

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

OFFICER-INVOLVED SHOOTING – 042-11

Division	Date	Duty-On(X) Off()	Uniform-Yes()	No(X)
Central	05/10/11			

Involved Officer(s)	Length of Service
Detective A	16 years, 1 month

Reason for Police Contact

Detectives were attempting to conduct an undercover narcotics purchase, when a subject brandished a knife.

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
Male, 51 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 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, 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 April 24, 2012.

Incident Summary

Detectives A and B were walking in plain clothes, and were in possession of their Department approved pistols and badges. As the detectives reached an intersection, Detective A crossed the street and took up a position on the southwest corner. As described by Detective A, "I had my back up against the wall. I looked westbound and eastbound in [...] case [...] I see narcotics activity, [or] any individuals looking like they're selling pills [...] so I can get a better description -- get an idea if there's going to be any activity there so we can conduct an operation -- a buy-bust operation later on in the day." Meanwhile, Detective B positioned himself across the street from Detective A, behind a traffic signal box, on the northwest corner.

Detective A's account of the OIS

After approximately two minutes, Detective A saw Subject 1 walking toward him, eastbound on the south side of the street. As Subject 1 walked by, he stated to Detective A, "Weed, Klonopin, weed, Klonopin, weed, Klonopin." Detective A asked Subject 1 if he had Klonopin. Subject 1 responded that he did and told Detective A to give him five dollars. As described by Detective A, "Upon seeing the \$5 in my right hand, he [Subject 1] quickly, forcefully grabbed -- snatched the \$5 from my hand, knocking my hand down in a rude manner. You know, I was surprised because that's not how it's been done to me in the past when conducting this type of operation. And he slowly started walking eastbound."

Note: According to Detective A, once Subject 1 solicited him for the sales of Klonopin, the situation "morphed" into a spontaneous buy-bust operation.

Detective A followed Subject 1 as he turned south on the intersection and asked him, "Hey, where's my Klonopin? What are you doing?" According to Detective A, Subject 1 was approximately two to three feet away from Detective A. Subject 1 turned so that he was facing Detective A. According to Detective A, "And at that time he turned around and faced me and he had both of his hands up to -- a little higher than his waist level. He turned around and he said, 'I'm going to kill you.' At that time -- at that point I saw him unfolding a large knife that he had in his hands. He unfolded a large knife. I recoiled because I realized that I'm being robbed and he's going to kill me. At that point I was fearful that he was going to stab me, because I noticed that it was an unusually large knife. He was threatening and I drew my weapon, pointed it at him, and I fired two rounds into his chest. I stopped [shooting] when the threat stopped."

Note: The investigation revealed that Detective A fired two rounds from his pistol from a distance of approximately three feet. Both rounds fired struck Subject 1 in his back.

Detective B's account of the OIS

Detective B observed Subject 1 approach Detective A, and it appeared to Detective B that Subject 1 had grabbed something from Detective A's hand. Detective B recalled, "And at that time I observed [Detective] A nodding his head up and down making mannerisms which indicated to me something was going amiss." As Subject 1 walked away, Detective A followed him. Realizing that something had gone wrong, Detective B started to cross the street and recalled that at that point, his view was of Subject 1's back.

As described by Detective B, "It looked as if the suspect was twisting or about to twist towards [Detective] A. And I'm pretty sure I saw something coming out of either his pocket or waistband right area. I mean a snapshot but I'm pretty sure I saw something coming out. I didn't see a weapon. I saw something coming out." As recalled by Detective B, "And then I see [Detective] A hopping out into the street creating distance. His [Detective A's] weapon comes out and he shoots." According to Detective B, he believed Detective A fired two shots. Detective B observed that Subject 1 was then face-down on the sidewalk.

Witness A's account of the OIS

According to Witness A, he was standing on the southwest corner of the intersection. Witness A observed Detectives A and B walking toward Subject 1. The detectives approached Subject 1, who was on the southwest corner with his back to the detectives. According to Witness A, the detectives appeared to be trying to sneak up on Subject 1. Witness A observed that Subject 1 had what appeared to be a box cutter in his hand and Witness A thought that Subject 1 might be using the blade of the box cutter to cut drugs. As recalled by A, when the detectives were within six to eight feet of Subject 1, one of them yelled "hey." Subject 1 then spun around and Detective A fired two shots.

Events following the OIS

Detective B used his cellular phone to call 911 to report the shooting and to request a Rescue Ambulance (RA) for Subject 1.

When the assisting officers arrived at the scene, Detective A requested that they handcuff Subject 1. The officers handcuffed Subject 1 and recovered a knife from underneath him.

An RA arrived at the scene and provided emergency medical treatment to Subject 1. At the request of the paramedics, the handcuffs were taken off of Subject 1 to facilitate treatment. Subject 1 was then transported to the hospital. Subject 1 failed to respond to medical treatment and was pronounced dead.

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 made the following findings.

A. Tactics

The BOPC unanimously found Detective A and B's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC unanimously found Detective A and B's drawing and exhibition of a firearm to be in policy.

C. Use of Force

By a vote of 3-2, the BOPC found Detective A's use of force to be out of policy.

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered the following:

1. Undercover Operations

In this case, both detectives elected to self-initiate a tactical buy-bust operation in clear conflict with established protocols and contrary to established Department training. While the BOPC understands their intentions were to conduct narcotics enforcement, both detectives certainly should have realized the dangers inherent in narcotic enforcement, especially without the benefit of sufficient resources or a tactical plan.

In conclusion, Detective A and B's failure to follow proper protocols or to operate in a manner consistent with Department tactical training, by having and communicating an operational/tactical plan, to include support personnel, unjustifiably and substantially deviated from approved Department training.

2. Command and Control

Detective B was a Department supervisor and acting as the Officer in Charge of his unit. The responsibilities associated with the supervisory oversight of subordinate personnel include ensuring that Department mandates, protocols and approved training practices are followed. Also, consistent with Department supervisory training, the BOPC's expectations are that Department supervisors provide oversight of operations, rather than directly taking enforcement action, whenever possible.

In evaluating this incident, the BOPC determined that the overall tactical deficiencies identified were, in-part, a result of deficient supervisory oversight. In conclusion, Detective B's performance in this regard unjustifiably and substantially deviated from approved Department training.

B. Drawing/Exhibiting/Holstering

The BOPC noted the following:

Detective A recalled that he observed Subject 1 turn clockwise in his direction while holding the knife. Detective A stated, *"...I was fearful that he was going to stab me, because I noticed that it was an unusually large knife. He [Subject 1] was threatening. And I drew my weapon."* Detective A estimated that he was within two to three feet of Subject 1 when he drew his service pistol.

Detective B reported that he drew his service pistol after the OIS occurred. Detective B stated, *"I observed [Subject 1] appear to reach into his right pocket or waistband area...And then immediately or simultaneous with that, Detective A created distance, drew his firearm, an OIS occurred. I drew my weapon, proceeded to where Detective A and the decedent were."*

In conclusion, the BOPC found Detective A and B's drawing/exhibiting to be in policy.

C. Lethal Use of Force

Detective A – two rounds fired at a distance of approximately three feet.

The BOPC noted Detective A's testimony that Subject 1 had turned toward Detective A, while opening a large knife. Detective A stated that, in defense of his life, he fired two rounds at Subject 1's chest. In evaluating this case, the BOPC found that the preponderance of the available evidence did not support that Subject 1 was turned toward Detective A when the shooting occurred, and that it did not support an objectively reasonable belief that Subject 1 presented an imminent threat of death or serious bodily injury at the time that Detective A discharged his pistol.

In conclusion, the BOPC found Detective A's lethal use of force to be out of policy.