

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

OFFICER-INVOLVED SHOOTING - 006-05

<u>Division</u>	<u>Date</u>	<u>Duty-On () Off(x)</u>	<u>Uniform-Yes() No(x)</u>
Northeast	1/24/2005		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	7 years, 8 months

Reason for Police Contact

Officer A witnessed an armed robbery in progress while he was off duty at a barbershop waiting for a haircut.

Suspect

Subject 1: Male, 24 years of age (deceased).

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 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 January 24, 2006.

Incident Summary

On January 24, 2005, off-duty Officers A and B, along with their infant son went to a barbershop. After parking their pickup in front of the business, Officer B remained inside the vehicle with the infant while Officer A went inside to get a haircut. Officer A had with him both a Department-issued 9mm service pistol and a personally owned .45-caliber pistol. Officer A gave Officer B the Department-issued 9mm service pistol and walked into the barbershop with the holstered .45 caliber pistol concealed in his front waistband and an additional loaded magazine in his rear left pants pocket. When Officer A entered the barbershop, there was a customer receiving a haircut and Witness 1 was waiting. Officer A sat facing the shop area of the barbershop. Victim 1, the

barber, completed the haircut of the one customer and Witness 1 moved to the barber chair.

Officer A observed Subject 1 walk quickly through the door with both hands in his pockets and directly toward Victim 1 who was then cutting Witness 1's hair. When Subject 1 reached Victim 1, he abruptly stopped and spoke to Victim 1, however, Officer A did not clearly hear that conversation. Officer A noted that Subject 1 was sweating profusely and believed that Subject 1 was possibly under the influence of narcotics. Victim 1 observed Subject 1 move his shirt to the side and remove what appeared to be a blue-steel semi-automatic pistol. According to Victim 1, Subject 1 held the pistol close to his body with the muzzle pointed at Victim 1. Subject 1 demanded repeatedly to Victim 1, "Give me the money." Officer A did not see Subject 1's gun, or hear Subject 1's demands. Officer A observed Victim 1's facial expression change to fright as she walked toward the shop's front counter. Officer A did not see a weapon, but believed that Subject 1 possibly was armed and robbing the barbershop.

Officer A remained seated and checked his pistol to ensure it was ready to fire. Officer A remained seated using a short partition wall separating the waiting area and work area for concealment from Subject 1. Officer A was concerned that should Subject 1 be armed, any attempt by him to leave the shop would cause Subject 1 to become agitated and could cause Subject 1 to shoot Officer A. As Victim 1 walked toward the front counter and Subject 1 turned to follow, Officer A observed Subject 1 gripping a black semi-automatic pistol in his waistband with his right hand. Officer A then drew his pistol and concealed it inside a magazine. When Victim 1 and Subject 1 reached the front counter, Subject 1 pointed his pistol at Victim 1 as she retrieved the money. Subject 1 appeared very nervous and angry while waiting for Victim 1 to give him the money. Officer A observed Subject 1 raise his pistol higher and state to Victim 1, "Give me all the money!" Victim 1 then handed Subject 1 more money.

Still seated, but now fearing for Victim 1's safety, Officer A raised his pistol toward Subject 1. Officer A was also aware that his wife and infant were directly behind him in their vehicle. Officer A intended to announce his presence, but Subject 1 looked directly at him appearing startled. Subject 1 stepped back as he simultaneously grabbed the pistol which had he put back in his front waistband.

Officer A then fired one round from a seated position over the partition wall at Subject 1. Subject 1 then moved toward the front door continuing to attempt to remove the pistol from his waistband with his right hand, while holding the stolen currency in his left hand. Officer A stood and fired a second round at Subject 1, who continued pulling at the pistol in his waistband. Officer A then took one step forward and fired a third and fourth round at Subject 1 as Subject 1 maintained his grip on the pistol attempting to remove it. Subject 1 rounded the partition wall and quickly moved in Officer A's direction, toward the front door, still continuing to pull at the pistol in his front waistband as if to remove it. Officer A knew that Witness 1 remained seated in the barber chair and did not fire additional rounds until he knew that Witness 1 was out of the line of fire. Officer A then fired a fifth round at Subject 1. Subject 1 looked at Officer A and increased his pace toward the front door as he continued to pull at the pistol in his waistband. Officer A still

feared that Subject 1 would remove the pistol and shoot him or his family and fired an additional four rounds at Subject 1. Subject 1 exited the front door and collapsed face down on the ground between two vehicles with his right hand under his torso gripping the gun. Officer A exited the front door while still covering Subject 1 as he was unsure if Subject 1 was still attempting to remove the pistol from his waistband. At this time, Officer A realized his pistol was out of ammunition and reloaded with the magazine from his rear pocket.

In the meantime, Officer B heard approximately three gunshots but was unsure of where they came from. Officer B could not see any activity in the barbershop because of decals on the windows, but Officer B drew the pistol from Officer A and B's vehicle, fearing an armed confrontation and being uncertain of the gunshots' origin. When Officer B looked up, Officer A was standing in the barbershop doorway and Subject 1 was stumbling to the ground as he exited the barbershop door. Officer A then walked over to check on his spouse and infant while still maintaining sight of Subject 1's feet. Officer A then called out to Officer B to retrieve the other pistol (from Officer A and B's vehicle) and assist him. Officer B exited their vehicle and Officers A and B briefly discussed what had transpired. Officer A asked Officer B to check for additional suspects that may be in the area while he covered Subject 1. No additional suspects were located.

Officer A approached Subject 1 and pulled Subject 1's arms behind his back. Officers A and B identified themselves as police officers as numerous people came outside various nearby businesses to see what had occurred, and requested that they call 9-1-1.

Officer A called his former Watch Commander's office and Lieutenant G took the call and, thereafter, broadcast a help call to Communications Division ("CD"). Officers C, D and E, among others, responded to the help call. Prior to additional officers arriving, Officers A and B holstered their pistols. Officers C and D arrived at the location first and observed Officers A and B in the parking lot with Subject 1 lying on the ground, face down. Officer A was kneeling on Subject 1's back while holding Subject 1's right arm behind his back. Officer A advised Officers C and D that Subject 1 needed to be handcuffed and was armed with a gun underneath his body. Officer A relinquished control of Subject 1 while Officer D controlled and handcuffed him. Officer C requested a rescue ambulance, additional units and a supervisor. Officer E arrived at the location approaching on foot and was unsure of what had occurred. Believing an officer had possibly been shot and that suspects may still be in the area, Officer E drew his service pistol as he approached the parking lot. Officer D recovered Subject 1's pistol from the ground underneath him. Upon recovering the weapon, Officer D pointed the pistol down at the ground at an angle that could have caused an unsafe ricochet if it had discharged. Officer E directed another officer (Officer F) to assist Officer D with the pistol and ensure it was handled safely. It was determined that Subject 1's pistol was an air-pistol, which appeared to have the hammer cocked. The air pistol closely resembled a real firearm.

Watch Commanders Lieutenant H and Sergeant J were notified of the incident. Lieutenant H instructed Lieutenant I to make the proper notifications before Lieutenant

H responded to the scene. Paramedics responded and transported Subject 1 to Hollywood Presbyterian-Queen of Angels Medical Center. Subject 1 failed to respond to treatment and was pronounced dead shortly after arriving at the hospital.

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 that Officers C and D, Lieutenants G, H and I, and Sergeant J would benefit from additional tactical training at the divisional level (informal training), and the Officer A would benefit from additional tactical training at the Training Division (formal training) level. The BOPC found that no action was required in relation to Officer B's tactics.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A, B, and E's drawing/exhibition/holstering of a firearm to be in policy, requiring no action.

C. Use of Force

The BOPC found Officer A's use of force to be in policy, requiring no action.

Basis for Findings

A. Tactics

The BOPC determined that Officer A should have continued to cover Subject 1 until additional officers arrived instead of moving to contact Officer B where he could not see Subject 1. The BOPC also noted that Officer A fired all nine rounds from his weapon and only reloaded his weapon while covering Subject 1 and the BOPC believes that Officer A should have reloaded his firearm sooner as officers are trained to make every effort to ensure their pistols remain loaded with ammunition at all times. The BOPC was concerned that Officer A knelt on Subject 1's back instead of covering him from a safe distance. The BOPC also noted that Officer D pointed Subject 1's weapon down at the

ground which could have resulted in an unsafe ricochet if discharged. The BOPC also would have preferred that Officer C had parked his vehicle outside the parking lot to allow for a more thorough assessment of the situation and identification of the individuals at the scene. The BOPC determined that Officer A would benefit from additional tactical training at Training Division (Formal Training), and that Officers C and D would benefit from additional tactical training at the divisional level (Divisional Training). The BOPC determined that Officer B's tactics were appropriate and required no action.

The BOPC also noted that the Department Command Post ("DCP") was not notified of this incident until almost 50 minutes after the incident occurred. Lieutenant G, Sergeant J, Lieutenant H, and Lieutenant I all received notification within approximately 20 minutes of the incident, however the DCP was not notified until nearly 30 minutes after the referenced supervisors were notified. Accordingly, the BOPC recommended that each of these supervisors receive Divisional training regarding DCP notification requirements.

B. Drawing/Exhibiting/Holstering

The BOPC determined that Officers A, B and E had sufficient information to believe the situation might escalate to the point where deadly force may become necessary at the time they drew their weapons. The BOPC found Officers A, B and E's drawing to be in policy.

C. Use of Force

The BOPC determined that Officer A was in fear for his life and the lives of his wife and infant when he fired nine rounds at Subject 1 as Subject 1 pulled at the handgun in Subject 1's waistband. The BOPC found Officer A's lethal use of force to be in policy.