

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

OFFICER-INVOLVED SHOOTING 041-09

Division **Date** **Duty-On (X) Off ()** **Uniform-Yes() No(X)**
Outside City 07/05/09

Officer(s) Involved in Use of Force **Length of Service**

Detective A 22 years, 4 months

Reason for Police Contact

Kidnap investigation.

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

Subject 1: Male, 29 years old.

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 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.

Because state law prohibits divulging the identity of police officers in public reports, the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on June 1, 2010.

Incident Summary

Detective B and C were notified of a kidnapping. The detectives responded to the Police Station to interview Victim A.

Victim A informed the detectives that she was driving her vehicle with other minors, Victim B and C, and was on her way to pick up two additional children. While Victim A was stopped at a traffic signal, Subject 1 appeared at her driver side window, which was rolled halfway down, and struck her in the face with his fist. Subject 1 entered Victim A's vehicle, pushed her to the front passenger seat and drove to a closed location. Subject 1 parked the vehicle at the rear parking lot and dragged Victim A inside the store, leaving Victim B and C in the vehicle.

Victim A observed Subject 1 holding an object in his hand that he concealed with a small towel. Victim A believed it was a gun based on the outline of the object and the sound it was made when Subject 1 manipulated it. When Victim A began to cry, Subject 1 punched her in the right eye. Subject 1 tied Victim A's hands behind her back with duct tape and assaulted her.

After approximately three to four hours, Victim A convinced Subject 1 to let her go. Subject 1 and Victim A then returned to the vehicle and drove out of the parking lot with the two children. Victim A advised Subject 1 that her vehicle needed gasoline. Subject 1 pulled into a gas station and told Victim A to go pay for the gas. Victim A exited her vehicle and attempted to open the rear door, but the door was locked. Victim A walked to the cashier's booth and requested help from people she passed by, but no one was willing to assist her. Victim A ran across the street to a liquor store to seek help. Victim A was attempting to call 911 when she heard gunshots. Victim A looked out the window and observed Subject 1 standing next to a vehicle and observed Subject 1 fire rounds at the vehicle. Victim A looked for a place to hide and was later informed by a store employee that Subject 1 had driven away in Victim A's vehicle. Victim A exited the liquor store and flagged down a police vehicle that was passing by. Officers observed an injury to Victim A's eye and requested a Rescue Ambulance (RA). Victim A was subsequently transported to the Police Station to be interviewed.

Detective C drove to the hospital and interviewed Victim D, who was identified as the shooting victim at the gas station. Victim D indicated that she had driven her vehicle, which was occupied by her brother, mother, niece and son, to the gas station. Victim D told her brother to go pay the cashier and she would pump the gasoline. When Victim D exited her vehicle, she observed Victim A crying and running toward a male customer to speak to him. Victim D knew something was wrong and re-entered her vehicle. Victim D honked her horn in an attempt to get her brother's attention. Subject 1 then appeared on Victim D's driver side door and began knocking on her window. Victim D accelerated her vehicle in reverse and collided with a vehicle that was behind her. Victim D then drove forward and heard five to six gunshots. Victim D felt a sharp pain in her lower back and advised her mother that she had been shot. After driving approximately 1 1/2 blocks, Victim D had trouble breathing and had to stop her vehicle. Victim D exited her

vehicle and observed Subject 1's vehicle pulling up. Victim D ran toward a backyard of a residence and hid inside an unlocked home-made bathroom. Victim D entered the bathroom, but was unable to lock it. Subject 1 followed Victim D in the bathroom, pointed a pistol at her and pulled the trigger, but the weapon did not discharge. Subject 1 then dragged Victim D out of the bathroom. Subject 1 repeatedly stated, "Where is she, where did she go?" Victim D managed to pull her hand away from Subject 1 and escaped. Victim D was able to get help from a group of males. An RA was requested and Victim D was subsequently transported to the hospital for medical treatment.

As the investigation progressed, detectives received information that Subject 1 had met Witness A and had picked up additional two children. Detectives learned that Subject 1 was possibly driving Witness A's vehicle. Detectives initiated an Amber Alert on the vehicle and completed missing persons reports for each of the missing children.

Lieutenant A contacted Detective D to request assistance with the surveillance. Detective D contacted Detectives E and F, briefed them about the incident and directed them respond to Witness A's apartment to establish surveillance of the residence.

Detective D contacted the officers including, Detectives A and G, and requested they respond to a parking lot for a briefing. The Officers were attired in plainclothes.

Upon arrival at the parking lot, the officers were briefed by Detective H and Detective I. Officers were informed of Subject 1's criminal record, which consisted of multiple arrests and convictions for vehicle theft, receiving stolen property, and evading a peace officer. Subject 1 also had an outstanding warrant. Officers were shown photographs of Subject 1 and provided a description of the vehicles he was believed to be using.

After the briefing, Officers responded to Witness A's apartment. Detectives E and F were relieved so they could receive a detailed briefing from Detective D. Detective D notified the local law enforcement agency that Los Angeles Police Department (LAPD) units would be conducting surveillance in its city.

Detective J drove to a police station, completed a Surveillance Worksheet for the operation and attached a photograph of Subject 1. Detective J then drove to each surveillance position around Witness A's residence and provided officers with a copy of the Surveillance Worksheet and Subject 1's photograph. Detective J then assisted with the surveillance of Witness A's residence.

Detective D was advised by detectives that Subject 1 was possibly in the city. Detective D directed Officers to establish concurrent surveillance points around that area. Detective E was positioned in a rear alley when he observed a male who possibly matched Subject 1's description. The male was subsequently confirmed to be Subject 1.

Detective E advised Officers of his observation. Detectives A and G were positioned west of Subject 1's location when they observed the male matching Subject 1's

description walk onto the sidewalk in front of the residence with a child and then walk back toward the rear of the residence.

Detective D contacted LAPD Air Support Division (ASD) and requested their assistance in the operation. ASD Officers A and B responded to the location, monitored the activity at the rear of the residence and advised Officers that the male and several children were in the backyard.

The ASD officers notified Detective D that Victim A's vehicle was located approximately four blocks west of Witness A's residence. Detective D responded to that location and directed Officers to set up surveillance at the location in the event someone returned to the vehicle.

Detectives K and L were positioned east of Subject 1's location in the rear alley. Detective L exited his vehicle and walked north in the alley past Subject 1's Location and obtained the license plate number of the vehicle. As Detective L walked by, he observed the male sitting on a cement step and children playing in the yard.

Detectives verified that the license plate matched the vehicle they were looking for. Detective D contacted Lieutenant B and requested SWAT to respond.

Anticipating the arrival of SWAT Officers, Detective D established a Command Post (CP) nearby. Detective D advised Detective E to take over point position in the surveillance and directed Detectives A and G to respond to the CP to provide SWAT Officers with information regarding the residence. Shortly after the CP was established, Captain A and SWAT Officers arrived at the CP and received a briefing from Detective D.

Detective K observed Subject 1 in the rear alley talking on his cellular phone, and then saw him walk back into the yard of the residence, out of view. Approximately five minutes later, another vehicle driven by a male, Subject 2, pulled up in the rear alley behind the residence.

Detective K observed four children being loaded into the vehicle. Subject 1 went back and forth between the residence and the vehicle several times to load items into the vehicle. Detective K broadcast his observations to the rest of the units.

Detective D advised Captain A and SWAT Officers at the CP of what was occurring and expressed his concerns about Subject 1 leaving with the children. As a result, a decision was made for SWAT to approach the location.

SWAT officers approached the location. Detective D advised Officers that SWAT was going to deploy at the rear alley and for officers to maintain their perimeter positions. Detectives M and N were positioned to the northwest of the location, Detective E was positioned to the west, Detectives J and O were positioned to the east, and Detectives K and L were positioned to the southeast. Detectives A and G left the CP and drove to

a perimeter position northwest of Subject 1's location. Detective D and P left the CP and drove to a position south of the location.

Detective K observed Subject 1 enter the vehicle. The vehicle negotiated a three-point turn in the alley and stopped. Subject 1 exited the vehicle and walked west to the yard of the residence. Shortly thereafter, Detective K observed SWAT vehicles arrive at the alley and approach the vehicle.

SWAT rescued the children and detained Subject 2 and an additional individual, Subject 3, who was standing by the driver side door of the vehicle. Unable to immediately confirm the identity of the four children as the victims of the kidnapping, SWAT continued their search of the residence.

From the air unit, Officer B observed Subject 1 run west through the yard toward the street and then run north on the sidewalk. Detectives G and A approached south in their vehicle toward the residence when Subject 1 appeared on the sidewalk, running north. Aware that Detectives M and N's vehicle was following behind his, Detective G drove past Subject 1. Detectives G and A observed Subject 1 holding a stainless steel semiautomatic pistol in his right hand as he ran.

Detective G broadcast, "He's got a gun, he's got a gun." Detective G negotiated a U-turn and drove north, following approximately 30 feet behind Subject 1. Detectives G and A observed Subject 1 unsuccessfully attempt to open a locked metal security gate. Detective G stopped his vehicle one property south of Subject 1. Subject 1 turned and began running south on the sidewalk. Detective A exited his vehicle, drew his pistol and yelled, "Stop, police," two times. Subject 1 turned east on the driveway of an apartment building. Detective A moved away from behind his car door and ran northeast toward the southwest corner of the apartment building to seek cover. Detective A continued to yell, "Stop, police."

As Subject 1 continued running, he looked over his right shoulder and made eye contact with Detective A. Detective A observed Subject 1 pull the weapon's slide back with his left hand. Subject 1 turned to his left, looked at Detective A and raised his pistol. Believing Subject 1 was about to shoot him, Detective A aimed for Subject 1's head and fired one round. As Detective A fired his round, he heard Subject 1 fire one round. Subject 1 immediately fell to the ground.

Meanwhile, Detective G observed Subject 1 turn and run south. Detective G stopped his vehicle approximately 10 feet away from Subject 1 and exited the driver side door. Detective G drew his pistol and moved around to the rear of his vehicle. Detective G heard Detective A identify himself as a police officer and order Subject 1 to freeze. As Detective G made his way toward the driveway, he observed Subject 1 look over his left shoulder at Detective A and raise the gun he was holding in his right hand. Detective G then heard two gunshots. Detective G did not observe any muzzle flashes during the shooting, but he observed Subject 1's head "snap back," which led him to believe that

Subject 1 may have shot himself in the head. Subject 1 immediately fell to the ground and his pistol slid approximately 16 feet east of him.

Detectives A and G observed Subject 1 look back toward them, raise his upper torso with his arms and begin to crawl toward his pistol. Detectives A and G ordered Subject 1 to freeze. Subject 1 crawled approximately one and a half feet before finally coming to a stop. Detectives A and G began to approach Subject 1.

Detective N had observed Subject 1 running north on the sidewalk toward his vehicle. Detective N drove southeast and stopped his vehicle. Detectives N and M grabbed their rifles and exited their vehicle. According to Detective M and N, when Subject 1 saw them, he immediately turned around and began running south and then turned east into a driveway, out of their view. Detectives N and M observed Detective A also running east toward the driveway, out of their view, and then heard one gunshot. Detective M returned his rifle to the vehicle, drew his pistol and ran south on the sidewalk. Detective N returned to his vehicle and drove it south. Detective M rounded the corner of the apartment building and observed Detectives A and G approaching Subject 1. Detective M joined the two detectives and advised them that he would handcuff Subject 1.

Officers C and D arrived and observed Detectives A, G and M with their guns pointed at Subject 1. Officers C and D heard the detectives yelling, "Get down. Get down on the ground." Officers C and D approached and assisted Detective M with handcuffing Subject 1.

Detective D called Lieutenant C at the CP and asked him to have the fire department respond for a male with a gunshot wound.

The fire department arrived at the location and treated Subject 1 for a gunshot wound to the right rear portion of his head. Subject 1 was then transported to the hospital. Officer C rode in the back of the RA while Officer D followed in his vehicle.

Los Angeles Board of Police Commissioners' Findings

A. Tactics

The BOPC found Detectives A and G's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Detectives A and G's drawing and exhibition of their firearms to be in policy.

C. Use of Force

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

Basis for Findings

A. Tactics

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. Each tactical incident inherently results in considerations for improvement.

In this instance, although there were identified areas for improvement, the tactical considerations neither individually nor collectively *“unjustifiably or substantially deviated from approved Department tactical training.”*

In conclusion, a Tactical Debrief is the appropriate mechanism for the significantly involved personnel to evaluate the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future. The BOPC will direct that Detectives A and G attend a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

In this instance, Detectives A and G were conducting surveillance on an armed suspect wanted for attempted murder, kidnapping and sexual assault. Detectives A and G observed the suspect armed with a handgun as he ran from the police. Detectives A and G exited their vehicle and drew their service pistols to confront the armed suspect.

According to Detective A, *“We slowly come to a stop. The suspect stops, or there’s a fence there, or the fence that’s just north, and he tries the fence to get in. It’s a locked gate at the front of the building and he pulls on it once or twice. He gives up on it and he starts to run. Now, he doubles back to come southbound. At this time is when he first sees me. He sees me exit. I’m exiting my vehicle in the right front passenger seat. I’m drawing my weapon and I’m now verbalizing to the suspect, stop, police. Stop, police. I say it twice.”*

According to Detective G, *“Because the suspect was armed. I knew he was armed. My - - partner was out alone with an armed suspect, so I wanted to get out and assist him in taking the suspect into custody. And, like I said, he’s - - I knew he’s armed. He already had a weapon, and it was already in his hand, so I wanted to get as much of an edge as I could.”*

In conclusion, due to Detectives A's and G's reasonable belief that the situation may escalate to a level where deadly force could become necessary, the BOPC found their Drawing/Exhibiting to be in policy.

C. Use of Force

In this instance, Detective A observed Subject 1 running southbound in his direction, pointed his service pistol at Subject 1 and yelled "Stop, Police!" two times. Subject 1 made eye contact with Detective A, ignored his commands to stop and fled eastbound. Detective A moved out from behind his car door in a northeasterly direction in an attempt to seek cover near the southwest corner of the apartment building. Detective A yelled, "Stop, Police!" two additional times. Detective G ran around the back of his vehicle toward the mouth of the driveway. Subject 1 continued to run down the driveway and looked over his right shoulder, again making eye contact with Detective A. Simultaneously, Subject 1 holding the gun in his right hand reached down with his left hand, grabbed the slide on the handgun and pulled it back, chambering a round. Subject 1 then quickly turned his head to the left, looked over his left shoulder toward Detective A and once again made eye contact. Subject 1 held his gun in a 45 degree angle along his right side and raised it to his right upper chest/shoulder area with the barrel pointing upward as he continued looking at Detective A.

Detective A, seeing and hearing Subject 1 chambering a round into his handgun and aware of Subject 1's violent behavior over the past 24-hour period, feared that he was going to shoot him.

Detective A fired one round at Subject 1's head. As Detective A fired his service pistol he simultaneously heard Subject 1 fire one round from his handgun. Subject 1 fell to the ground and dropped his handgun. Detective G had just arrived at the opening of the driveway when he heard two gunshots. Detective G noted that Subject 1 was holding a handgun near the right side of his head and saw Subject 1's head "snap back" when he heard the gunshots.

In conclusion, a detective with similar training and experience would believe that the suspect posed a substantial risk of serious bodily injury or death. It was objectively reasonable for Detective A to utilize lethal force in defense of his life and his partner's life. The BOPC found Detective A's use of lethal force to be in policy.