

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

OFFICER-INVOLVED SHOOTING – 017–09

Division	Date	Duty-On(X) Off()	Uniform-Yes(X) No()
Central	03/12/09		

Officer(s) Involved in Use of Force	Length of Service
Sergeant A	15 years, 4 months
Officer E	3 years
Officer I	2 years, 10 months
Officer K	2 years, 3 months

Reason for Police Contact

Assault with a Deadly Weapon (ADW) and hit-and-run.

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
-------------------	---------------------	--------------------	--------------------

Male: 59 years old.

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 February 16, 2010.

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.

Incident Summary

This incident began when the subject intentionally hit a co-worker with his vehicle and then rammed another co-worker's vehicle several times. The co-workers contacted 911 to report the incidents and Los Angeles Police Department officers responded.

Upon arrival in the area of the incidents, Officer A observed the subject driving his vehicle and attempted to conduct a traffic stop. Officer A activated his police vehicle's emergency lights, and the subject pulled to the curb. Officer A positioned his vehicle behind the subject's vehicle. Simultaneously, Officers B and C, responding to the 911 calls, pulled their vehicle alongside Officer A's vehicle subsequent to the subject pulling to the curb.

Officers B and C exited their vehicle, and Officer B instructed the subject to turn off his vehicle and exit; however, the subject did not get out of the vehicle. At that point, Officer C, believing they were conducting a high-risk traffic stop, unholstered his service pistol. The officers next prepared to approach the subject's vehicle when, he backed up slowly toward the officers and then accelerated forward. Officer C re-holstered his pistol, and Officers A, B, and C returned to their respective vehicles and followed the subject.

Officers B and C assumed the primary position behind the subject as Officer A did not have a partner. Officer C broadcast that the officers were following a hit-and-run suspect. The subject then proceeded to stop his vehicle several times but would drive off again once the officers had stopped and exited their vehicles. Officer B, believing that the officers were conducting a high-risk traffic stop, drew his pistol each time the subject brought his vehicle to a stop.

The subject next made a U-turn and continued driving away from the officers at which point Officers A and B initiated a vehicle pursuit. Officer B broadcast that the units were in pursuit of the subject.

Meanwhile, Sergeants A and B heard the pursuit broadcast and joined the pursuit. Sergeant B made another broadcast to request additional backup units and an air unit. Sergeant C heard the broadcasts and responded to the area to monitor the pursuit.

Officers D and E also responded to the backup request and took over the secondary unit position in the pursuit from Officer A. As the pursuit progressed, multiple police units from various Areas responded. The subject then began driving erratically and led officers on a low speed chase through the downtown Los Angeles area.

Meanwhile, Sergeant C noted the large number of units involved and requested that all units besides the primary and secondary "back off." In the interim, Sergeant D responded to the area and stopped his vehicle in an intersection.

The subject next proceeded toward the intersection and drove directly at Sergeant D's vehicle, striking the driver's side door of the police vehicle. The subject then drove away, with police vehicles still in pursuit.

Sergeants A and B discussed the fact that the subject progressively accelerated as the pursuit continued, turned corners at a high rate of speed without clearing any traffic, drove on the wrong side of one-way streets, and failed to stop at posted stop signs. In addition, Sergeant A noted that the subject was attempting to hit various vehicles as he

drove. As such, Sergeants A and B discussed options for bringing the pursuit to an end, which included employing the Pursuit Intervention Technique (PIT). Sergeants A and B also discussed the fact that there was minimal traffic on the street because of the early hour and that if the pursuit continued, people would start coming to work and more cars would be on the streets.

Once the air unit was over the pursuit, Sergeant B authorized the use of a PIT on the subject's vehicle. Officers D and E then conducted a series of PIT maneuvers, all of which were unsuccessful.

Meanwhile, Officers F and G responded to the area of the pursuit to clear traffic and were driving in front of the suspect when he accelerated his vehicle and collided with the rear of their vehicle. Two more PIT maneuvers were then attempted, with negative results. Following the unsuccessful PIT maneuvers, the subject drove his vehicle into the rear of the vehicle driven by Officers F and G.

Subsequent to the collision, Officer H, who was driving through an intersection, observed the subject's vehicle coming toward him. The subject next drove his vehicle into the rear driver's side of Officer H's vehicle.

Meanwhile, Officers F and G arrived at the scene following the collision between the subject's vehicle and Officer H's vehicle and positioned their vehicle directly behind the subject's vehicle. The subject then placed his vehicle in reverse and accelerated backwards, striking the front of Officers F and G's vehicle. The subject then accelerated his vehicle forward and again struck Officer H's vehicle. Officer G then drove his vehicle closer to the subject's vehicle, making contact with the rear bumper in order to limit its ability to move. Officers F and G then exited their vehicle and took cover positions behind their respective doors. Aware that the subject had already attempted to hurt officers with his vehicle, and believing that the subject may be armed and that the situation could lead to deadly force, Officers F and G drew their service pistols and pointed them at the subject's vehicle.

Simultaneously, Officers I and J arrived at the scene in time to witness the collision between the subject and Officer H's vehicle. They positioned the front bumper of their vehicle directly against the rear passenger door of the subject's vehicle. Once in position, Officers I and J exited their vehicle and took positions of cover behind their respective doors. Believing that the subject "was on a rampage to probably kill" the officers, Officer I drew his service pistol and pointed it at the subject's vehicle, while Officer J drew his service pistol and held it in a low ready position.

After the subject's vehicle collided with Officer H's vehicle, Sergeants A and B positioned their vehicle approximately one car length to the south and slightly west of the subject's vehicle. Sergeant A exited the police vehicle and, believing the situation could escalate to the use of deadly force, drew his service pistol. Sergeant B also exited the police vehicle and, believing that he might have to discharge his weapon in immediate defense of Officer H's life, drew his service pistol. According to Sergeant A, he had a clear view inside Officer H's vehicle. It appeared to Sergeant A that Officer H

was pinned between the door and his vehicle by the subject's vehicle and that Officer H was in distress. Sergeant A also observed that Officer H had his gun out and was "flailing around" in his vehicle.

Note: Officer H stated that he did not draw his service pistol at any time during the incident.

However, Sergeant A could not see inside the subject's vehicle due to the position of his own vehicle and because the rear windows of the subject's vehicle were tinted. Therefore, Sergeant A walked northwest along the west sidewalk of the street and took a position just south and west of the front passenger compartment of Officer H's vehicle.

Meanwhile, Sergeant B took a position approximately two to three feet to the right of Sergeant A. According to Sergeant B, due to his position, he could only see the driver's headrest and the strip of metal between the windows that separates the front and the rear driver's side doors on the subject's vehicle.

Sergeant A then assumed a left-handed Weaver shooting stance and instructed the subject to stop his vehicle. Sergeant A also heard Officer H instruct the subject to stop his vehicle. Sergeant A then observed that the subject had put his vehicle in reverse and had hit the gas.

Note: According to Sergeant A, he could not remember exactly when the subject's vehicle backed away from and then subsequently "rammed" Officer H's vehicle a second time.

Believing that the subject was "going to kill" Officer H and in immediate defense of Officer H's life, Sergeant A fired two rounds at the subject's vehicle. Sergeant A also stated that he knew that the subject had hit the gas because he could hear the wheels of the subject's vehicle screeching.

According to Officer I, as he raised his weapon and pointed it at the subject's vehicle, he heard gunfire and saw the subject turning his torso back and forth in the driver's seat. Officer I then observed the back passenger's side windows of the subject's vehicle shatter and believed that the subject or additional suspect(s) in the back of the vehicle had fired at him. Accordingly, Officer I fired one round at the subject through the rear passenger's side window of the subject's vehicle. According to Officer I, he noticed additional holes in the passenger's side windows of the subject's vehicle and, believing it was gunfire coming at him, immediately took cover behind the door of his police vehicle.

After firing one round at the subject, Officer I noticed that Officer H's police vehicle had been "rammed" between the subject's vehicle and the curb or a pole on the west sidewalk of the street. Fearing that officers might still be in the vehicle, Officer I stopped firing but held his position behind his driver's side door and kept his pistol pointed at the subject's vehicle. Simultaneously, Officer I also heard a command to "cease fire."

Meanwhile, Officers K and L arrived at the scene and positioned their vehicle in the intersection just northeast of where the subject's vehicle was located. According to Officer K, he told Officer L that he was going to approach the subject's vehicle. Officer K then exited the driver's side door of his police vehicle, drew his service pistol, maintained his pistol at a two-handed low ready position, and walked to the front right quarter panel of Officer I and J's police vehicle. According to Officer K, he drew his pistol because the subject had "already injured a civilian. He was a felon that committed a hit-and-run. He had also injured a police officer, so I knew then that this guy was trying to kill somebody and there was no stopping him." As Officer K approached the subject's vehicle, he shouted at the subject to show his hands and pointed his pistol at him.

Officer K then saw the subject quickly turn his upper torso and upper right arm to the right in Officer K's direction. Simultaneously, Officer K heard a popping sound and believed that the subject was shooting. Officer K then fired one round at the subject. After firing the shot, Officers K and L immediately sought cover behind the trunk of Officers I and J's vehicle.

Meanwhile, Officers D and E arrived at the scene and positioned their vehicle behind Officers F and G's vehicle. Officer E exited his police vehicle but did not have a clear view of the subject because the rear windows of the subject's vehicle were tinted. Therefore, Officer E walked to a position just south of Officers I and J's vehicle and stopped in an uncovered position. According to Officer E, he did not move to a position of cover because if he went any further, he thought that he would expose himself too much. Officer E, aware that the subject had used deadly force with his vehicle, drew his service pistol and held it a low ready position. Once he was able to see the subject's silhouette, Officer E pointed his pistol at him.

According to Officer E, he then observed the subject's silhouette make a hand movement in his direction. Simultaneously, Officer E heard a bang or pop sound and believed that the subject had shot at him and was going to kill him. Accordingly, Officer E fired three rounds at the subject's silhouette. Officer E then paused, quickly reassessed his target, and saw that the subject was still moving. Officer E, believing that subject was still a threat, fired one additional round. Officer E then heard someone yell "crossfire, crossfire" and immediately re-holstered his pistol and moved to another police vehicle on scene.

Note: A video of the latter part of the pursuit, pursuit termination, and subsequent officer-involved shooting (OIS) was recorded by a Channel 11 FOX News helicopter. The video shows the three collisions between the subject's vehicle and the police vehicles, including the collision with Officer H's vehicle, and all the PIT maneuvers attempted by officers.

The video also shows the subject reversing his vehicle several feet and colliding with the front of Officers F and G's vehicle that had pulled directly behind his vehicle.

Meanwhile, the video also captures Sergeants A and B as they arrive at the scene and as the subject accelerates forward and collides with the left rear quarter panel of Officer H's vehicle. At that point in the video, Officer F and G's vehicle moves forward and makes contact with the rear bumper of the subject's vehicle such that the front of the subject's vehicle was in contact with the rear of Officer H's vehicle.

The video then shows that Officers I and J arrived and with their vehicle made contact with the passenger's side of the subject's vehicle such that the front of the vehicle was in contact with Officer H's vehicle. At that point, the subject's vehicle was in contact with three police vehicles at the same time, on the front left, rear, and right sides of his vehicle. Multiple additional police vehicles had also responded and officers positioned themselves and their vehicles around the subject's vehicle.

The video shows that as officers approached and surrounded the subject's vehicle, Sergeant A fired at him. In the moments before Sergeant A fired his rounds, the subject's vehicle was stationary. Officers then quickly backed away from subject's vehicle and took positions of cover.

Note: Additional police units also converged on the scene and surrounded the subject's vehicle. As these officers exited their police vehicles, many of the officers believed the situation could escalate to the use of deadly force and drew their service pistols.

Sergeant A and Officers H, I, and J stopped shooting. The subject, who was struck by the gunfire, ceased his movement. Officers A and F next proceeded to the passenger side of Officer H's vehicle and assisted him out of the vehicle, through the front passenger window. Meanwhile, Sergeant B formulated a plan to extract the subject from his vehicle and requested that Officer M arm himself with a shotgun prior to officers approaching the subject's vehicle. The team then approached the subject's vehicle to get him out but they were hampered by smoke and debris being generated by the subject's vehicle's tires, which were spinning at a high rate of speed. The team of officers formed by Sergeant B made three separate approaches to the subject's vehicle. On the final approach, officers were able to remove the subject from his vehicle, laid him face down on the ground, and handcuffed him.

A Los Angeles Fire Department engine subsequently responded to the scene and declared the subject deceased.

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 that a Tactical Debrief was the appropriate mechanism for Officers A, B, C, D, E, F, G, I, J, K, and M to evaluate the events and actions that took place during this incident.

B. Drawing/Exhibiting/Holstering

The BOPC found that the drawing/exhibiting of Sergeants A and B and Officers C, D, E, F, G, I, J, K, and L to be In Policy-No Further Action.

C. Use of Force

The BOPC found that the use of force by Sergeant A and Officers E, I, and K to be In Policy-No Further Action.

Basis for Findings

A. Tactics

The BOPC noted that Officers A, B, and C initially followed the subject, whom they believed was a hit-and-run suspect, without advising Communications Division (CD) of their activity.

Therefore, the officers are reminded of the importance of advising CD that they are in a vehicle following, providing CD with their current location, a description of the vehicle and/or suspects, directions taken, the reason for the following, and providing frequent and comprehensive progress reports.

The BOPC further noted that Officer A activated his police vehicle's overhead emergency lights to conduct a traffic stop involving the subject and that Officers B and C tactically positioned their vehicle adjacent to Officer A's vehicle, which was behind the

subject's vehicle, subsequent to the stop. The officers did not advise CD of their updated status or location of the traffic stop.

Therefore, the officers are reminded that the purpose of notifying CD of their status is to enhance officer safety. When circumstances warrant an emergency response of additional personnel, CD has the pertinent information readily available to provide to the responding units, maximizing their ability to properly respond and make the most appropriate tactical decisions.

The BOPC further noted that Officer H's vehicle became pinned between the subject's and a raised west curb. As Sergeant A deployed on the west side of the suspect's vehicle to render assistance to Officer H, Officers E, I, J, K, and L deployed to the east, thereby creating a crossfire situation wherein officers could have been injured or killed by friendly fire.

Although there were no indicators that the subject was armed, neither by the victims' statements nor his actions, officers are trained to prepare for this eventuality at the termination of a vehicle pursuit. As such, the involved officers are reminded to remain cognizant of their backgrounds when positioning their police vehicles and upon tactically deploying on foot.

The BOPC further noted that, as the windows on the subject's vehicle were tinted and they were unable to obtain a visual of the interior, several officers left their positions of cover at their vehicles and moved toward locations with better vantage points; however, in doing so, the officers placed themselves in an area without cover when the OIS occurred. These officers included, but were not limited to, Officers E, K, and L.

Therefore, the involved officers are reminded to use the available cover afforded to them whenever possible to increase their level of protection and allow them time to react to a suspect's actions.

The BOPC further noted that, as the officers deployed around the subject's vehicle, several officers simultaneously issued verbal commands.

Therefore, the officers are reminded that when multiple officers give commands, it may create confusion in the mind of the suspect, potentially resulting in non-compliance. Furthermore, with the presence of additional external variables such as the air unit, police sirens, screeching tires, and the subject's windows functioning as sound barriers, the use of a public address system should be considered.

The BOPC further noted that, after the OIS, personnel positioned to the east of the subject's vehicle were directed to redeploy in a southerly direction. As Sergeant B assembled a team to approach the subject's vehicle, Officer M was directed to retrieve a Department shotgun. Officer M asked an officer to cover him while he retrieved a shotgun from Officers F and G's vehicle which was positioned directly behind the subject's vehicle. With the subject not in custody and additional suspects potentially in the vehicle, Officer M unnecessarily placed himself closer to the threat.

Therefore, Officer M is reminded that officer safety should not be compromised to retrieve force tools when they can be obtained from personnel parked further away from the suspect and in a more secure environment.

B. Drawing/Exhibiting/Holstering

The BOPC noted that the officers were involved in a vehicle pursuit of a Hit-and-Run, Assault with a Deadly Weapon suspect whose erratic driving became increasingly aggressive as he intentionally struck several police vehicles. When Sergeants A and B, along with Officers C, D, E, F, G, I, J, K, and L exited their police vehicles in preparation of confronting the subject, they drew their service pistols.

The BOPC determined it was reasonable for Sergeants A and B, along with Officers C, D, E, F, G, I, J, K, and L, to believe that the tactical situation may escalate to the point where lethal force may become necessary.

Therefore, the BOPC found Sergeants A and B, along with Officers C, D, E, F, G, I, J, K, and L's Drawing/Exhibiting to be In Policy-No Further Action.

C. Use of Force

The BOPC noted that Department policy states firearms shall not be discharged at a moving vehicle unless a person is immediately threatening the officer or another person with deadly force by means other than the vehicle; however, in this instance, the moving vehicle itself constituted the deadly threat. The subject utilized his vehicle as the weapon to assault Officer H and effectively trapped him inside his police vehicle. With no apparent avenue of escape available to Officer H and the subject continuing to accelerate his vehicle into Officer H's disabled vehicle, Sergeant A determined that his only recourse to defend Officer H's life was to fire his weapon at the subject.

The BOPC also noted that Officer I, prior to his use of force, had placed his front bumper against the passenger side of the subject's vehicle. Regarding this tactical decision, Officer I stated that he believed that his tactic could stop the subject from crashing into other vehicles and thereby possibly kill a police officer. Moreover, Officer I believed that the subject was shooting at him because he heard gunfire and saw the subject turning his torso back and forth in the driver's seat. Furthermore, Officer I observed the back passenger's side window of the subject's vehicle "shatter."

The BOPC further noted that Officer K closed the distance between himself and the subject's vehicle and ultimately took a position at the right front quarter panel of Officer I and J's vehicle. According to Officer K, the subject turned his upper torso in a clockwise direction toward him. Simultaneously, Officer K heard a shot being fired. Officer K further stated that he observed the subject's silhouette, including his hand, turn in his direction and he heard a gunshot.

The BOPC further noted that, as Officer E moved in a northerly direction along the center of the roadway, he observed the subject's silhouette, including his hand, turn in his direction and he heard a gunshot. Specifically, Officer E stated that he observed the subject's silhouette "make a hand movement" in his direction, and simultaneously, he heard one "bang" or "pop." Accordingly, Officer E formed the opinion that the subject had fired at him and responded by firing three rounds at the subject.

The BOPC also noted that after Officer E fired his third round, he observed that the subject was still moving and perceived the subject to still be a threat. Accordingly, he fired one additional round at the subject.

The BOPC further noted that the video evidence showed that the subject's vehicle was not moving in the moments prior to the OIS. However, based on the totality of the circumstances, the BOPC believed that Sergeant A's assessment that the subject presented an immediate threat of serious bodily injury or death was reasonable. Specifically, the subject continued to attempt to accelerate his vehicle in close proximity to an occupied police vehicle after committing a series of potentially life-threatening assaults in which he had used his vehicle as a weapon. In the moments available to Sergeant A to make a decision regarding the use of deadly force, he had little opportunity to determine whether the subject's vehicle was immobilized.

Accordingly, based upon an evaluation of the totality of the circumstances, the BOPC determined that Sergeant A and Officers E, I, and J's use of lethal force was objectively reasonable to protect their fellow officers and themselves from what they perceived to be the immediate threat of serious bodily injury or death.