

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

OFFICER-INVOLVED SHOOTING – 002-07

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Mission	01/05/2007		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	13 years, 1 month
Officer C	13 years, 5 months
Officer D	7 years, 5 months

Reason for Police Contact

Officers A, B, C, and D responded to a residence where two individuals suspected to have committed an attempted murder were believed to be located. While the officers searched the residence, Subject 1 shot Officer A and fled. Officers C and D then encountered Subject 1, who appeared to be holding a gun. Officers C and D fired at Subject 1.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject 1: Male, 19 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 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 10/30/07.

Incident Summary

Officers A and B responded to a radio call indicating that two males (Subjects 1 and 2), suspects in an attempted murder and members of a street gang, were possibly located inside a residence and were potentially armed. Officer A was familiar with the residence because a search warrant had been served at the location the previous day in an unsuccessful attempt to take Subject 1 into custody.

As Officers A and B arrived at the location, Officer A observed a group of approximately five to six individuals moving away from the residence.

Note: While en route to the location, Officer A requested the presence of an Air Unit. He was informed, however, that an Air Unit would not be able to respond to his request due to an unrelated, ongoing incident.

Officers A and B drove past the group and Officer A determined that none of the individuals was Subject 1. Officer A believed one of the individuals in the group was Subject 1's mother. Officers A and B then turned around and parked their police vehicle on an adjacent street near the target residence.

Shortly thereafter, Officers C and D also arrived at the scene. They parked their police vehicle behind Officers A and B's.

Officer A then briefed Officers C and D and communicated a plan by which the officers would approach the residence. Officer A told Officers C and D to cover one corner of the residence, where Subject 1's bedroom was located. Meanwhile, he and Officer B would approach the rear of the residence in preparation for making entry.

Officers A, B, C, and D all entered the yard surrounding the residence through an opening in a gate. Officers C and D moved toward their pre-determined location and drew their service pistols. Officer A used his radio to notify Officers C and D that Officer B would attempt to call Subject 1's residence using his cellular phone and a phone number that had previously been obtained. Officer B dialed the phone number to the residence twice, but there was no answer.

At this point, Officers A and B approached the rear doors of the residence, one of which was open. Officer A drew his service pistol and looked through a window to confirm that no one was present. Meanwhile, Officer C joined Officers A and B at the rear doors of the residence. Officer B then called out Subject 1's first name in an attempt to get Subject 1 to reveal his location.

Although there was no response, Officer A was able to hear music that seemed to be coming from an interior room of the residence. Officer A then used his radio to notify Officer D that he and Officers B and C would enter the residence. Officer B drew his service pistol.

Officers A, B, and C then entered the residence. Officers B and C moved into an open bedroom. Officer A remained in the hallway and focused his attention on a closed door, which led to another bedroom. Officer A heard the closed door being unlocked and observed the door beginning to open. He attempted to notify Officers B and C by snapping his fingers.

Subject 1 then exited the bedroom holding what appeared to be a marijuana pipe. Officer A ordered Subject 1 to stop and show his hands. Subject 1 turned around and ran back into the bedroom, closing the door behind him. As Subject 1 retreated into the bedroom, Officer A advanced toward the room and heard the door being locked.

Meanwhile, Officers B and C heard Officer A issuing verbal commands and exited the bedroom to join him in the hallway.

Officer A kicked the bedroom door in an attempt to force it open, but his foot went through the door. Officer A quickly pulled his foot out from the hole that he had made. Then, observing that the door had been weakened by his kick, Officer A simply pushed the door around the knob area, causing it to open.

Officer A then heard a gunshot and his leg was struck by a bullet. Officer A moved toward the front door of the residence and fired one round from his service pistol through the wall of the bedroom toward the area where he believed Subject 1 was located.

Officer B dropped down to the floor to a prone position and began to back away from the bedroom door. Meanwhile, Officer C repositioned to the rear doors of the residence.

Officer A activated the help button on his radio and broadcast that shots had been fired at his location and that an officer was in need of help. Officer B then repositioned himself closer to Officer A, near the front door of the residence. Meanwhile, Officer D heard an exchange of gunfire coming from inside the residence and, in response, repositioned to the rear doors of the residence near Officer C.

Officer A heard what he believed to be the sounds of mini-blinds being ripped from a window inside the bedroom. He then yelled to Officer D to go back outside and cover the bedroom windows. Officers C and D both backed away from the rear doors and moved toward the side of the residence. Officers C and D then observed Subject 1 coming toward them.

Subject 1 reached down toward his waist and pulled his hand up toward Officers C and D while continuing to run in their direction. Officers C and D ordered Subject 1 to stop, but Subject 1 failed to comply. In response, Officer C fired five rounds at Subject 1.

Officer D fired one round at Subject 1. Officer D then paused, observed Subject 1 continuing to move toward him and Officer C, and fired a second round. Subject 1 fell to the ground with his arm underneath his body.

Officer C ordered Subject 1 to pull his arm out from underneath his body, but Subject 1 did not move. Officer C then observed that Subject 1's arm appeared to have been struck by a bullet. At around this time, Officers A and B exited through the front door and moved toward Officers C and D's location.

Officer B holstered his service pistol, approached Subject 1, and handcuffed him. Officer B asked Subject 1 whether there were any additional subjects remaining inside the residence, and Subject 1 replied that Subject 2 was inside. Realizing that he lacked cover and could potentially be caught in a crossfire, Officer B grabbed Subject 1 by his sweater and his shoulder areas and dragged him behind a nearby tree.

Officer A broadcast a request for a rescue ambulance (RA) for one male with a gunshot wound to the leg (Officer A) and another male with a gunshot wound to the arm (Subject 1). Officers C and D repositioned themselves near the rear doors of the residence in order to cover that location.

Sergeant A arrived at the location, ran toward Officer A, drew his service pistol, and covered the window of the bedroom where Subject 1 was initially encountered.

Meanwhile, Officer A holstered his weapon and attempted to establish a perimeter around the scene in case Subject 2 had already exited the residence. Sergeant B arrived at the scene, was briefed by Officer A, and drew her service pistol. Sergeant B then holstered her pistol and requested additional officers to respond to the scene in order to clear the residence.

Officer A drew his service pistol again and yelled into the bedroom, ordering Subject 2 to show his hands immediately. At one point, Subject 2 responded that he would come out.

By this time, numerous additional officers were arriving at the location, including Officers E, F, G, H, I, and J. Officer H took a position behind a tree and drew his service pistol. Officers G and J approached the window that Officer A was covering and drew their service pistols. Officer G then directed Officer J to retrieve a shotgun from their police vehicle. Officer J holstered his service pistol, returned to his police vehicle, and retrieved a shotgun.

Meanwhile, Officers E, F, and I also moved toward the window that Officer A was covering, and Officer F observed Subject 2 raise his hands. Officer F reached into the bedroom and grabbed one of Subject 2's hands. Officer E grabbed Subject 2's other hand and they pulled him out of the residence through the bedroom window. Officers E and F placed Subject 2 on the ground and Officer F kneeled on his back. They then handcuffed him.

Around this time, Officers G and I entered the residence and moved toward the bedroom door, where they observed Subject 2 being pulled out of the window. In the adjoining bathroom, they observed one handgun in the shower and another in the toilet. Meanwhile, outside the residence, Subject 2 was handcuffed and placed in a police vehicle.

Sergeant B and Officers C, G, I and J cleared the remaining rooms of the residence. Once the remainder of the residence had been cleared, Officers C, D, G, H, and I holstered their service pistols.

Officers G and H moved toward the freestanding garage on the property to clear it. Before reaching the garage, Offices G and H cleared a laundry room. Officer G observed that there was a padlock on the outside of the garage, and that there were no windows. Officer G then advised that the garage was clear and he returned the shotgun to his police vehicle. Officer H holstered his service pistol.

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 Sergeants A and B and Officers A, B, C, D, E, F, G, and I's tactics to warrant formal training.

B. Drawing/Exhibiting/Holstering

The BOPC found Sergeants A and B and Officers A, B, C, D, G, and I's drawing to be in policy.

C. Use of Non-Lethal Force

The BOPC found Sergeant A and Officers E and F's use of non-lethal force to be in policy.

D. Use of Lethal Force

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

Basis for Findings

A. Tactics

The BOPC noted that when Officer A heard Communications Division broadcast the location and nature of the radio call, he recognized the location as Subject 1's residence. Officer A had specific knowledge that Subject 1 was implicated in an attempted murder investigation and that a search warrant had been served at his residence.

As Officers A and B waited for the arrival of Officers C and D, they observed a group of individuals leave the location. Officer A drove past the group, verified that Subject 1 was not present and returned to the residence. Officer A believed one of the people in the group was Subject 1's mother. By allowing her to leave the vicinity without questioning her, Officers A and B were missed an opportunity to obtain further information.

Officers A and B then met Officers C and D at a location adjacent to the source of the radio call. Although the area was dimly lit and offered some cover in the form of their police vehicles and large trees, a more advantageous location would have provided more safety to the officers as they conferred. The officers discussed a plan to handle the call and then approached the location.

When Officers A, B, C and D entered the property, Officers A and B went to the rear of the residence while Officers C and D positioned themselves to cover the side of the residence. Officer B used his cellular phone to call Subject 1's residence, but received no response. Officer C moved to Officers A and B's location. Officers A, B and C then enter the residence through an open door to search the residence. Officer D remained outside, alone.

As Officers A, B and C entered the residence, they did so without announcing their presence. This risked creating a dangerous situation.

Officers A, B, C and D did not use sufficient resources prior to making their approach to confront potentially armed subjects. The officers should have devised a tactical plan that included a supervisor and a command post to facilitate command and control, established an interior and exterior containment, staffed an entry/arrest team, used a tactical radio frequency, and made attempts to have the subjects exit the residence. The involved officers should have given strong consideration to alternative options prior to entering the residence.

As Officers A, B and C conducted a search of the residence, Officer A was alerted to a bedroom door. As the door opened, Officer A observed Subject 1 began to exit the bedroom and ordered him to stop. Subject 1 ignored A's command and retreated into the room, closing the door behind him. Officers B and C joined Officer A as Officer A approached the door and attempted to kick it open. Upon kicking the door, Officer A's

foot went through the door. As Officer A pushed the door open, he was struck in the thigh by a round fired by Subject 1. Officer A fired one round from his service pistol through the wall into the bedroom, then broadcast a help call. Officer D then left his position of cover and ran toward the residence without communicating with any of the officers inside the residence.

Following the broadcast, Officer A heard what he believed to be Subject 1 opening a window. Believing Subject 1 was preparing to flee, Officer A directed Officers C and D to cover the windows. Officers C and D observed Subject 1 running toward them. Officers C and D also fired their service pistols.

After Officers A and B heard gunfire emanating from the outside of the residence, Officers A and B exited the residence through the front door and handcuffed Subject 1. Officer A, the designated cover officer, simultaneously covered Subject 1 and the adjacent bedroom window during the handcuffing process. However, Officers A and B left the bedroom door uncovered, thereby compromising the integrity of the search. The lack of sufficient personnel and its compounding effect on each tactical decision was apparent as the incident unfolded.

Upon hearing the help call broadcast, Sergeants A and B responded to the scene. Sergeants A and B arrived at the location and observed Officer A covering the bedroom window with his service pistol. Officer A notified them that he had sustained a gunshot wound to his leg and an additional armed subject was possibly inside the residence.

Sergeants A and B assessed the situation and identified the unsecured residence and the southeast window as two separate tactical concerns. Sergeant A took control of the tactical situation at the window by verbalizing with Subject 2 and ultimately assisting with his physical extraction. However, consideration should have been given to maintaining positions of cover and telling Subject 2 to exit the location of his own accord. By approaching the window and extracting Subject 2 from the bedroom, Sergeant A and Officers E and F exposed themselves to potential threats posed by subjects inside the residence. It would also have been preferable for Sergeant A to have maintained a supervisory role and directed the extraction of Subject 2 from the window.

In addition, the BOPC noted the potential for diminished command and control as both Sergeants A and B assumed responsibility for two separate concerns at the same incident. Sergeant B then attempted to organize a search/arrest team; however, Officers G and I prematurely entered the front door and initiated a search of the location.

The BOPC found Sergeants A and B and Officers A, B, C, D, E, F, G, and I's tactics to warrant formal training.

B. Drawing/Exhibiting/Holstering

Based on the comments of the radio call and Officer A's specific knowledge that Subject 1 was implicated in an attempted murder investigation, Officers A, B, C and D believed the residents were armed with firearms.

Officers A, B, C and D entered the location through an open gate. As Officers A and C proceeded, they drew their service pistols. Officer D positioned himself to cover Subject 1's bedroom window and drew his service pistol. Officers A, B, and D positioned themselves adjacent to the open door, and, prior to initiating a search of the residence, Officer B drew his service pistol.

Upon hearing the help call broadcast, Sergeants A and B and Officers G and I responded to the scene. As Sergeants A and B and Officer G arrived at the scene, they observed Officer A covering the bedroom window with his service pistol. Officer A notified them that an additional armed suspect was possibly inside the residence, at which point Sergeants A and B and Officer G drew their service pistols.

Officer I entered the property and observed officers issuing verbal commands to Subject 2 through the open bedroom window. Officer I approached Officer G and requested his assistance to enter the residence and take Subject 2 into custody. As Officer I approached the front door of the residence to initiate a search, he drew his service pistol.

The BOPC determined that Sergeants A and B and Officers A, B, C, D, G, and I had sufficient information to believe that the situation may escalate to the point where deadly force may become necessary.

The BOPC found Sergeants A and B and Officers A, B, C, D, G, and I's drawing to be in policy.

C. Non-Lethal Use of Force

After Subject 1 was taken into custody, he advised Officer A that Subject 2 remained inside the residence. Subject 2 later approached the window. Sergeant A and Officers F and E utilized firm grips on Subject 2's hands, wrists and arms, pulled him out through the open window and immediately placed him in a prone position on the ground. Officer F placed a knee on Subject 2's back and utilized his bodyweight to control Subject 2. To overcome Subject 2's resistance, Sergeant A maintained a firm grip on Subject 2's hand and forced his arm behind his back to facilitate handcuffing.

The BOPC determined that Sergeant A and Officers E and F applied reasonable force to effect Subject 2's arrest.

The BOPC found Sergeant A and Officers E and F's use of non-lethal force to be in policy.

D. Lethal Use of Force

Officer A approached the door that Subject 1 had just closed and attempted to kick it open; however, his foot penetrated the door. Officer A retracted his foot and as he began to push the door open, Subject 1 fired one round through the door. The round struck Officer A in the thigh. Officer A fired one round through the wall and into the bedroom where Subject 1 was located.

The BOPC determined that Officer A reasonably believed that Subject 1 presented an immediate threat of serious bodily injury or death.

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

After the gunfire inside the residence and Officer A's request for help, Officer A directed Officers C and D to re-deploy and cover the bedroom window in the event Subject 1 attempted to flee. Officers C and D observed Subject 1 running toward them. Officer D observed Subject 1 reach for his waistband area with both hands, raise both hands with one hand cupped in the other and extend his arms toward Officer D. Officer D, believing that he was going to be shot, fired two rounds at Subject 1. Simultaneously, Officer C fired five rounds at Subject 1.

The BOPC determined that the use of deadly force by Officers C and D was reasonable, considering the totality of the circumstances known to the officers at the time of the incident. The officers were confronted by a subject who had shot and wounded Officer A. When the officers ordered Subject 1 to stop, he ignored their commands, reached for his waistband and continued to advance toward them. It was dark and the officers had little time to discern if they were going to come under fire.

Given the totality of the circumstances, it was reasonable for Officers C and D to believe that Subject 1 was armed with a handgun and that he presented an immediate threat of serious bodily injury or death to them.

The BOPC found Officers C and D's use of lethal force to be in policy.