

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

OFFICER-INVOLVED SHOOTING – 072-08

<u>Division</u>	<u>Date</u>	<u>Duty-On(x) Off()</u>	<u>Uniform-Yes(x) No()</u>
Southwest	08/18/2008		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Officer E	22 years, 1 month
Officer G	21 years, 2 months
Officer H	15 years
Officer I	27 years, 2 months
Officer N	18 years, 9 months
Officer P	15 years, 3 months
Officer Q	21 years, 5 months
Officer T	11 years, 11 months

Reason for Police Contact

SWAT officers responded to a radio call of an armed barricaded subject who had assaulted officers and was threatening to commit suicide. Various force options were used in an attempt to take the subject into custody. An officer fired at the subject as he threatened officers with a pair of scissors.

<u>Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded (x)</u>	<u>Non-Hit ()</u>
Subject 1: Male, 47 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 subject 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 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 8/04/2009.

Incident Summary

Officers responded to a radio call of a petty theft subject, Subject 1. As the officers attempted to apprehend him, Subject 1 became agitated and stepped toward the officers while holding a pair of scissors. The officers used a TASER on Subject 1, but it was ineffective. Subject 1 then barricaded himself in an office. A sergeant responded and determined that the incident required the response of the Special Weapons and Tactics (SWAT) team.

Surveillance cameras captured both the interior of the office and the hallway directly outside of the office door. Subject 1 had armed himself with two pairs of scissors and attempted to light strips of paper on fire by creating a spark with live wires, but was unsuccessful. Subject 1 then sprayed a can of WD-40 aerosol lubricant into the air and attempted to ignite it using a lighter, but the WD-40 did not ignite.

SWAT Lieutenant A was notified of the incident. He received a telephonic briefing during which he learned that Subject 1 was deaf, had a lengthy criminal history, was suicidal and armed with scissors, had acquired a can of WD-40 and a lighter, had threatened to set himself on fire, and had barricaded himself in the office where he might have access to other weapons.

Lieutenant A arrived at the location and received an on-scene briefing.

Meanwhile, the following SWAT officers responded to the location: Lieutenant B, Sergeants A, B, and C, and Officers A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S and T. The officers wore SWAT tactical gear, including tactical body armor, helmets and radio headsets.

Around this time, LAFD firefighters and paramedics arrived at the location and were positioned in the second floor hallway to assist the SWAT personnel. LAFD firefighters ran a fire hose to the second floor.

Lieutenant B, Sergeant C, Detective A, and Officers B, K and S formed a Crisis Negotiation Team (CNT). Officers B and S observed Subject 1's actions on the surveillance footage and interviewed Subject 1's mother, who had responded to the location.

Officers B and S then moved to the second floor hallway adjacent to the two side of the office.

Note: The "one side" refers to the designated front of a structure; in this case, the east wall with the office door. The two side was the north wall, the three side was the west wall, and the four side was the southern exterior building wall.

Lieutenant B viewed video of the interior of the office and provided a real-time verbal description of Subject 1's actions via the radio. The CNT began written communication with Subject 1 by slipping notes between the office doorjamb.

SWAT officers moved to the office and were assigned to various tasks and locations by Sergeant B, the tactical supervisor, Sergeant A, the secondary or "entry" supervisor, and Officer A, the tactical element leader.

Officers G, I, P and T were assigned to the arrest team and were positioned on the one side of the office. Officer F, positioned on the one side directly next to the office door, was assigned to act as the primary cover officer and was armed with a shotgun. Officer N, positioned behind Officer F, was armed with a less-lethal projectile launcher (Sage). These officers were positioned in a narrow hallway area.

Officer E was positioned near the stairwell and was armed with a less-lethal beanbag shotgun. Officer H, armed with the TASER, and Officers Q and O were assigned to contain the two side of the office. Officers D and L were assigned to contain the two and three sides. Officers C and R were assigned to contain the three side.

Behavioral Sciences Section (BSS) Doctor A and Mental Evaluation Unit (MEU) personnel responded to the location and assisted the CNT. For approximately two hours, the CNT communicated with Subject 1 via notes.

Meanwhile, Officers D and Q devised a plan to breach the two and three side walls. Smaller holes on the two side would be used to introduce water into the office if Subject 1 set fire to the office or himself.

Several hours into the incident, the negotiations hit what Lieutenant B assessed to be a "turning point" because Subject 1 began to display suicidal behavior.

Subject 1 then requested a hamburger and a root beer soda. The officers decided to bring Subject 1 the soda to gain his trust. When Subject 1 came to the door, Officer A gave him the soda and a picture of his mother and sisters and requested that Subject 1 come out of the office. Subject 1 took the soda and picture and shut the door.

The officers then passed a note recommending that Subject 1 take a Telecommunications Device for the Deaf (TDD) machine so that he could communicate with the CNT and his mother. Subject 1 wrote that he would like the machine.

After an additional series of notes, Lieutenant A conferred with Sergeant B and Officer A regarding the continuation of the incident. Lieutenant A told the officers that, if the opportunity presented itself, the officers should attempt to take Subject 1 out of the office. However, there was no need to rush in.

In response to Lieutenant A' instructions, Officer A devised a tactical plan to possibly extract Subject 1 by setting a box with the TDD machine and hamburger outside of the office door. If Subject 1 opened the door and reached out for the items, Officer I, who

was nearest to the door, would grab one of his hands. Simultaneously, officers would turn on the fire hoses to disorient Subject 1.

Officer A informed the officers that the plan would initiate upon Officer I grabbing Subject 1's hand. The tactical plan was approved by Lieutenant A and Sergeants B and A.

Once the box and hamburger were in place, the officers informed Subject 1 that the items were waiting outside of the office door. Subject 1 proceeded to move several items that were barricading the door, but was unable to open it wide enough to reach the box. Subject 1 closed the door, moved additional items, and attempted to open the door approximately three more times.

Subject 1 opened the door a final time and, while remaining inside the office, reached out to the box using a broom stick. Subject 1 used the stick to drag the box closer to the doorway. Subject 1 extended his body through the doorway to reach for the box.

As Subject 1 knelt down and reached for the box, Officer I moved to the doorway, reached into the office, and grabbed Subject 1's wrist.

Subject 1 began pulling away. Officer I stepped forward and used his foot to keep the office door open as he attempted to pull Subject 1 out of the office. As Officer I continued to hold Subject 1's wrist, Subject 1 began to make a downward stabbing motion with the scissors. Officer I let go of Subject 1's wrist and called for the use of the less-lethal weapons.

The officers surrounding the office doorway moved forward.

Officer F, who was equipped with the shotgun, observed Subject 1 open the door and observed Subject 1 making stabbing motions while holding the scissors. Fearing for his partner officers' lives, Officer F raised the shotgun, but could not get a clear shot because other officers were in his line of sight. Officer F lowered the shotgun.

Officer Q turned on the fire hose located on the two side, releasing a stream of water into the office.

Officer N, who was equipped with the Sage, stepped forward and fired six less-lethal projectiles from the Sage at Subject 1. Officer N stepped back, away from the doorway.

At the same time, Officer H fired a TASER at Subject 1. Subject 1 moved backward into the office approximately one foot and appeared to pull the TASER darts out of his arm. Seeing that the TASER had been ineffective, Officer H dropped the TASER.

Officer E then stepped forward and fired two beanbag shotgun projectiles at Subject 1. Meanwhile, Officer H observed that Subject 1 was still holding the scissors, was not complying with the officers, and was again advancing toward him and his partner

officers. Officer H unholstered his pistol, extended his arm, and took a step forward. Officer H fired one round from his pistol at Subject 1. Subject 1 fell to the ground.

The round did not strike Subject 1.

As the officers attempted to control Subject 1, the office door was repeatedly opening and closing. Officer G moved forward and pushed the office door open with both hands. As he was doing so, he felt an impact on his hand.

Officers P and T handcuffed Subject 1. Subject 1 was transported to the hospital where he received treatment for his injuries. Officer G was also transported to the hospital for his injury.

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 Lieutenants A and B, Sergeants A and B, and Officers A, B, E, F, G, H, I, N, P, Q, S and T's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer F and H's drawing and exhibition of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC found Officer G, I, Q, P and T's uses of non-lethal force to be in policy.

D. Less Lethal Use of Force

The BOPC found Officers H, E and N's uses of less-lethal force to be in policy.

E. Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted the following tactical considerations:

1. Initiating physical contact with a subject armed with a weapon other than a firearm.

As the subject's suicidal tendencies escalated, the determination was made to have Officer I grab the subject's hand as he reached out of the office door to retrieve a box containing the TDD machine. When the subject's hand appeared, Officer I was advised that the subject was holding the scissors in his right hand.

Officer I initiated the plan, grabbed onto the subject's left arm with both hands and attempted to pull him out of the office. As the subject's feigned attempts to take his own life could be observed on the surveillance monitor and the notes written by the subject displayed a deteriorating mental state that suggested to the CNT that he was not moving toward the decision to surrender, it was reasonable to utilize physical tactics. However, a plan wherein an officer makes physical contact with an armed subject places the officer in a dangerous situation which can result in serious bodily injury. It would have been tactically safer to continue negotiations with the subject rather than attempting to control him while he was armed.

The involved officers are reminded that an officer's safety should not be compromised to take a suicidal person into custody.

2. Using the TASER near flammable or combustible fumes.

In this instance, Officer A directed Officer H to arm himself with the TASER, as it is a less-lethal force tool that is utilized to deal with an aggressive and/or combative subject. Although the Department trains officers to avoid deploying the TASER when the subject is near flammable or combustible fumes, the LAFD water hose was introduced as a contingency plan in the event that the WD-40 were to ignite.

The BOPC found that it was reasonable for the applicable officers to incorporate the TASER into their tactical plan.

3. Communication and Tactical Coordination Issue.

Although Officers E, H, and N had clear and unobstructed views of Subject 1 as they prepared to deploy their respective less-lethal tools, it appears their actions were not clearly coordinated with the officers attempting to utilize physical force.

With the officers working in such a confined space with multiple weapons, officers are reminded that communication among officers present is paramount for officer safety and planning. Officers are trained to work together and function as a team.

4. Supervision.

Supervisors were present throughout the operation. Accordingly, the role of supervisors relative to the identified planning and coordination issues warrants consideration.

The BOPC found Lieutenants A and B, Sergeants A and B, and Officers A, B, E, F, G, H, I, N, P, Q, S and T's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

The BOPC evaluated the circumstances relevant to Officers H's drawing and exhibiting and Officer A's 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.

In this instance, Officer F was advised that a despondent individual, armed with a pair of scissors, had barricaded himself inside an office. Because the officers were dealing with an armed subject and there was a substantial risk that the situation may escalate to the point where lethal force may become necessary, the tactical plan included a designated cover officer. Officer F was directed to be the designated cover officer and he subsequently exhibited a Department shotgun.

Officer H observed the subject pull out the TASER probes. Observing that the TASER was ineffective and that the subject was advancing toward himself and other officers while armed with scissors, Officer H drew his service pistol. It was reasonable for Officer H to believe that the situation had escalated to the level where the use of lethal force had become necessary to protect himself and others from serious bodily injury or death.

The BOPC found Officers F and H's drawing and exhibition of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC evaluated the circumstances relevant to Officers G, I, Q, P and T applications of various non-lethal uses of force.

As a result of the subject's actions, it was reasonable for Officers G, I, Q, P and T to apply a variety of non-lethal force types to take the subject into custody.

The BOPC found Officers G, I, Q, P and T's uses of non-lethal force to be in policy.

D. Less Lethal Use of Force

The BOPC evaluated the circumstances relevant to Officers N, H and E's less-lethal applications of force.

Officer N observed the subject holding a pair of scissors in an overhand grip and waving them around toward his partner officers. Officer N fired six impact projectile rounds. The armed subject's aggressive actions and continued advance toward the officers while armed with scissors would cause a reasonable officer to believe that the subject posed a risk of serious bodily injury or death to the officers.

Officer H heard less-lethal weapons being deployed and saw that they were having no effect on Subject 1. Officer H fired a TASER cartridge at the subject. The armed subject's aggressive actions would cause a reasonable officer to believe that the subject posed a risk of serious bodily injury or death to the officers.

Officer E observed the subject being struck by three impact projectile rounds with no effect and observed Subject 1 continue to wave the scissors. Officer E fired two beanbag rounds at the subject. The subject's act of maintaining his grasp on the scissors and waving it in an aggressive manner would cause a reasonable officer to believe that it was unsafe to approach. Officer E's less-lethal application of force was reasonable to stop the subject's aggressive actions.

The BOPC found Officers H, E and N's uses of less-lethal force to be in policy.

E. Use of Force

The BOPC evaluated the circumstances relevant to Officer H's lethal use of force. In this instance, Officer H observed the TASER, along with multiple impact projectile rounds make contact with the subject, yet each failed to stop the subject's aggressive actions. The subject's act of advancing toward the officers while armed with the scissors would cause a reasonable officer to believe the subject posed a risk of serious bodily injury or death to the officers.

Therefore, it was reasonable for Officer H to believe that the subject's actions placed him and his fellow officers at risk of serious bodily injury or death and to use lethal force in defense of their lives.

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