

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

OFFICER-INVOLVED SHOOTING – 023-08

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform-Yes(X) No()</u>
77 th Street	03/01/2008		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer D	6 years, 10 months
Officer F	13 years, 9 months
Officer G	12 years, 9 months
Officer I	4 years, 11 months
Officer J	1 year, 10 months

Reason for Police Contact

Subject 1 ran his vehicle off the roadway and collided into a tree. As Officers A and B approached subject 1 to render aid, subject 1 threatened to shoot the officers. Subject 1 got out of his vehicle and pointed an object at the officers, resulting in the officers firing at Subject 1.

<u>Subject</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 1: Male, 38 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 02/24/09.

Incident Summary

Officers A and B were dispatched to a traffic collision. As the officers were attempting to locate the involved parties, they observed a second collision and stopped to investigate.

Officer A approached the vehicle to check on the condition of the driver and render aid. The driver and sole occupant (Subject 1) of the vehicle was unresponsive and appeared unconscious. Officer A requested a rescue ambulance (RA).

While Officer A was requesting the RA, an unidentified female contacted Officer B and reported seeing the same vehicle collide with several cars moments earlier and drive away. Officer A again approached the vehicle and this time ordered Subject 1 out of his vehicle. Subject 1 responded by saying, "I'm going to shoot". Officer A backed away from the vehicle and drew his service pistol.

Officer B heard Subject 1 say he would shoot, drew his service pistol and both officers redeployed to their patrol vehicle. Officer B broadcast a request for an additional unit.

Officers responding to the scene included Sergeants A, B and C and Police Officers C, D, E, F, G, H, I, J, K, L, M, N, O and P. In addition to the officers on the ground, an air unit responded to the scene.

The responding police vehicles stopped behind Subject 1's vehicle. Officers F, G, I and J took positions at the nearby intersection where they provided traffic control.

As officers arrived and deployed, Sergeant B and Officers D, L, M, O and P drew their pistols while Officers C, E and H deployed shotguns and Officer N deployed his Urban Police Rifle (UPR).

Officers C and D utilized a police vehicle's Public Address (PA) system and ordered Subject 1 out of his vehicle. Subject 1 did not respond to the commands. Officers had a limited view of Subject 1 due to the angle of his vehicle. Although the vehicle driver's side door was open, only Subject 1's feet were in view as they extended outside of the driver's door.

Officer D wanted a better view of Subject 1 and moved to the opposite side of the street. Officer D advised Officer H of his intention to move before doing so. His new position was perpendicular to the vehicle, thus allowing a view inside the open door. Officer D utilized a parked vehicle for cover. From this location, Officer D saw Subject 1 lying across the front seat of his vehicle, apparently pinned between the seat and dashboard. Officer D then observed Subject 1 sit up and exit his vehicle. Officer D broadcast his observation; thereafter, he placed his radio on top of the parked vehicle he had used for cover.

Note: The parked vehicle Officer D used for cover was occupied by witnesses A and B.

Subject 1 walked to the middle of the street and started gesturing with his arms in a taunting manner. Subject 1 then started taking steps backward and as he did so, Officer D observed a metallic object in his right hand that he believed was a handgun. Officers D observed Subject 1 face the officers, raise his right hand and extended his right arm "In a manner consistent of him taking aim at the officers." Officer D fired three rounds at Subject 1.

Note: According to Officers M and P and witnesses A, C, D, E, F, G, H, I and J, Subject 1 extended his arm toward the officers as if he were pointing a handgun.

Subject 1 turned and ran southbound away from the officers, crossed the street, and entered a parking lot. Officer D gave chase and as he started to run, he looked back and noted that his fellow officers knew he was in foot pursuit.

Note: Officer D left his radio on top of the parked vehicle used for cover as he initiated the foot pursuit of Subject 1.

Officer D could see that Subject 1 still had the item he believed was a gun in his hand. Subject 1 ran into the parking lot, slowed, turned toward Officer D and raised his hand toward the officer. Officer D fired six or seven rounds at Subject 1. Subject 1 continued to run through the parking lot and around the corner of a building.

Note: When Officers I and J arrived at the intersection for traffic control, they parked their police vehicle in a driveway on the far side of the parking lot.

Once Subject 1 rounded the corner of the building, he could see police vehicle parked in the far driveway. According to Officer D, as Subject 1 got closer to the police vehicle, he stopped and appeared to focus his attention toward the far corner of the building where Officer D believed fellow officers had deployed. Subject 1 then turned toward Officer D and once again pointed what Officer D believed to be a handgun at the officer. Officer D fired three rounds at Subject 1.

Subject 1 began walking toward the parked police vehicle with his arm pointed in the direction of the three officers deployed near the corner of the building. Officer D then heard gunfire he believed came from the deployed officers. Simultaneously, Officer D fired one or two additional rounds at Subject 1. Subject 1 then collapsed to the ground.

Note: Officer D fired a total of 13 rounds during this incident.

Officers F, G, I and J heard Officer D's initial volley of gunshots. At that time, Officers F, G and I were at the nearby intersection while Officer J was near his police vehicle parked in the driveway.

Officers F, G and I saw Subject 1 and/or police officers running toward them and into the parking lot. All three officers, anticipating Subject 1's route, deployed to the corner of the building near the parked police vehicle and took cover.

After taking cover, Officer I drew his service pistol. Officer I observed Subject 1 in the parking lot running toward the parked police vehicle and knew Officer J was deployed at that location. Officer I heard a gunshot and believed Subject 1 had fired at Officer J. Officer I observed Subject 1 with his arm extended at shoulder height pointing in his direction. Officer I fired four or five rounds at Subject 1. Subject 1 continued toward the police vehicle. Officer I redeployed a few feet closer to the police vehicle and fired four additional rounds. Subject 1 then collapsed to the ground.

Note: Officer I fired a total of ten rounds during this incident.

At the same time, after hearing the gunshots and before taking cover at the corner of the building, Officer F drew his service pistol. Officer F observed Subject 1 running in the parking lot toward his position. Subject 1 was holding a black shiny object in his right hand that Officer F believed was a handgun. Officer F observed Subject 1 make furtive movements to his jacket, heard additional gunfire, heard the police vehicle window shatter and believed Subject 1 was firing at the officers. Subject 1 pointed the apparent handgun at Officer F at which time, Officer F fired at Subject 1. Officer F fired five to seven rounds, changed his shooting stance and fired two or three additional rounds. Subject 1 collapsed to the ground.

Note: Officer F fired a total of nine rounds during this incident.

At the same time, after hearing gunshots and taking cover at the corner of the building, Officer G drew his service pistol. Officer G had seen Subject 1 running with his arm pointed back toward the officers at the accident scene, heard gunshots and believed Subject 1 was firing at the officers. As Subject 1 came running into the parking lot, Officer G observed him holding a black object in his right hand. Subject 1 clutched the object in a pistol-style grip and Officer G believed the object was a gun. Subject 1 brought his hand up, extended his arm and pointed at Officer G at which time Officer G fired four or five rounds at Subject 1. Subject 1 then collapsed to the ground.

Note: Officer G fired a total of seven rounds during this incident.

At the same time, Officer J was standing approximately five feet from his police vehicle when he saw Officer I running toward him and yelling. Officer J turned and saw Subject 1 running through the parking lot in his direction. Officer J drew his service pistol. Subject 1, who was holding a dark object in his hand that appeared to be a handgun, raised his hand and pointed the object at Officer J and the officers deployed at the corner of the building. Officer J fired six to eight rounds at Subject 1, redeployed next to his police vehicle and fired an additional two to four rounds. Subject 1 then collapsed to the ground.

Note: Officer J fired a total of ten rounds during this incident.

Subject 1 collapsed to the ground in a prone position with his right arm under him. As officers approached, Subject 1 rolled onto his back, exposing his right hand. Rather than a handgun, officers observed that Subject 1 possessed a black plastic direct current (DC) converter. Officers P and O handcuffed Subject 1.

Personnel from the Los Angeles Fire Department (LAFD) responded and administered emergency medical treatment to Subject 1 for multiple gunshot wounds. Subject 1 was transported to a hospital, where he 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 unanimously made the following findings.

A. Tactics

The BOPC found Officer D's tactics to warrant administrative disapproval.

The BOPC found Sergeants A, B and C, along with Officers A, B, C, E, F, G, H, I, J, K, L, M, N, O and P's tactics to warrant a tactical debriefing.

B. Drawing/Exhibiting/Holstering

The BOPC found Sergeant B, along with Officers A, B, C, D, E, F, G, H, I, J, L, M, N, O and P's drawing to be in policy.

C. Lethal Use of Force

The BOPC found Officers D, F, G, I and J's lethal use of force to be in policy.

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

1. Officer B requested an additional unit rather than a request for help. Officers A and B did not advise responding units that the suspect was possibly armed, nor did he provide any additional information for responding units.

The totality of the circumstances surrounding this incident warranted a help call. Faced with a potentially armed, barricaded suspect, Officers A and B should have broadcast a request for help, advised responding units that the subject was possibly armed in a vehicle and that he had threatened to shoot the officers. By not divulging the seriousness of the threat they were faced with, officer safety was compromised.

2. Officer C deployed a Department shotgun; however, he did not chamber a round.

By not ensuring a round had been chambered, Officer C created a circumstance wherein his ability to immediately engage a threat, if necessary, would have been delayed.

3. Sergeants A, B and C did not coordinate a tactical plan and/or take command of the incident.

The BOPC noted that the incident unfolded rapidly; however, with the amount of personnel at scene, including three supervisors, the BOPC was concerned with the limited amount of command and control exercised by the supervisors at scene. As in most volatile situations, the suspect should be contained as rapidly and safely as possible. Faced with a possibly armed, barricaded suspect, a supervisor should have assumed the role of Incident Commander and ensured that a Combative Suspect Control Team (CSCT) was formed. In accordance with this concept, the Incident Commander should have directed one of the other supervisors at scene to assume the role as Team Leader. The Team Leader could then have assembled the CSCT utilizing available resources including officers equipped with less-lethal force options. With no attempts made by Sergeants A, B and C to control the deployment and movement of the officers, they were insufficiently prepared to confront Subject 1 when he ultimately exited the vehicle.

4. Officer D, acting alone, redeployed to the other side of the street. Although Officer D obtained a good vantage point to observe Subject 1's actions, this does not mitigate his decision to leave his position at his vehicle without notifying his partner or a supervisor, thereby creating a circumstance of separation. Officer D did notify Officer H of his intention; however, Officer H was unaware of Officer D's name, unit designation and according to his transcribed statement, as Officer D moved across the street, he lost sight of him. Officer D should have communicated and discussed

his plan to redeploy with a supervisor at scene and ensured that the supervisor agreed that it was a tactically advantageous action prior to its execution.

5. Officer D utilized a parked vehicle as cover, knowing it was occupied by two civilian witnesses.

By utilizing a vehicle occupied by civilians as cover, while monitoring a possibly armed suspect, Officer D increased the risk to the civilians. If Officer D would have had his partner or another officer with him, one of the officers could have monitored Subject 1's activities while the second officer continued their efforts to extract the civilians from their vehicle and move them to a place of safety.

6. Officer D left his portable radio on the rear of the parked vehicle.

A radio is a critical piece of equipment that provides a vital communication link to other officers. By failing to maintain control of his portable radio, Officer D created a circumstance where he did not hear the two crucial broadcasts made by the air unit alerting officers in the parking lot of Subject 1's location.

7. Officer D initiated the foot pursuit without communicating to the officers at the scene.

Officer D succumbed to the urge to chase without ensuring the officers at scene were aware of his movements. Officer D will receive training in tactical communications to address this area. Communication among partners is critical, and when partners work independently of one another, officer safety is jeopardized.

8. Officer D created a crossfire situation.

Note: One round fired from Officer D's service pistol was discovered to be a penetrating impact to the top of the rear window to Officers I and J's police vehicle.

The BOPC was highly critical of Officer D's decision to shoot in the direction of other officers. Although the BOPC recognized Officer D's concern associated with an armed suspect entering an area with pronounced vehicular and pedestrian traffic, when determining what tactics to employ, an officer must evaluate the level of threat a suspect poses to the general public and balance it with safety considerations. In this instance, Officer D failed to appropriately evaluate the situation and created a crossfire situation wherein officers, including himself, could have been injured or killed by friendly fire.

Based on the above-noted considerations, the BOPC found Officer D's tactics to warrant administrative disapproval.

The BOPC found Sergeants A, B and C, along with Officers A, B, C, E, F, G, H, I, J, K, L, M, N, O and P's tactics to warrant a tactical debriefing.

B. Drawing/Exhibiting/Holstering

The BOPC determined that Sergeant B, along with Officers A, B, C, D, E, F, G, H, I, J, L, M, N, O and P had sufficient information to believe the incident might escalate to the point where lethal force may be justified.

The BOPC found Sergeant B, along with Officers A, B, C, D, E, F, G, H, I, J, L, M, N, O and P's drawing to be in policy.

C. Lethal Use of Force

The BOPC noted that Officers D, F, G, I and J all heard a broadcast that the subject threatened to shoot officers and observed the subject, whom they reasonably believed to be armed with a handgun, raise and extend his arm as if pointing a handgun at themselves and their fellow officers. Officers D, F, G and J saw the suspect holding an object in his hand they believed to be a handgun, Officers I, G and F heard gunfire they attributed to Subject 1, and Officer F heard the window of the police vehicle shatter. The use of deadly force reasonably appeared necessary for the officers to protect themselves and their fellow officers from the immediate threat of death or serious bodily injury apparently presented by Subject 1's actions. The circumstances of the incident and the limited time available to Officers D, F, G, I and J to react precluded the use of other options.

The BOPC determined that Officers D, F, G, I and J, had sufficient information to reasonably believe the subject presented an immediate threat of serious bodily injury or death.

The BOPC found Officers D, F, G, I and J's use of lethal force to be in policy.