

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

OFFICER-INVOLVED SHOOTING – 034-18

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Northeast	5/20/18		

Officer(s) Involved in Use of Force	Length of Service
Officer A	15 years, 1 month

Reason for Police Contact

Uniformed Police Officers observed a vehicle which they determined to be stolen. The vehicle failed to stop for the officers and drove away at a high rate of speed. As officers pursued the vehicle, the front passenger leaned out of the window, and pointed a shotgun at the officers, resulting in an officer-involved shooting (OIS).

Suspects	Deceased ()	Wounded (X)	Non-Hit ()
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Subject 1: Male, 29 years of age.
Subject 2: Male, 24 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 Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on April 16, 2019.

Incident Summary

Uniformed Police Officers A and B were assigned to patrol in a marked police vehicle. Officer A was the passenger and Officer B was the driver.

Officers A and B were sitting in their parked patrol vehicle, completing an investigation from a prior radio call when they observed a vehicle driving down the street. The vehicle was of a make and model that was commonly stolen in that area. Officer A conducted a computer inquiry of the license plate number of the vehicle via the officers' Mobile Digital Computer (MDC) as Officer B began to follow the vehicle.

As the officers waited for the results of the computer inquiry, the vehicle accelerated and negotiated a left turn. The computer inquiry revealed that the vehicle was stolen. According to Officer A, he/she activated the front passenger spotlight and illuminated the interior of the vehicle to see how many occupants were in it. Subject 1 was the driver, and Subject 2 was the passenger in the stolen vehicle.

The vehicle accelerated and failed to stop for several clearly posted stop-signs. Officer A broadcast that the officers were following a stolen vehicle, and subsequently provided Communications Division (CD) with the vehicle's description and direction of travel. Officer A then requested back-up unit, Air Unit, and a supervisor.

Subject 1 failed to stop for an additional stop sign and then negotiated a left turn. Officer A activated the police vehicle's lightbar/forward facing red lights and siren.

The police vehicle's Digital In-Car Video System (DICVS) captured the OIS. The DICVS depicts Subject 2, armed with a shotgun, suddenly place his upper torso out of the front passenger window as Subjects 1 and 2 drove through an intersection. Subject 2 turned his upper torso facing Officers A and B and pointed the shotgun at them.

According to Officer A, he/she lowered him/herself in his/her seat so that he/she would not be visible through the front windshield of the police vehicle and drew his/her pistol from his/her holster to protect him/herself and Officer B from the immediate threat of being shot at.

According to Officer A, he/she did not broadcast that the officers were in pursuit because he/she dropped the police vehicle's microphone on the floorboard and immediately engaged the Subject.

Officer A removed his/her seatbelt, positioned him/herself into a two-handed, seated shooting position, pointed his/her pistol out of the passenger side window, and fired two rounds at Subject 2. Subject 2 re-entered the vehicle.

Officers A and B both believed that Subject 2 fired his/her shotgun at them first, prior to Officer A firing any rounds. The evidence established that Officer A shot at Subject 2 first when Subject 2 pointed the shotgun at them.

Subject 1 continued driving at a high rate of speed. At one point, he crossed into the opposite lane of traffic, driving on the wrong side of the road. Officer B broadcast that shots had been fired and requested help.

The officers' DICVS depicts that as Subject 1 continued to flee from officers, he failed to stop for an additional stop sign, and Subject 2 once again placed his upper body out of the front passenger window of the vehicle while still armed with a shotgun. Subject 2 pointed the shotgun at the officers, and this time, fired at them before re-entering his vehicle.

According to Officer A, as Subject 2 fired at the officers, Officer A leaned out the front passenger window and fired his/her pistol four to five times at Subject 2. Subject 2 once again leaned out the window of his vehicle and fired two additional shotgun rounds at the officers.

Officer B's Body Worn Video (BWV) captured the OIS. The investigation revealed that Officer A fired nine times at Subject 2 during their exchange of gun fire. Subject 2 fired his shotgun three times at Officers A and B. Eight 9-millimeter (mm) casings were located along the pursuit path. Three expended shell waddings were also located on the same route.

Subject 1 continued driving and failed to stop for another stop sign. Officer A felt that he/she was outpowered by Subject 2's shotgun, and needed to transition to the shotgun to give the officers the chance to protect themselves.

Officer A threw his/her pistol on the passenger floorboard of the police car, unlocked the shotgun rack, and obtained the shotgun. According to Officer A, he/she did not have time to holster his/her pistol.

Officer A chambered a round into the shotgun. The DICVS depicts Subject 1 negotiating a left-hand turn. Subject 1 continued to drive at a high rate of speed. According to Officer A, due to the curvature of the street, he/she could not see if Subject 2 was out of the window, ready to shoot at him/herself and Officer B again.

According to Officer A, he/she placed his/her whole upper body out of the passenger window of the police car and shouldered the shotgun on his/her right shoulder. Officer B's BWV captured Officer A fire three rounds from the shotgun towards the back of the stolen vehicle as they continued the pursuit.

According to Officer A, he/she couldn't see if Subject 2 was still leaning out the car. Officer A was anticipating that Subject 2 would again come out the passenger window and continue firing at the officers. Officer A shot towards the back window of the car intending to stop Subject 2 from re-engaging them, and hoping that maybe it would cause the driver to stop and give up.

Officer B continued to pursue the stolen vehicle. As Officer B attempted to initiate the left turn, he/she lost control of the police vehicle and collided with the curb and the rear bumper of a parked vehicle.

Sergeant A arrived at the scene and assumed the role of Incident Commander. Sergeant B obtained a Public Safety Statement from Officer A, and Sergeant C obtained a Public Safety Statement from Officer B.

The Subjects abandoned the vehicle nearby and fled on foot. Officers set up a perimeter, and the Subjects were taken into custody without further incident.

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 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 of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Officers A's drawing and exhibiting of a firearm to be In Policy.

C. Lethal Use of Force

The BOPC found Officer A's lethal use of force, (rounds 1-9) to be In Policy. The BOPC found Officer A's lethal use of force, (shotgun rounds 1-3) to be Out of Policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who

use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Use of Force Policy, Los Angeles Police Department Manual.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in Graham v. Connor, 490 U.S. 386 (1989), that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject’s actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer’s decision to draw or exhibit a firearm should be based on the tactical situation and the officer’s reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an

officer compromise his or his safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so. (Tactical De-Escalation Techniques, October 2016.)

A. Tactics

- In its analysis of this incident, the BOPC identified the following tactical considerations:

1. Vehicle Pursuit Notification

Officer A did not advise Communications Division (CD) that he/she and Officer B had initiated a vehicle pursuit.

In this case, Officer A had already advised CD the officers were following a stolen vehicle and provided the vehicle description, license plate, and direction of travel. According to Officer A, he/she was preparing to broadcast that they were in pursuit, when his/her attention was immediately directed to Subject 2, who was pointing a shotgun in his/her direction. As such, Officer A dropped the vehicle radio microphone onto the floorboard and drew his/her service pistol.

The BOPC noted that in this circumstance, Officer A was faced with a rapidly unfolding tactical situation and his/her actions were reasonable.

Based upon the totality of the circumstances, the BOPC determined, that Officer A's actions were a substantial deviation, with justification, from approved Department tactical training.

2. Use of a Safety Belt

Officer A removed his/her safety belt, during a vehicle pursuit, to engage an armed suspect. Officers are often forced to make split second decisions under extremely stressful situations.

In this case, Officer A was faced with a rapidly unfolding tactical situation when Subject 2 emerged from the passenger window and pointed a shotgun at Officer A and his/her partner. Officer A believed that Subject 2 was going to shoot through the front window of their police vehicle and kill them. Officer A did not want to fire through the windshield of the police vehicle. Consequently, Officer A made the decision to remove his/her safety belt so he/she could lean out of the passenger side window, with his/her service pistol, and engage the deadly threat.

Although Officer A's decision to remove his/her safety belt, at this time, placed him/her in danger, the immediate deadly threat of an armed suspect posed a greater danger. By removing his/her safety belt, Officer A was able to position him/herself in a more advantageous tactical position to address the deadly threat.

Based on the totality of the circumstances, the BOPC determined that in this circumstance, Officer A's action of removing his/her safety belt, during a vehicle pursuit, to engage an armed suspect, was reasonable and not a substantial deviation from approved Department tactical training.

Additional Tactical Debrief Topics

1. **Shooting Foreground** – The investigation revealed that one round from Officer A's first sequence of fire and an additional round from his/her second sequence of fire appeared to have struck the passenger side spotlight of the police vehicle. Officer A was reminded of the importance of assessing his/her foreground while discharging his/her weapon.
 2. **Situational Awareness** – The investigation revealed that Officer B broadcast the incorrect unit designation when he/she broadcast the help call. Although he/she provided the correct unit designation during a subsequent broadcast, Officer B was reminded of the importance of accurately broadcasting all pertinent information when requesting help.
 3. **Single-Handed Shooting** – The investigation revealed that Officer A utilized a one-handed shooting grip on his/her service pistol at the time of the OIS. Although the Los Angeles Police Department Training Division teaches a one-handed shooting technique, a two-handed shooting grip would be more tactically advantageous and provide a better shooting platform. Officer A was reminded to utilize a two-handed shooting grip whenever feasible.
 4. **Maintaining Control of Equipment** – The investigation revealed that Officer A threw his/her service pistol, which was in single action mode, onto the front passenger floorboard of the police vehicle. According to Officer A, he/she made the decision not to holster his/her service pistol in order to give him/herself more time to quickly transition to the Department shotgun and address the ongoing threat. Although the BOPC understands that this was a rapidly unfolding tactical situation, Officer A was reminded of his/her responsibility to ensure that his/her service pistol is appropriately secured at all times, as it increases the likelihood of tactical success during incidents such as this. Officer A was further reminded that there is a heightened concern for an unintentional discharge when throwing a loaded service pistol in single action mode onto a hard surface.
- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the

appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

The BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- According to Officer A, as he/she and Officer B crossed the junction, Subject 2 came out of the front passenger window of the stolen vehicle, armed with a shotgun, and pointed it at them. Officer A observed that Subject 2's body was completely turned back towards him/her, with the Subject's left hand extended along the barrel and his right hand near the trigger. Believing there was an immediate threat to him/herself and Officer B, Officer A ducked down and drew his/her service pistol.

According to Officer A, as the pursuit continued, he/she looked at his/her gun and assessed the condition of his/her service pistol. Officer A observed that it was not in slide lock, but was unsure how many rounds he/she had left. At that point, he/she believed he/she was out-powered by Subject 2's shotgun and needed a better weapon system to protect him/herself and Officer B. Officer A made the decision to transition to the Department shotgun. Officer A threw his/her service pistol onto the front passenger floorboard of the police officers' vehicle, unlocked the shotgun rack, and removed the shotgun from the vertical console rack of the police vehicle.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officer A's drawing and exhibiting of a firearm to be In Policy.

C. Lethal Use of Force

- **Officer A** – (pistol, nine rounds)

First Sequence – Two rounds in a northerly direction.

According to Officer A, as Subject 1 continued to drive, he/she believed Subject 2 was going to shoot through the front window of their police vehicle and hit Officers A and B in the face. Fearing that Subject 2 was going to kill them, Officer A removed his/her safety belt, assumed a two-handed grip on his/her service pistol, leaned out the passenger side window, and fired what he/she believed was three to five rounds from his/her service pistol at Subject 2 to stop the threat.

A review of Officer B's BWV revealed that Officer A fired two rounds from his/her service pistol during this sequence.

A review of the officers' DICVS captured Officer A discharge his/her service pistol at Subject 2 as he/she extended his/her upper torso out of the front passenger window of the stolen vehicle and pointed a shotgun in the officers' direction as Subject 1 drove through an intersection. The investigation revealed that Subject 2 did not discharge his/her shotgun at this time.

Second Sequence – Seven rounds in a northerly direction.

According to Officer A, as Subject 1 continued driving, Subject 2 continued to come out of the passenger side window, face their police vehicle and shoot the shotgun at them. Officer A observed muzzle flash from Subject 2's shotgun and heard his/her gun going off.

According to Officer A, as the pursuit continued, Officer A believed Subject 2 was going to shoot him/herself and Officer B in the face and kill them. At that point, Officer A assumed a one-handed grip on his/her service pistol, leaned out the passenger side window, and fired what he/she believed was four to five rounds from his/her service pistol at Subject 2 to stop the threat.

A review of Officer B's BWV revealed that Officer A fired seven rounds from his/her service pistol during this sequence.

- **Officer A** – (shotgun, three rounds)

According to Officer A, he/she canted the shotgun out the passenger side window of the police vehicle and chambered a round. At that point, he/she placed most of his/her weight on his/her left leg, anchored his/her right foot under the passenger door ledge, sat up, and positioned his/her whole upper body out of the passenger side window with the shotgun.

According to Officer A, the officers were still in pursuit as he/she continued along a street that had a slight left turn. Due to the curve on the street and the way they were travelling, Officer A could not see if Subject 2 was still hanging out of the passenger side window of the stolen vehicle. However, Officer A knew where Subjects 1 and 2 were seated and believed Subject 2 was going to pop out and start shooting again.

According to Officer A, he/she believed Subject 2 was trying to kill them and although he/she observed that Subject 2 was not shooting at the officers as Subject 2 fired his shotgun, Officer A still perceived that Subject 2 was a threat because Subject 2 had shot multiple times at them in the last 30 seconds. Officer A believed that Subject 2 was going to keep firing until he hit Officer A, his/her partner, or somebody else.

According to Officer A, he/she wanted to stop the threat and prevent Subject 2 from coming back out of the window and shooting at them with the shotgun. Using the back window of the stolen vehicle as his/her focal point and target location, Officer A

aimed for Subjects 1 and 2 and fired what he/she believed was three to four rounds of direct fire from his/her Department shotgun to stop the threat. A review of Officer B's BWV revealed that Officer A fired three rounds from his/her Department shotgun.

Based on the totality of the circumstances, the BOPC determined, that an officer with similar training and experience as Officer A (rounds 1-9), would reasonably believe that Subject 2's actions presented an imminent threat of death or serious bodily injury and that the lethal use of force would be objectively reasonable.

Therefore, the BOPC found Officer A's lethal use of force (rounds 1-9) to be In Policy.

Additionally, the BOPC considered several factors in evaluating the reasonableness of Officer A's discharging of the three shotgun rounds. Officers A and B were still in pursuit. In addition, during this time, Officer A indicated that he/she still perceived Subject 2 to be a continuous threat to him/herself, his/her partner, and the community because Subject 2 had shot multiple times at the officers, and Officer A believed Subject 2 was trying to kill them. Officer A further believed that as the officers continued to pursue Subject 2, he was going to continue to fire at them, and Officer A wanted to keep Subject 2 from coming back out of the window and shooting at the officers with the shotgun.

The BOPC took into consideration that this was a rapidly unfolding tactical situation, including the fact that Subjects 1 and 2 were clearly evading the officers and Subject 2 had shot at them. The BOPC noted, however, that at the time Officer A discharged his/her shotgun, he/she could not see if Subject 2 was still leaning out of the stolen vehicle's passenger side window, and he/she did not observe Subject 2 shooting back at him/her.

In addition, Subjects 1 and 2 did not make any movements or take any action during the approximately 30 second time period when Officer A fired his/her three shotgun rounds that would indicate Subject 1 or Subject 2 was an immediate threat to Officer A, Officer B, or another person. Officer A's decision to discharge his/her shotgun at the back window of the stolen vehicle was not reasonable at the time.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A (shotgun rounds 1-3), would not reasonably believe that Subject 1 and Subject 2's actions presented an immediate threat of death or serious bodily injury, thus making Officer A's lethal use of force (shotgun rounds 1-3) objectively unreasonable.

Therefore, the BOPC found Officer A's lethal use of force (shotgun rounds 1-3) to be Out of Policy.