

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

OFFICER-INVOLVED SHOOTING – 072-09

Division	Date	Duty-On(x) Off()	Uniform-Yes(x) No()
Pacific	10/17/2009		

Involved Officer(s)	Length of Service
Officer H	3 years
Officer A	7 years, 6 months
Officer E	1 year
Officer D	6 months
Officer K	6 months
Officer J	11 months

Reason for Police Contact

Officers responded to a radio call of an assault with a deadly weapon, which resulted in an officer involved shooting.

Subject(s)	Deceased (x)	Wounded ()	Non-Hit ()
Subject: Male, 50 years of age.			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the 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 October 12, 2010.

Incident Summary

Communications Division (CD) broadcasted an assault with a deadly weapon subject radio call and requested officers to respond. The Subject told CD that he had shot his girlfriend, he would not put the gun down, and that “tonight is the end of everything.”

Officers A and B responded to a nearby intersection and Officer A requested an air unit and that any additional units respond to the area without lights and sirens so that the Subject would not be alerted to their arrival. Officer A directed the radio-telephone operator (RTO) to keep the Subject on the line to gather more information from the Subject. Officers C, D, E, F, G, H, I, J, K and Sergeants A, B and C responded to the call.

Officers A and B took a position of cover behind a vehicle parked directly across from the Subject’s residence. The officers used their radio frequency to communicate with additional units and receive updated information from CD, who was still in communication with the Subject. Sergeant B directed several officers, including Officers C, D and E, to get in their vehicles and stop near the Subject’s residence. Sergeant B also directed other units to drive around and approach the Subject’s residence from the south.

Officers C, D and E illuminated the house with their vehicle’s spotlight. Officer C and Sergeant C used the vehicle’s Public Address (PA) system to make announcements to the Subject telling him that the LAPD was at his house and to come out with his hands up. Officer J walked took a position of cover behind another vehicle parked along the street. Officers H and I parked their vehicle and also used it as cover. Officers K and G took a position behind a tree near the Subject’s residence.

CD broadcast that the Subject was planning a “suicide by cop” and he threatened to shoot the first officer on sight. The Subject exited his residence through the front door with a gun, at which point Officer F broadcast, “Subject’s coming out the front door. He’s opening the front door. Subject’s coming out he’s got a gun.” Officer C told the Subject from the PA system to, “put your hands up,” and “put the gun down.” The Subject raised his gun, pointed it toward a group of officers, and made a sweeping motion with the gun in the direction of the officers. Officer A fired six rounds, Officer D fired one round through the front windshield of his car, Officer J fired two rounds, Officer H fired five rounds, Officer E fired one round, and Officer K fired one round. The Subject fell to the ground.

Officers A, B, H, I, J and E approached the Subject and ensured he was no longer a threat. The officers observed the Subject lying on his back with no apparent signs of life and moved the gun away. Officers searched the house and found no one inside. The Los Angeles Fire Department Rescue Ambulance responded and determined that the Subject was 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 Sergeants A, B and C along with Officers A, E, K, D, J and H tactics to warrant a tactical debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers A, E, K, D, J and H's drawing and exhibition of a firearm to be in policy.

C. Use of Force

The BOPC found Officers A, E, K, D, J and H's use of lethal force to be in policy.

Basis for Findings

A. Tactics

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

This incident was fluid and developing as the officers arrived. Although a number of tactical concerns were being addressed from the onset, it does not appear that the gathering of intelligence/evacuation of the neighbors was initially included. A gathering of information from neighbors would have assisted in the tactical planning of this incident. A systematic evacuation of the surrounding residents should have been considered and would have ensured their safety. In addition, consideration should be given to obtaining a layout of a similarly designed residence to provide insight to the interior features of the subject's residence.

In conclusion, although this topic will be discussed during the Tactical Debrief, Sergeants B and C's actions did not substantially deviate from Department approved training.

Officers D and J were confronted by the Subject who pointed a gun at them resulting in an OIS. Officer D utilized a police vehicle for cover and concealment during the incident. When Officer D fired a round, it impacted and fractured the front windshield of the vehicle. No officers were injured as a result of the impact. Officer J was positioned behind a vehicle and fired two rounds at the Subject. An impact was discovered on a vehicle parked on the street and was in alignment with Officer J's shooting position.

In conclusion, although Officers D and J are reminded to be sure of their target prior to firing their weapon, their actions did not substantially deviate from Department approved training. This topic will be discussed during the Tactical Debrief.

In this instance, Sergeant C assessed that the Subject appeared to be fatally injured and was therefore not handcuffed. Once the residence was cleared for possible additional subjects or victims, Sergeant C requested LAFD to respond to the scene without delay. The BOPC determined that it was not unreasonable for the deceased subject to remain at the scene until the residence was cleared.

In conclusion, Training Division is currently evaluating and instituting training as appropriate for both recruit and continuing education related to the extraction of subjectss so that they may be provided medical treatment in a timely manner.

In this instance, after the OIS, Officers E, A and K manipulated their weapons. After the residence was cleared, Sergeant D instructed Officer E to unload his gun. Officer E unloaded the three remaining rounds from his gun and placed them into his pocket. At the Command Post, Officer A unloaded his gun and secured it in a police vehicle until a magazine count was conducted by FID investigators. Officer K was instructed by Officer G to unload his Department gun. While attempting to unload, Officer K observed that the expended shell remained in the Department gun. Officer K stated he had difficulty unloading the Department gun and with the assistance of Officer F, the Department gun was unloaded. Officer K placed the empty shell casing in his pocket.

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 conclusion, a Tactical Debrief is the appropriate mechanism for Sergeants A, B and C, along with Officers A, E, K, D, J and H 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 recommends that Sergeants A, B and C, along with Officers A, E, K, D, J and H attend a tactical debrief.

B. Drawing/Exhibiting/Holstering

In this instance, Officers A, E, K, D, J and H responded to an "Assault with a Deadly Weapon" radio call. The comments of the call stated the subject had killed his girlfriend; he was at his front door refusing to put the weapon down and said "tonight is the end of

everything.” Further comments broadcast to the officers stated the subject was planning a “suicide by cop” and he was threatening to shoot the first officer on sight.

Based on the information they received from Communications Division, it was reasonable for Officers A, E, K, D, J and H to believe that the situation could escalate to the level where the use of Lethal Force might become necessary. In conclusion, the BOPC found Officers A, E, K, D, J and H’s Drawing/Exhibiting to be in policy.

In addition to the above listed employees, there were additional persons that drew or exhibited firearms during this incident. This drawing/exhibiting was appropriate and requires no specific findings or action in regard to these officers.

C. Use of Force

Officer A was positioned behind a parked vehicle across from the Subject’s residence. Officer A did not have his gun pointed at the residence. To avoid being illuminated by the air unit, which was orbiting above, Officer A remained behind the rear quarter panel of the vehicle while observing the residence through the rear passenger window of the vehicle. Officer A stated he was alerted by his partner, Officer B, who was positioned behind the engine block of the same vehicle that the Subject was stepping outside. According to Officer A, Officer B repeatedly said, “Gun, gun, gun.”

Officer A observed the Subject pointing a gun toward the south where other officers were positioned. In defense of their lives, Officer A positioned his gun over the trunk of the vehicle and from a right shoulder shooting position fired six continuous shots in an easterly direction from an approximate distance of 75 feet. Officer A stated that while he was firing, the Subject continued to sweep the gun around from the south to the east. Officer A stopped firing when the Subject dropped to the ground.

Officer D was positioned behind the ballistic panel of the open driver’s side door of the police vehicle. Officer D observed the Subject exit his residence holding a gun. Officer D observed the Subject raise the gun and point it to the east. According to Officer D, Officer C ordered the Subject to drop his gun over the PA system. The Subject then turned his body to the north and pointed his gun at Officers C and D. Officer D stated he heard a gunshot and observed an orange flash from the muzzle of the Subject’s gun. Officer D observed that the Subject was still pointing his gun at him. Believing that he and his partner were going to be killed, Officer D crouched down and fired one shot from his service pistol from a distance of approximately 121 feet.

Officer J was positioned behind a vehicle parked, north of the Subject’s residence. Officer J had a bean bag projectile gun slung on his back in the event that less-lethal munitions were needed. Based on the comments of the call and the information provided by CD, Officer J drew his service pistol. Officer J was kneeling with his arms over the top of the trunk of the vehicle. Officer J observed the Subject open and step outside the front door of his residence. According to Officer J, the Subject had a gun pointed in a downward direction. The Subject raised the gun to the south and then in a circular motion pointed his gun in an east and northeast direction, directly at Officer J.

In fear for his life, Officer J fired one shot. Officer J observed that the Subject continued to point his gun in his direction. Officer J fired a second shot. Officer J observed the Subject fall to the ground. Officer J stopped firing when the Subject no longer posed a threat. Officer J's rounds were fired while kneeling with a two handed grip from an approximate distance of 109 feet.

Officer H was positioned behind a vehicle and chose the position to avoid a crossfire situation with other officers that were already deployed. Officer H drew his gun because he believed the incident could rise to where deadly force would be necessary. Officer H observed the Subject open the front door and exit his residence with a gun in his right hand. The Subject stepped out from the doorway facing eastbound, while holding the gun down to his side. Officer H yelled, "Gun!" Officer H observed the Subject quickly raise and extend the gun out to the south, then turn his head to the south. The Subject then turned in Officer H's direction and continued to bring his gun around to the east with his arm extended straight. Officer H believed the Subject had committed a homicide and that he was in a position to cause serious bodily injury or death and that he was preparing to shoot. Officer H believed he had to stop the Subject before he had a chance to shoot at him or his fellow officers. As the Subject continued to bring his gun toward Officer H's position, Officer H raised his pistol and fired five continuous shots at the Subject from an approximate distance of 101 feet. Officer H stated that after he fired, he observed the Subject collapse and all firing ceased.

Based on the comments of the radio call and the information being broadcast by CD, Officer E positioned himself behind the engine block of a vehicle armed with a Department gun. Officer E observed the Subject exit the residence with a gun. Officer E verbalized to the officers around him that the Subject's door was open and that he saw the Subject with a gun. Officer E observed the Subject point the gun at him and believed that the Subject fired at him twice. Officer E believed he needed to fire or he and his partner's were going to be killed. Officer E fired one round from his gun from a right shoulder shooting position from a distance of approximately 113 feet. After firing, Officer E observed the Subject fall to the ground and he broadcast "Shots fired, subject is down."

Based on the updated comments provided by CD, Officer K deployed the Department gun and positioned himself behind a tree. Officer K observed the Subject step out of his residence. Officer K checked to make sure he had adequate cover behind the tree. Officer K heard other officers announce that the Subject had a gun. Officer K observed the Subject pointing a gun directly at him and his partner. In defense of his life and the life of his fellow officers, Officer K brought his gun up from low ready, depressed the safety and fired one round from an approximate distance of 101 feet. After firing, Officer K observed the Subject fall to the ground.

In conclusion, the BOPC found Officers A, E, K, D, J and H's application of use of lethal force to be in policy.