

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

OFFICER-INVOLVED SHOOTING – 058-07

| <u>Division</u> | <u>Date</u> | <u>Duty-On(x) Off()</u> | <u>Uniform-Yes(x) No()</u> |
|------------------------|--------------------|--------------------------------|-----------------------------------|
| Northeast | 06/17/2007 | | |

| <u>Officer(s) Involved in Use of Force</u> | <u>Length of Service</u> |
|---|---------------------------------|
| Officer B | 5 years, 2 months |

Reason for Police Contact

While on patrol, Officers A and B observed the headlights of a vehicle approaching them and heard gunshots. As the vehicle drove past the officers, Officer B heard gunshots and saw muzzle flash from within the vehicle and believed he was being fired upon. Officer B fired at the occupants of the vehicle.

| <u>Subjects</u> | <u>Deceased ()</u> | <u>Wounded ()</u> | <u>Non-Hit (x)</u> |
|--|---------------------------|--------------------------|---------------------------|
| Three unidentified males, 20-25 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 05/06/08.

Incident Summary

Uniformed Officers A and B were assigned to a patrol unit tasked with suppressing gang and narcotic activity. The officers observed the headlights of a vehicle approaching them and heard gunshots emanate from the vehicle. Officer B noted that muzzle flashes reflected off of the trees, and Officer A noted that approximately 15-20 shots had been fired.

Note: Witness A stated that as she walked down the street four or five houses away, she saw two men step out of the back seat of a dark colored vehicle and fire approximately 10 rounds. Witness A indicated that the subjects were males with shaved heads. She also indicated that one

of these individuals was armed with a shotgun and that the other was armed with a handgun.

Officer A immediately stopped the police vehicle, placed it in reverse, and searched for an area to exit the vehicle to take cover. Officer B broadcast a help call, indicating that shots had been fired and providing the officers' location. When Officer A stopped the police vehicle, both officers exited and drew their service pistols. Officer B sought cover behind a vehicle parked on the street and Officer A quickly walked backward toward a parked van for cover. However, realizing that the van was too far away and could not be reached in time, Officer A returned to the police vehicle and used the door as cover.

As the subjects' vehicle approached the officers' vehicle at approximately 40 miles per hour, the headlights of the police vehicle illuminated the passenger compartment of the subjects' vehicle, enabling the officers to observe that the subjects were three males with shaved heads, appearing to be 20 to 25 years of age. According to Officer B, the driver of the subjects' vehicle "shrugged his shoulders toward his head and was crouched down toward the center of the vehicle low and towards the center as if bracing himself for an impact or a gun battle." When the subjects' vehicle passed between the police vehicle and the vehicle that Officer B was using as cover, it struck the open front passenger door of the police vehicle and caused minor damage. Officer B heard gunshots and observed multiple muzzle flashes through the open rear driver's side window of the subjects' vehicle, and he believed that the muzzle flashes were directed toward him. Officer B also observed a second, different type of flash, which caused him to believe that a second gun was being discharged from within of the vehicle. In response to his observations, Officer B fired eight rounds.

Note: Officer A did not observe any weapons or muzzle flashes coming from the subjects' vehicle. However, from a crouched position behind the driver's side door, Officer A saw the subject come up from a sitting position, thinking that he was possibly the shooter. When the subjects' vehicle passed the police vehicle, Officer A heard eight to ten gunshots. Upon hearing the rounds being fired, Officer A turned toward Officer B and observed Officer B fire approximately five rounds at the subjects' vehicle. When later asked if it could be distinguished whether the eight to ten gunshots were fired from one gun or multiple guns, Officer A said "no."

When the subjects' vehicle continued to travel, Officers A and B holstered their service pistols and returned to their police vehicle. Officer B then retrieved a shotgun from its mount in the police vehicle, chambered a round, and broadcast the subjects' description and last direction of travel. The officers then searched for the subjects while Officer B held the shotgun in a port arms position with the muzzle extending through the front passenger's side window. As they did so, Officer B directed units to an intersection where he had originally seen the shots fired to check that area for any injured subjects or victims. Unable to locate the subjects, Officers A and B returned to the scene of the drive-by shooting and searched for possible victims. Finding none, the officers returned the scene of the officer-involved shooting (OIS).

Neither the subjects nor their vehicle were identified by the subsequent investigation. No evidence was uncovered to indicate that any of the subjects were struck by the officers' gunfire.

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 and B's tactics to be appropriate.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A and B's drawing to be in policy.

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that the review of this incident revealed several exemplary tactical aspects. Officers A and B demonstrated a proactive work ethic by driving through a high crime area just prior to completing their shift. Officers A and B have worked together on various occasions for two and a half years and have had numerous discussions regarding tactics, ambushes and shootings.

During this rapidly unfolding event, Officers A and B were able to discuss tactics and seek cover. Officer B calmly and thoroughly broadcast a request for help as the drive-by shooting subjects drove toward them. Lastly, after being involved in an OIS, Officers A and B immediately entered their police vehicle and attempted to apprehend the subjects.

Based on the forgoing, the BOPC determined that Officers A and B's tactics were appropriate.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officers A and B heard numerous shots fired, and Officer B observed muzzle flashes on the street and against a large tree. Believing that a drive-by shooting was occurring, and the subjects' vehicle was driving toward them, Officers A and B exited the police vehicle and drew their service pistols.

As the subjects drove away, Officers A and B entered the police vehicle to search for the subjects. In fear of another armed confrontation with the subjects, Officer B deployed the Department-approved shotgun, chambered a round, and held it with his right index finger on the safety.

The BOPC determined that Officers A and B had sufficient information to believe the situation had escalated to the point where deadly force may become necessary.

The BOPC found Officers A and B's drawing to be in policy.

C. Lethal Use of Force

The BOPC noted that when the subjects' vehicle passed his position of cover, Officer B heard gunshots and observed muzzle flashes. In immediate defense of his life, Officer B fired at the subjects.

The BOPC determined that Officer B believed that the subjects presented an immediate threat of serious bodily injury or death.

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