

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

OFFICER-INVOLVED SHOOTING – 032-08

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Hollywood	03/25/2008		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Officer A	3 years, 3 months

Reason for Police Contact

Officers A and B contacted Subject 1 because they believed he was involved in criminal activity. While Officer A was speaking with Subject 1, Subject 1 lunged towards Officer A with a knife. Officer A fired four rounds in response, striking Subject 1 three times.

<u>Subject(s)</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject 1: Male, 21 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 BOPC 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 03/10/09.

Incident Summary

On March 25, 2008, uniformed Police Officer A (driver) and his partner, Police Officer B, were driving a marked police vehicle.

According to Officer A, while driving southbound through a residential neighborhood, he observed a male lying motionless underneath the balcony of an apartment.

As recalled by Officer B, "As we were passing by the apartment complex, we observed [. . .] a dark figure [. . .] When we initially saw the dark figure, we didn't know what it was, so that's why we reversed and [. . .] used the spot lamp."

As recalled by Officer A, "I stopped my police vehicle, and I backed up so I'd have a better position [. . .] alerted my partner to what I saw."

Officer B used the passenger side spotlight to illuminate the male (Subject 1). Officer B recalled that Subject 1's eyes were open.

As both officers exited their police vehicle, Officer B used his radio to advise Communications Division (CD) that they were investigating activity at the apartment complex. Officer A believed he turned the police vehicle's overhead flashing amber lights on before exiting and approaching Subject 1. Just prior to approaching Subject 1, Officer A told Officer B to turn the spotlight on their unit off so they would not be illuminated as they made their approach.

According to Officer A, "Before I made my approach, I noticed Subject 1 laying on his back partially propped up. There was some movement with his hands. At that point I thought maybe [. . .] he's a narcotics suspect and might have been loading a pipe or something [. . .] I approached a little bit closer. I noticed his eyes were kind of fluttering. I couldn't tell if he was completely conscious, asleep, awake."

According to Officer A, Subject 1's head was partially propped up by a red tote bag.

Officer A stated that as he and Officer B were approaching Subject 1, Officer A was using his flashlight to illuminate Subject 1. Officer A could not recall if Officer B was using his flashlight. As the officers approached, Officer A believed that Subject 1 was awake and possibly under the influence of a narcotic.

According to Officer A, "Once I approached a little closer I greeted him [. . .] He responded. I could see his hands at that point. It didn't appear he had any narcotics or paraphernalia in his hands."

As recalled by Officer B, "My partner [. . .] first ordered him to [. . .] slowly stand up. He stood up, and then my partner started asking him questions." Officer B recalled that Subject 1 appeared, "kind of sleepy."

According to Officer A, when he was approximately ten to fifteen feet short of Subject 1, he greeted him by asking, 'How you doing?' In response, Subject 1 stated that he was cooperative and that he did not have problems with the police. Officer A asked Subject 1 to show him his hands so he could confirm he did not have anything in them.

During this initial contact with Subject 1, Officer A came to the conclusion that their police vehicle was blocking the street and directed Officer B to move it out of the street and pull it into the mouth of the driveway. Officer B did as directed.

According to Officer B, as he moved towards the police vehicle, "Subject 1 was still conversing with my partner. I couldn't hear what [. . .] he was saying. I only knew that my partner was asking for identification [. . .] I went to the car. I went to the driver's side of the car, started the car, kept eyes on my partner [. . .] Reversed the car, and then parked it into (*sic*) the driveway, which was approximately 15 feet from my partner."

Officer A recalled that while Officer B repositioned their police vehicle, he and Subject 1 engaged in, "Some small talk and dialogue about him [Subject 1] not having problems with the police and that he was on probation, that we could check, and he presented his ID to me." According to Officer A, Subject 1 told him he was on probation.

Subject 1 retrieved his identification from his back pocket. As recalled by Officer A, "He's [Subject 1's] seated. He shifts his body weight onto his right side like towards his right leg so that he's able to access that pocket from the left side. Using his left hand, he retrieved the ID card and handed it to me with his left hand." Officer A recalled that Subject 1, without being ordered to do so, presented his identification to Officer A. Subject 1 was seated and calm. Officer A recalled that as that took place, Officer B was standing to his right. It was at that time Officer A directed Officer B to move their police vehicle.

After moving the police vehicle, Officer B returned to his original position north of Subject 1. Officer A handed Subject 1's identification to Officer B and told him to use the police vehicle's Mobile Data Computer (MDC) to run a warrant check on Subject 1. Officer B returned to the passenger side of the police vehicle and sat in the front passenger seat to run a warrant check on Subject 1. Officer B kept the door open while he performed this task.

Note: Officer A instructed Officer B to use the MDC to check Subject 1 for warrants because, in Officer A's experience, more information was obtained using the MDC as opposed to conducting the warrant check over the radio.

Note: According to Officer B, either when he returned from moving the police vehicle onto the driveway apron, or as he returned to the police vehicle to use the MDC, he heard Officer A ask Subject 1 if he was either on probation or on parole. Officer B believed that Subject 1's response was, "parole."

Officer A noticed that Subject 1's demeanor subtly changed after he handed his ID to Officer A.

Note: Officer A estimated that Officer B had been at the police vehicle for approximately two minutes, when Subject 1 stood up. Officer A stated that Subject 1 appeared to be uneasy and when Subject 1 stood, the two were separated by approximately six feet. According to Officer A, "I didn't ask him to stand up. But the manner in which he was standing up [. . .] didn't seem aggressive [. . .] or anything suspicious about him."

As recalled by Officer B, "I kept eyes on my partner while I started running him [Subject 1]."

Note: Officer A faced in a southwesterly position as he dealt with Subject 1. According to Officer A, "He [Subject 1] was squared up to me shoulders facing me."

According to Officer A, he told Subject 1 to keep his hands where he could see them. Subject 1 kept moving his hands from his side to the front of the pouch that was attached to the front of his hooded sweatshirt. Without warning, Subject 1 quickly thrust his hands into the sweatshirt pouch. Officer A placed his hand on his holstered semiautomatic pistol and simultaneously, Subject 1 pulled a knife from the pouch with his right hand.

Note: According to Officer A, Subject 1 was armed with a seven and seven-eighths inch long knife with a three and five-sixteenths inch blade. The knife had a folding blade with a black plastic handle. The knife was recovered at the scene with the blade locked open.

As recalled by Officer A, "Like, instantaneously, as he was pulling it out of the pocket, he was lunging forward at me, and he stretched his right hand out with a knife. I shouted, 'Knife,' to my partner. I drew my service pistol. I raised my left hand to defend myself from the lunge with the knife, and I fired. I fired three times from a close contact position aiming at center mass on Subject 1."

According to Officer B, he was outside the police vehicle, approximately two to three feet north of the passenger side, when he heard three gunshots. Officer B estimated the time taken to fire all three rounds to have been between two and three seconds.

As recalled by Officer B, after the gunfire, he looked back towards Officer A's location. "I wasn't able to see anything. It was [. . .] dark.

Note: Officer B's view of Officer A's initial firing position was obstructed by a tree and a pillar. The pillar supported the balcony affixed to the east side of the apartment complex.

As recounted by Officer A, "He [Subject 1] [. . .] remained standing and moving forward. I wasn't aware at that point that the knife did make contact with my hand [. . .] [H]e was moving forward, I moved back. He was still continuing forward. I wasn't sure that my shots were effective, but I did pause to assess. And he was still moving forward, so I fired an [. . .] additional shot. Officer A recalled, "After the fourth shot is fired he [Subject 1] drops the knife and then falls back down on the ground."

According to Officer B, "After hearing the three gunshots, I unholster because I believe [. . .] the tactical situation had escalated to the use of deadly force. At that point, I wasn't able to see exactly what was going on. My duty gun has a flashlight [. . .] I took it

out and then I approached the area as quickly as I could [. . .] I got closer, approximately fifteen feet from Subject 1 and my partner, I observed Subject 1 standing up, and then I observed my partner shoot Subject 1. And then I observed Subject 1 fall down to the ground.”

Note: According to Officer B, one to two seconds elapsed between the third and fourth shots.

Officer A recalled, “He [Subject 1] fell on [. . .] top of his left arm kind of on his back, and he was still trying to get up [. . .] [T]hat’s when I noticed that the knife was close to his hand [. . .] Cause I illuminated the ground after he hit the ground.”

Note: When asked if he had ever seen Subject 1 holding the knife at any point during this incident, Officer B replied, “No. I was not able to see.”

Note: In his second interview, Officer A could not recall what he had done with his flashlight after Subject 1 produced the knife. He could not recall when, where, or whether he secured his flashlight.

As Officer B ran to Officer A’s location, he saw Officer A kick at the dirt near Subject 1 with either his right or left foot. Officer B saw Officer A kick an object in a northern direction, towards Officer B. According to Officer B, “I observed what appeared to be a sharp object. I can’t tell you if it was a box cutter [. . .] but it’s sort of one of those type instruments [. . .] It had [. . .] black plastic grips.”

Officer A recalled, “I used my left foot to try to drag the knife away from [. . .] the proximity [eight to ten inches] to his [. . .] right hand [. . .] [S]ince it was that loose sand [. . .] I ended up burying the knife [. . .] I swepted (*sic*) my left hand into the dirt and pushed the knife away.”

Continuing, Officer A stated, “I had my gun in my right hand. It was still in front of me and I just bent at the knees. My back was straight. I leaned to, you know, rake through the sand with my left hand [. . .] I found the knife, I threw it to the side.”

Note: Officer B did not describe Officer A as having used his hand to move the knife.

Officer B used his radio to inform CD that he and Officer B had been involved in an officer-involved shooting.

Officer A observed that Officer B was covering Subject 1 with his pistol. Officer A decocked and holstered his pistol. Using his radio, Officer A informed CD that the officers were safe and that Subject 1 was down.

According to Officer A, “When I grabbed my radio, my [left] hand was numb and wet. And that’s when I noticed that it was bleeding.”

Seeing that Officer B was covering Subject 1, Officer A left Officer B and walked back to the police vehicle, turned on its amber lights in order to assist responding units with locating them and placed his side handle baton inside the police vehicle. As recalled by Officer A, "I wanted to make sure the units could see where we were because I didn't hear the exact location that he gave me when we initially went Code Six. So I wanted to make sure that they didn't overshoot. I knew that [Subject 1] was dead but I still wanted [Officer B] covering him."

Note: Subject 1 had not been searched or handcuffed when Officer A returned to the vehicle.

CD asked if a Rescue Ambulance (RA) was needed at the location. Officer A informed CD that an RA was needed, Subject 1 was down, and that he (Officer A) had a laceration to his hand.

Police Officer C and Police Officer C's partner, Police Officer D, along with Police Officer E and his partner, Police Officer F, were all at the police station when Officer B's "Help Call" was broadcast. All of the officers left the station and drove to the scene of the officer-involved shooting. Officers C and D arrived first, followed shortly thereafter by Officers E and F.

According to Officer C, "Officer E and his partner were behind us. As we approached the location, I observed Officer A just standing near the black-and-white vehicle. As we got closer, we noticed his partner, Officer B, had his weapon drawn and was covering down on Subject 1 who was laying on the ground."

As recalled by Officer E, "So upon our arrival, that's when we saw Officer A on the sidewalk. Appeared to be holding his hand as if it was injured [. . .] I immediately asked Officer A [. . .] where was Subject 1. And he pointed in a westerly direction and stated that Subject 1 was over there or words to the effect [. . .] I immediately asked Officer A if Subject 1 was handcuffed [. . .] Officer A stated that Subject 1 was not in handcuffs [. . .] I immediately then asked him, does he [Subject 1] have any weapons [. . .] [H]e stated [. . .] he had just been stabbed by Subject 1 [. . .] That the knife was on the ground away from Subject 1."

Officers C, D, E and F approached Officer B and Subject 1. Officer E and C unholstered their pistols prior to approaching. Officer E shouted verbal commands at Subject 1 to put his hands up; however, Subject 1 was nonresponsive. Officer E recalled that Subject 1's left hand was visible; however, Subject 1's right hand was covered by Subject 1's right thigh.

Officer E saw two bags near Subject 1's right hand. One of the bags had a flashlight protruding from it. Officer E told the other officers he was going to holster his pistol, move forward, and move the bags away from Subject 1. Officers C and B continued to cover Subject 1 with their pistols as Officer E stepped in and moved the bags away from Subject 1.

After moving the bags, Officer E could still not see Subject 1's right hand. Fearing Subject 1 may still be armed, Officer E unholstered his pistol for a second time.

According to Officer C, "[Officer] E designated his partner, Officer F, and myself as handcuffing officers, so we holstered our weapons."

According to Officer E, "I covered the officers at gunpoint, as did Officer B. [. . .] Officer C and my partner, Officer F, [. . .] both tactically approached. They holstered [. . .] Each one grabbed a hand [. . .] Officer F was then able to successfully put the handcuffs on Subject 1.

As recalled by Officer C, "Officer F patted Subject 1 down for any additional weapons [. . .] I didn't see him recover anything."

Subject 1's hands were secured behind his back and he was left lying in a prone position until the RA arrived. The RA was staffed by Firefighter/Paramedic A and Firefighter B. Firefighter/Paramedic A communicated with LAFD Base Station Doctor A and provided him with information regarding Subject 1's condition. Subject 1 was declared dead at the scene.

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 warrant a tactical debrief.

B. Drawing/Exhibiting/Holstering

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

C. Use of Force

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

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

1. The officers did not discuss the reason for their approach.

With no discussion occurring between Officers A and B regarding the reason for their approach, Officer B assumed a position as the cover officer, his predetermined role for the day. Officers A and B are reminded of the importance of effective communication and working together to ensure sound tactical decisions. Communication among partners is critical and when one partner works independently of the other, officer safety is jeopardized.

2. Officer A initiated a consensual encounter with Subject 1; however, the officers had sufficient information to legally detain him. Officers A and B should have conducted a pat down search for weapons.

Officer A's observations provided sufficient "reasonable suspicion" to initiate a detention of Subject 1 and should have prompted the officers to conduct a pat down search for weapons. Further justification for the search presented itself when Subject 1 advised the officers that he was on probation for possession of a weapon. By maintaining the standard of a consensual encounter, Officers A and B placed themselves at a tactical disadvantage.

3. The officers did not adhere to their roles of contact and cover as the incident unfolded.

Officer B moved away from the overhang area on two separate occasions at the direction of Officer A, placing Officer A at a tactical disadvantage. With Subject 1 not searched and the area poorly illuminated, Officer A was in a vulnerable position. It would have been tactically prudent to leave the police vehicle in the street and have Officer B conduct a warrant check via his radio or have both officers escort Subject 1 to the police vehicle to run his information on the MDC.

4. As Officer B ran Subject 1's information on the MDC in the police vehicle, Officer A positioned his back facing Officer B.

Officer A's positioning created a circumstance wherein Subject 1 was able to simultaneously monitor the officers' actions, whereas Officer A had to divert his attention from Subject 1 in order to obtain a visual on Officer B.

5. After the OIS and before Subject 1 was handcuffed, Officer A bent down in close proximity to Subject 1 in order to move the knife.

Believing Subject 1 still posed a threat, Officer A maintained his service pistol drawn with the hammer in the cocked position as he attempted to move the knife. This act increased the likelihood of a negligent discharge and placed the firearm in close proximity to Subject 1, increasing the potential that Subject 1 could gain control of it. It would have been tactically prudent for Officer A to maintain a position of cover and await the response of additional personnel.

6. Officers A and B should have requested a rescue ambulance in a timelier manner. The request was prompted by CD's request for further information.

Officers A and B are reminded that broadcasting the extent of an individual's injuries will not suffice when the response of personnel from the Los Angeles Fire Department are required. Officer A should have immediately requested the response of an RA. This topic will be reviewed during the Tactical Debrief.

7. Officer B was left to cover the unhandcuffed subject alone.

Although it was noted Officer A was injured and attempting to facilitate a quicker response by additional resources, Officer A should not have left his partner alone with an unhandcuffed subject. Had the need to engage Subject 1 arose, Officer A would not have been in a position to provide assistance.

The BOPC found Officers A and B's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting/Holstering

The BOPC evaluated the circumstances relevant to Officers A and B's drawing and exhibiting and determined that they had sufficient information to reasonably believe that the situation may escalate to the point where deadly force may become necessary.

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

C. Use of Force

The BOPC evaluated the circumstances relevant to Officer A's lethal use of force. The BOPC determined that Officer A's use of lethal force reasonably appeared necessary to protect himself from the immediate threat of serious injury or death.

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