off()	Uniform-Yes() No(X)
77 th	10/16/08		

Involved Officer(s)	Length of Service
Police Officer A	3 years, 10 months
Police Officer B	4 years, 6 months

Reason for Police Contact

Officers were working plain clothes' surveillance when they were approached by a subject who drew a pistol.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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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 BOPC 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.

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 September 1, 2009.

Incident Summary

Police Officers A and B were assisting an undercover operation and were dressed in plain clothes, sitting in a plain vehicle, parked on a city street. The officers observed the Subject walk by their vehicle three times. The fourth time the Subject approached, he had both hands concealed in the front pocket of his hooded sweatshirt. The Subject walked at a fast pace directly toward the officer's vehicle.

Officer B reached for his weapon, and I put his hand on his holster as the Subject walked up. Officer B heard Officer A tell The Subject to get back. Officer A saw The Subject draw a semiautomatic pistol with his right hand from his hooded sweatshirt pouch pocket. The Subject held the semiautomatic pistol with one hand as he pointed it at Officer A. Officer A unholstered his pistol with his right hand, and partially extended the pistol through the open passenger window. Officer A aimed his pistol at The Subject's center mass, and with his body turned slightly to the right, fired seven rounds in rapid succession from a seated position.

Officer B stated that Officer A started firing when the Subject was right in front of the window, approximately three feet away from him. Officer B did not fire at that time because Officer A was in his line of fire. Officer B saw that the Subject was still standing, even though Officer A had already fired multiple rounds. Officer B made sure that Officer A was not in the line of fire, and while using a two-handed grip, fired two rounds at the Subject.

Officer A saw the Subject fall to the ground on his back and told Officer B to provide cover for him. Officer A holstered his pistol, approached the Subject, and rolled The Subject onto his stomach and handcuffed him.

Officer B broadcast an officer needs assistance shots fired call, and a request for an ambulance. The Subject was treated at the scene for multiple gunshot wounds and 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 tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

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

C. Use of Force

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

Basis for Findings

A. Tactics

In its analysis of this incident, the BOPC noted the following tactical considerations:

1. Code Five

The Department Manual directs that "a unit intending to 'stakeout' shall notify the control operator of the location and request a 'Code Five.' The control operator, upon receipt of the message, shall immediately broadcast that there is a 'Code Five' at the particular location. All units shall avoid the vicinity except in an emergency or in response to a call."

Officers A and B were reminded that when practical, they should notify Communications Division of their location and request a Code Five while conducting surveillance, even though the details of the operation and the purpose of the surveillance are classified.

2. Communication

Department Undercover Guidelines advise that while engaged in undercover operations, officers should, "Keep your supervisor and team advised of your location, observations and activities." In this instance, Officers A and B observed the Subject walk by their vehicle 3 times. According to Officer B, the Subject "glared" into the officers' vehicle the first two times he walked past. The third time The Subject walked past the officers, he had changed his clothes and according to Officers B, "he glared into our vehicle and placed his hand over his face as not to be seen or recognized by us." Officers A and B communicated actions and his change of clothing to each other, but did not advise the Officer-in-Charge (OIC), a supervisor, or other units in the operation of the Subject's actions.

At a minimum, the officers' observations warranted notification to the OIC of the operation or the uniformed entity assigned to the operation. Officers A and B were reminded to keep their supervisor and other team members apprised of their location, observations and activities while operating in an undercover capacity.

3. Contact and Cover

Department training instructs that when officers contact subjects, one officer is to perform as "contact officer," while the other officer performs as "cover officer." In this instance, Officer B advised Officer A to cover. Officer B stated, "I verbally told my partner to cover me while I went to cuff, put hands on the suspect." Officer B holstered his service pistol and approached the Subject.

Officer A did not draw his service pistol or provide cover as Officer B approached the Subject. Furthermore, as Officer B was trying to control the Subject, Officer A observed Subject's pistol in the street in front of the officers' vehicle and went to recover it, leaving Officer B alone with an unsecured suspect.

Therefore, in order to ensure that they maintain a tactical advantage over the Subject, Officers A and B were reminded that partner officers must coordinate their roles to ensure that the integrity of the contact and cover concept is not compromised.

4. Preservation of Evidence

The California Commission on Peace Officer Standards and Training instructs that, "Initially, officers should not touch anything or do anything that could alter a crime scene in any way except to preserve life or administer aid to a victim."

In this instance, Officer A observed the Subject's pistol in the street between the police vehicle and the curb of the street. Officer A recovered the pistol and placed it on the police vehicle's trunk. It would have been tactically advantageous for Officer A to ensure that the Subject was in custody, thereby preventing him from gaining access to the pistol rather than recovering the pistol. Officer A was reminded that when practical, officers should not move any objects that could alter a crime scene.

5. Requesting Help

Department training instructs that when an officer requests assistance, it is imperative that the responding units are aware of the seriousness of the threat facing the requesting unit. Too often, officers request back-up, when in fact the situation is one that actually requires assistance, or even help. This creates a major officer safety concern, not only to the requesting unit, but also to those officers who are responding. To increase the level of safety, officers must be thoroughly familiar with when to request back-up, assistance and help. The basic requirement for this system to be effective is for the officer to automatically go "Code Six." It is imperative that the primary unit maintain control of the situation and gives clear direction for responding resources.

In this instance, Officer A broadcast, "Officer needs assistance, shots fired." Officer A further stated, "I didn't put out a help call. I put out an assistance call, because I knew I had the gun already, and I knew that I just didn't want everyone coming so fast." When circumstances warrant an emergency response of additional personnel, as occurred in this instance, it is imperative that Communications Division has the pertinent information readily available to provide to the responding units, thereby maximizing their ability to properly respond and make the most appropriate tactical decisions. Given the inherent dangers associated with plainclothes officers confronting an armed suspect,

Officers A and B were reminded to be familiar with when to request "help" and the type of information that should accompany a "help" call, especially while working in plainclothes. Officers A and B should have immediately requested "help."

In addition, Officer A's broadcast should have included that they were plainclothes officers and their description to avoid any misidentification.

6. Positive Aspects

Officers A and B tactics included numerous positive aspects, including that they had discussions regarding tactics pertaining to use of force and the equipment that they carried, they each adjusted their side view mirrors to observe activity behind them, they were monitoring three radio frequencies, they communicated their observations regarding the suspect's actions and change of clothing to one another, they immediately reacted to the suspect pointing a firearm at him and appropriately responded with force, and Officer A drew his service pistol was cognizant of Officer B's location and ensured he did not shoot in the direction of his partner.

Therefore, 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.

Drawing/Exhibiting

In this instance, Officers A and B were seated in their vehicle and were confronted by an armed suspect pointing a pistol at them. It was reasonable for the officers to believe that the situation had escalated to the level where force may become necessary.

Therefore, Officers A and B's drawing and exhibiting warrants a finding of in policy, with no further action required.

In addition to the above listed employees, there were additional officers that drew or exhibited firearms during this incident. This drawing/exhibiting was appropriate and requires no specific findings or action in regard to these officers.

Use of Force

The Subject approached to within two feet of the front passenger door and produced a black handgun and pointed it at Officer B. According to Officer B, he was in fear of his life, and the life of his partner. Officer B drew his weapon and used force because he felt that the situation could have resulted in serious bodily injury or death to him, or to his partner.

Officer A observed the Subject's handgun pointed in the vehicle. Officer A immediately turned his upper torso to face the passenger window, and drew his service pistol. Officer A did not immediately discharge his service pistol because Officer B was directly in the line of fire. Officer A stated that he thought the Subject was going to shoot both officers.

Therefore, the BOPC found it was objectively reasonable for Officers A and B to perceive that it was necessary to protect themselves and their partner from the immediate threat of death or serious bodily injury presented by the suspect's actions and the use of lethal force by Officers B and C to be in policy.