

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

OFFICER-INVOLVED SHOOTING – 096-08

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Southeast	11/07/2008		

Officer(s) Involved in Use of Force	Length of Service
Officer A	3 years, 10 months

Reason for Police Contact

A relative of Subject 1 called 911 to report Subject 1 (an assault with a deadly weapon subject) to be at a specific location and holding hostages. Officers responded to the identified residence, where the subject lived and where the officer-involved shooting occurred.

Subject	Deceased ()	Wounded ()	Non-Hit (X)
Subject 1: Male, 28 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 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 October 10, 2009.

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

Communications Division (CD) broadcast that there was an assault with a deadly weapon subject at a location. The broadcast included information that the subject was a male, 28 years, armed with a gun with two hostages inside the location.

The person reporting (PR) advised CD that the subject stated that he would shoot if he saw the police. This information was not relayed during the radio broadcast.

Officers A and B acknowledged the radio call and advised they would be responding from the station. While en route to the location, Officers A and B discussed that Officer A would be the contact officer while Officer B would be the cover officer. Officer B broadcast a request for CD to obtain a better description of the subject and more details about the incident from the PR. CD advised the officers to stand-by.

Sergeant A was deployed in the field and also advised CD that he would be responding. Sergeant A arrived at the location and parked his police vehicle. Sergeant A and, shortly thereafter, Officers A and B advised CD that they had arrived at the location. Sergeant A exited his police vehicle and proceeded to walk on the sidewalk, searching for the exact location. Sergeant A found the residence.

Officers A and B exited their police vehicle, drew their pistols, and observed Sergeant A positioned on the side of a residence. Officers A and B walked and stopped at the driveway on the opposite side of the residence. The lights were off in the residence, and the officers did not observe any activity inside. Sergeant A made eye contact with Officers A and B and then proceeded to walk on a walkway while Officers A and B proceeded to walk on the driveway toward the rear of the residence.

Sergeant A observed a window on one side of the house and briefly paused to listen for any movement or voices inside the residence but heard nothing. Sergeant A then continued to make his way to the rear of the residence. Sergeant A scanned the rear yard and observed an open black metal security door on the side of the residence.

Shortly thereafter, three females, subsequently identified as Witnesses A, B, and C, exited the rear door and stood outside the metal security door. Sergeant A unholstered his pistol, pointed it at the females while utilizing his flashlight, and yelled, "Police. Get your hands up." The females appeared startled and placed their hands up. It appeared that one of the females had her thumb out as if she were pointing back into the house.

Officers A and B approached the females while Sergeant A remained at his position on the corner of the residence. Witness A advised Officers A and B that the subject was gone and that everything was okay. Officer A positioned himself near the females, while Officer B positioned himself nearby as well. Officer B and Sergeant A holstered their pistols while Officer A continued to hold his pistol in his right hand as he monitored the opened door that led to an empty bedroom.

Note: Unbeknownst to Officers A and B and Sergeant A, there were two males inside the residence, subsequently identified as Subject 1 (Witness B's boyfriend) and Witness D.

Note: According to Witness B's family members, Subject 1 suffered from schizophrenia. That evening, Subject 1 had been drinking alcohol, which

appeared to have exacerbated his condition. Upon returning home from a concert, the family members observed Subject 1 rapping to music while holding a gun in his hand. The lyrics he used alluded to him shooting Witness B and her family members. As a result, Witnesses E and F left the residence, taking two young children with them, and drove to a relative's residence from where they called 911.

Officers A and B discussed the situation and determined that they would still need to check inside the residence based on the nature of the radio call. Officer B walked to Sergeant A's location to discuss their next course of action, while Officer A continued talking with the females. Sergeant A advised Officer B that they would still need to check inside the house.

Witness A suddenly entered the house via the security door and as she did, Witness B yelled out that her "baby" was inside. Officer A advised Sergeant A and Officer B that he was going to enter the residence. Officer A entered the bedroom and was approximately four to five feet behind Witness A, who was making her way to a doorway located on the corner of the bedroom.

Note: Witness A entered the residence because she wanted to get her younger brother, Witness D, out of the house.

Note: Officer A believed that there was an ongoing hostage situation and that there was now a child involved. Officer A was also concerned that Witness A was putting herself back into the hostage situation.

Witness B attempted to enter the house behind Officer A; however, Sergeant A prevented her from doing so by grabbing her right arm with the same hand in which he was holding his flashlight. Sergeant A told Witness B they still needed to check the house.

Sergeant A unholstered his pistol as he entered the house and temporarily illuminated a corner of the bedroom to ensure there was no one in that area. Witness A exited the bedroom, causing Officer A to lose sight of her. Officer A moved toward the doorway and observed an empty bathroom to his left and a darkened hallway to his right. Officer A pried¹ the corner of the hallway and immediately observed Witness A standing in front of Witness D in the living room area. Officer A observed Witness D's left hand on Witness A's shoulder; however, he could not see Witness D's right hand. Witness D appeared to be pulling Witness A against him. Officer A believed that Witness D was the subject of the radio call. Officer A raised his pistol, illuminated Witness D with his flashlight, and ordered him to put his hands up.

Officer A observed movement from the corner of his eye and observed a male wearing a black shirt, subsequently identified as Subject 1, step away from the wall of the

¹ "Pieing" is a tactic used to negotiate a blind corner.

hallway in Officer A's direction. Officer A turned and observed Subject 1 holding a gun with the barrel pointed toward his (Officer A's) head. Officer A then saw muzzle flash and heard gunshots. Officer A moved backward and fired toward where he believed Subject 1 would be.

Note: According to Subject 1, he shot once at the police officer and the officers started shooting everywhere.

The subsequent investigation revealed that Subject 1 was armed with a 9mm Beretta pistol. Two expended 9mm cartridge casings, determined to have been fired from Subject 1's pistol, were recovered from the hallway floor.

Officer A tripped and fell into a bathtub inside the bathroom, landing on his back with both legs draped over the edge of the bathtub. Officer A realized that his right arm had been wounded; however, he continued to point his pistol toward the doorway of the bathroom in the event Subject 1 continued his assault. Officer A then observed a black shirt and the barrel of a gun coming from around the corner of the hallway and believed it was Subject 1. From his position in the bathtub, Officer A fired three to five rounds in the direction of the individual with the black shirt, causing that individual to retreat.

There was a brief pause and then Officer A heard gunshots to his right. Officer A believed that either Sergeant A or Officer B was engaging gunfire with Subject 1. Officer A got up from the bathtub, entered the bedroom, and observed Sergeant A firing rounds through the bedroom wall. Officer A then observed what he believed were rounds coming through the wall toward him. Officer A fired an additional four to five rounds toward the wall as he headed to the rear door and exited the residence.

Meanwhile, Sergeant A had been in the bedroom behind Officer A when he observed Officer A step through the doorway that led to the hallway. Sergeant A then heard one gunshot. From his position, Sergeant A could see Officer A's pistol and realized that he (Officer A) had not fired his pistol because of the absence of muzzle flash. Officer A continued to move into the bathroom and out of Sergeant A's view. As Sergeant A stepped to his right, he tripped over objects and fell to the floor.

Sergeant A observed muzzle flash at the doorway and believed that Subject 1 was advancing toward Officer A's location. In response, Sergeant A fired seven rounds toward the doorway. As Sergeant A fired his last round, he heard Officer A state, "I'm hit. I'm hit," and then observed Officer A enter the bedroom and head toward the rear door. As Officer A headed toward the door, he stated, "He's firing through the wall." Sergeant A got up from the floor, moved toward the rear door, and exited the residence.

Meanwhile, after Officer A and Sergeant A entered the bedroom, Officer B's path to the bedroom was blocked by Witness B. Witness B then entered the bedroom behind Sergeant A. Concerned that Witness B was too close to Sergeant A, Officer B grabbed

Witness B's right arm and advised her to wait outside until they finished clearing the house. Witness B stiffened up and began to frantically say, "No."

Officer B heard a series of gunshots, observed Sergeant A moving backwards in the bedroom and falling to the floor, thereby causing Officer A to believe that Sergeant A had been struck by gunfire. Officer B briefly observed Officer A stepping back past the doorway and disappearing out of his view. Officer B began "yanking" Witness B toward the rear door as the gunshots continued and eventually pushing her out of the bedroom as the gunshots ceased.

Officer B drew his pistol and heard more gunshots. Officer B observed what he perceived to be rounds coming toward him from the other side of the wall of the bedroom. In response, he fired approximately seven to eight rounds toward the wall where he believed Subject 1 would be positioned on the other side. Officer B heard Officer A state that he was hit. When there was a lull in the gunfire, Officer B moved up to the doorway and conducted a quick peek into the hallway and did not observe anyone. Officer B then peeked into the bathroom and observed Officer A sitting in the bathtub with his legs draped over the edge of the bathtub, and his back leaning toward the wall. Officer A had his pistol in his left hand and was pointing it toward the doorway of the bathroom. Officer B then quickly moved backwards into the bedroom, toward the rear door, and exited the residence.

Sergeant A broadcast a "help" call while exiting the residence. Officers A and B and Sergeant A exited the rear door, crossed the street, and took a position of cover behind a parked vehicle. Officer A reloaded his pistol, inserting a full magazine of ammunition.

Officer A provided Officer B with a description of Subject 1 and advised him to broadcast information for the establishment a perimeter. Officer B observed that Officer A had sustained an injury to his right arm and appeared to be in pain. Officer B broadcast a request for a rescue ambulance (RA) and an air unit. Sergeant A made additional broadcasts for the establishment of a perimeter.

Officers A and B then observed Witnesses A and B walking in the street, crying and screaming. Officer B ordered them to stop and to prone out on the street. Shortly thereafter, Witness D exited the front door of the residence with his hands up and was directed to prone out on the front porch.

While waiting for the arrival of responding units, Sergeant A repositioned himself to monitor the rear of the residence. As responding units arrived at the scene, Sergeant A directed them to cover the rear of the residence and then returned to his police vehicle.

Additional units arrived at Officers A and B's location. Officer B directed Officer A to go to Sergeant A's police vehicle and wait for the RA. Once Officer A arrived at Sergeant A's police vehicle, he holstered his pistol. Sergeant A also holstered his pistol, retrieved a first aid kit from his police vehicle, and wrapped Officer A's right arm with a bandage. Once there were sufficient resources deployed at the front of the residence, Witnesses

A, B, and D were directed to walk backward one at a time toward awaiting officers and were detained.

The RA arrived at the scene, and Los Angeles Fire Department (LAFD) personnel treated Officer A for a gunshot wound to his right arm. Officer C accompanied Officer A to the RA. While LAFD personnel prepared Officer A for transport, Officer C observed a bullet hole in the upper torso portion of Officer A's uniform shirt and a copper jacket fragment embedded in the material. LAFD personnel removed Officer A's shirt and observed a bullet that had struck the top portion of the trauma plate in his ballistic vest. Officer C gathered Officer A's uniform and equipment and retained them as evidence. Officer A was transported to a local hospital.

A command post was established. Sergeant A and Officer B responded to the command post and provided a Public Safety Statement.

Specialized unit officers made entry into the residence and took Subject 1 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 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 Sergeant A's and Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- The BOPC found Sergeant A's and Officers A and B's drawing to be in policy.

C. Lethal Use of Force

- The BOPC found Sergeant A's and Officers A and B's lethal use of force to be in policy.

Basis for Findings

A. Tactics

- In its adjudication of this incident, the BOPC considered that:
 1. While en route to the location, Officer B requested additional information from CD regarding the radio call. Upon arrival, the officers had not received the requested information and did not observe any unusual activity in front of the residence. Sergeant A proceeded to the rear via one side of the house and Officers A and B proceeded down the other side. As a result, Officers A and B were not in a position to render immediate aid to Sergeant A, if necessary. Additionally, when the females were observed to the rear of the residence, they were between the officers and Sergeant A, creating a potential cross-fire situation.

Officers should gather all available information prior to initiating a plan of action, coordinate their roles, and ensure that all involved personnel are aware of each other's intentions.

2. The investigation revealed that Sergeant A did not relay his observation that one of the females had her thumb pointing toward the house to Officers A or B. Additionally, based on Officer A's observations, he believed the subject may have been inside the location but also did not convey the information to the others at scene. Based on their observations, it would have been appropriate for Sergeant A and Officer A to advise the females and Officer B to move to a position of cover, continue the investigation from a safe location, and request the response of additional personnel.

Therefore, Sergeant A and Officers A and B should have communicated their observations to other officers at the scene as well as requesting the necessary resources to appropriately handle the incident.

3. Upon discovering the females to the rear of the residence, Officers A and B engaged them in conversation. Later, Officer B left his position as cover officer when he focused his attention to and walked toward Sergeant A in order to brief him regarding the females' statements. Here, Officer B's primary duty was to provide cover for Officer A as he gathered information and provided direction to the females. Partner officers must coordinate their roles to ensure that the integrity of the contact and cover concept is not compromised.
4. Although concerned for the safety of the woman that entered and the "baby" that she referred to, there was no evidence to support that this was an ongoing life-threatening situation which required an immediate advance into the residence; however, Officer A elected to follow Witness A into the residence. Once inside, Officer A lost sight of Witness A and continued to move further into the house and encountered Subject 1. The investigation revealed Officer A had the opportunity to

tactically redeploy once the female was out of his view. Additionally, Officer A's actions forced Sergeant A to enter the house to provide cover. Here, it would have been appropriate for Officer A to have considered a tactical withdrawal, request additional resources to establish containment, and order the female and subject out of the residence.

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 and substantially deviated from approved Department tactical training.”*

Therefore, a Tactical Debrief is the appropriate mechanism for the substantially 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 found that Sergeant A and Officers A and B's tactics warranted a Tactical Debrief.

B. Drawing/Exhibition/Holstering

Officer A

Upon arrival at the radio call location, Officer A drew his service pistol because he believed there as a hostage and a man with a gun.

Officer B

Officer B drew his service pistol because the call had indicated there was a man inside with a gun and Officer B was concerned for his safety and the safety of his fellow officers. Officer B holstered his service pistol upon reaching the rear of the house and encountering three females, as he believed Subject 1 was gone.

Officer B heard gunfire erupt in the residence and saw his partner stepping backward into a hallway, indicating that he had been hit and re-drew his pistol.

Sergeant A

Sergeant A observed three females exit the house, drew his weapon, and identified himself. Once the officers approached, Sergeant A holstered his service pistol. Sergeant A entered the residence behind Officer A and drew his service pistol a second time to provide cover and assist Officer A in searching the residence.

In this situation, it was reasonable for the involved personnel to believe that the tactical situation either could, or already had, escalated to the point where lethal force may become necessary.

Note: In addition to the above listed employees, there were additional officers 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.

The BOPC found Sergeant A's and Officers A and B's Drawing/Exhibiting to be in policy.

C. Lethal Use of Force

Officer A - .40 caliber, 16 rounds.

According to Officer A, while confronting Witness D, who was holding Witness A and appeared to be pulling her toward him, he observed movement in his peripheral vision and turned and looked toward the movement. Officer A observed Subject 1 holding a handgun with his arm fully extended and heard two gunshots while Subject 1 advanced toward him. According to Officer A, he fired approximately four to five rounds toward where he believed Subject 1 would be.

After entering the bathroom and falling into the bathtub, according to Officer A, he saw what appeared to be the front of the gun and a black shirt coming around the corner, so he fired several more rounds at that – at Subject 1 where he was coming around the corner of the door.

Officer A exited the bathtub, quickly exited the bathroom, and entered the bedroom of which they had initially made entrance to the residence. As he entered the bedroom, according to Officer A, he observed Sergeant A returning fire through the wall. Officer A also saw rounds coming through the wall from the opposite direction. Officer A started returning fire through the wall as well.

Sergeant A - .45 caliber, seven rounds from approximately seven feet.

After Sergeant A saw the muzzle flash and knew it was not coming from Officer A's service pistol, he tripped over an object on the floor and landed on the ground. Sergeant A thought Subject 1 was trying to assault Officer A. In response to his observations, Sergeant A fired approximately six rounds beginning at the doorjamb of the room and hallway and progressing where he believed Subject 1 was standing.

Officer B - .45 caliber, eight rounds from an approximate distance of eight to thirteen feet.

According to Officer B, after the initial shots were fired, he heard a second series of gunfire erupt. Officer B observed several rounds penetrating the wall of the bedroom and believed that the rounds were coming in his direction. Officer B observed muzzle flash from Sergeant A's pistol as he fired toward the doorjamb. Officer B also observed shots coming through the wall. He then believed the subject to be immediately on the opposite side of that wall, and he started firing rounds where he believed the subject to be.

It was objectively reasonable for Sergeant 1 and Officers A and B to utilize lethal force in response to Subject 1's actions and in defense of their and the other officers' lives.

The BOPC found Sergeant A's and Officers A and B's use of lethal force to be in policy.