

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

**OFFICER-INVOLVED SHOOTING – 001-11**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
Southeast	01/02/2011		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer E	4 years, 8 months

**Reason for Police Contact**

Witnesses called 911 when two subjects entered a residence and initiated an armed robbery. Officers responded to the residence, and an officer-involved shooting (OIS) occurred.

<b>Subject</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
Subject 1: Male, 19 years.			

**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, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on November 22, 2011.

**Incident Summary**

Witness A was at her residence with her boyfriend, Witness B, and godson, Witness C, when Witness D arrived at the location to collect money owed to him. Witness D had driven to the location with Witness E. Witness D approached Witness A's residence while Witness E remained in the vehicle. While Witness E was waiting for Witness D to

return to the vehicle, she observed two males walk up along the side of the house. Witness E called Witness D on his cell phone and told him there were two suspicious-looking males, Subjects 1 and 2, outside the house.

Witness D told everyone inside the house about Witness E's phone call and then observed one of male residents go outside and heard someone harassing him. Witness D ran behind the TV to protect himself.

Witness B went outside to see if it was raining, and as soon as he opened the door, two males came from behind, and he saw one male holding something in his hand. The male said, "Stop. I'll shoot," and Witness B attempted to run back in the house, but both subjects forced their way inside and started beating Witness B on his head and ribs. Although the subjects duct taped Witness B's wrists together, he was able to break free and ran into the attic to hide.

According to Witness A, Subjects 1 and 2 forced their way inside the house, and Witness A observed Witness B freeze and drop to the ground. She observed the two subjects overpower her and Witness B, striking Witness B on top of the head with a gun and knocking them both down to the ground. Witness A observed that both subjects were armed.

Also according to Witness A, the subjects were threatening to kill Witness B, saying, "Give me everything. Give me all your money and all your jewelry." The subjects tied Witness A's and Witness C's wrists and told them to keep their heads down, indicating that if they looked in Subjects 1 and 2's direction, Subjects 1 and 2 would kill them.

According to Witness C, once he was on the ground, the last thing he saw was the barrel of a gun. He also heard the subjects beating someone up, but he did not see anything because he was positioned facedown. Witness C described the gun he observed before going to the ground as a black revolver, approximately 6 inches long with a cylinder. Witness C also indicated that he felt a couple of different guns in the back of his head, some feeling bigger than others.

Witness C also heard Subjects 1 and 2 ask, "Where's the money? Where's the drugs?", "I'm here to get some weed," and repeatedly said, "You know what it is. You know what it is [...] You know what we're here for."

Witness D, still hiding behind the TV, believed he saw a gun in one of the subject's hands. He also knew the subjects had duct tape and were telling the victims to lie on the floor. Witness D also heard the suspects threaten to cut off the victims' legs and torture them. Witness D believed one of the victims had something in his/her mouth because he heard one of the subjects ask, "How did you get that out of your mouth?"

Witness D called LAPD's Communications Division (CD) to report the crime in progress.

Witness D did not know what address to relay to the 9-1-1 dispatcher. Witness D also indicated that the dispatcher tried to call him approximately 10 times, but Witness D could not talk because he believed the subjects would hear him.

**Note:** Over 11 calls were generated between the Emergency Board Operator (EBO) and Witness D in an attempt to locate the address using a tracking system for cellular phone towers that locates a person transmitting a signal via cell phone.

Several officers monitored a radio call specific to this incident and at an initial address broadcast by CD, indicating they would respond. Additional officers indicated they would serve as backup to the call and responded to the same initial address. An Air Unit also advised CD they were en route to the scene.

Meanwhile, Witness E was still sitting in her vehicle, and from approximately 10-15 feet away had observed Subjects 1 and 2 run into the house. Witness E could see that one of the subject's hands was up and it appeared as though he had a weapon in his hand. Witness E exited her vehicle and ran around the corner because she did not want to be caught in the car in the event the subjects exited the house.

Witness E attempted to call Witness D again, and he told her that Subjects 1 and 2 were holding him hostage, were telling the people in the house that they should lie on the ground, and that they would be hurt if they did not cooperate. Witness D hung up the phone and then called back, telling her that she should call the police and that the subjects were going to kill him if they find out he was there.

Witness E knew the subjects had a gun because Witness D told her a subject hit one of the residents in the head with it. Witness E called the EBO and requested that the police respond to her location, around the corner from the house. CD issued a broadcast accordingly, determining that the two calls were related.

**Note:** The initial broadcast location was just opposite from the location where the incident was occurring, on the other side of a 10-12 foot cinder block wall.

#### Arrival of officers and events leading to the OIS

All officers who responded to the first location responded to the second location and met with Witness E. The Air Unit relayed to officers on the perimeter that the subjects inside the house had tied up the victims and that the perimeter officers should hold their positions.

Sergeant A responded to the location and broadcast his arrival. Multiple additional officers also arrived at the scene, including Officers A, B, C, D, E, F, G, H, I, J, and K.

Witness E briefed the officers on information she had received from Witness D. Witness E relayed that she had observed the subjects enter the house and that they were armed. Although Witness E told Sergeant A she observed the men enter the house, Sergeant A later indicated that the officers had struggled with what to do because they didn't have somebody who actually saw the subjects running into the house.

**Note:** According to Officer I, there was information communicated on the radio that Witness E saw two to three males, dark clothing enter the location armed with handguns. Officer I further indicated that he passed along the information from Witness E about the subjects being armed to Sergeant A. According to Officer J, he also heard the female PR say that one of the suspects had a Tec-9.

Witness E handed Officer I her cell phone, indicating that Witness D had called her back. According to Officer I, he could not hear anyone on the line, so he returned the phone to Witness E, telling her that Witness D was staying quiet because he could not talk. Sergeant A also indicated that an officer handed him a cell phone and said that the male PR was on the line, but when he was actually on the phone it was silent.

Sergeant A indicated that the officers also obtained a clothing description of Witness D from Witness E. Sergeant A directed officers to contact the neighbors, trying to discern who actually lived in the house and to obtain a description of those individuals. Officer C indicated he approached one female neighbor to try to differentiate between victims and subjects. The neighbor described Witness A, indicated that Witness A had a husband, and that a third male lived in a back house. The neighbor also conveyed that Witness A had a 17-year-old son who lived in the residence but who was not home.

Meanwhile, inside the house, the subjects and victims knew the police were outside because they heard the sound of a helicopter. Witness C heard the subjects say, "The police."

Once the containment was set up, the team of officers tried to call the occupants of the residence out using the Public Address (PA) system of one of the police vehicles. There was no response. In addition, an officer had reported to Sergeant A that he saw movement in one of the windows, a shadow moving back and forth.

Sergeant A indicated that he called the Watch Commander, Sergeant B, to discuss the issue of whether notifying Metropolitan Division (Metro) was warranted. In his initial conversation with Sergeant B, Sergeant A believed he had a hostage situation and that he should be notifying Metro, but that he needed to be ready at the scene to take action, should that become necessary. Sergeant A did not ask Sergeant B to contact Metro and did not know if he actually called.

Subsequent to the phone call to Sergeant B, Sergeant A decided to make entry to the residence. Sergeant A indicated that the prior phone call from the male PR where he

(Sergeant A) could not hear anything was a “tipping point” for him. Sergeant A felt like he had resources at the location such that he could deal with what was occurring, and he didn’t want to be standing on the outside with people inside getting hurt. Sergeant A did believe the hostages were hurt or about to be hurt. Sergeant A also believed they had been bound for a long time.

**Note:** According to Sergeant A, he had handled “murder cases where you’ve had people bound and tied and you don’t know how they’re taped or gagged,” and he compared those cases to the current incident, indicating the situation felt like the victims needed the officers’ assistance.

Officer E conveyed to Sergeant A that this situation qualified as a rapid deployment situation given the nature of the call, the totality of the circumstances, and the information the officers had. Officer E recalled having information that there were potentially victims inside the location that were being tied or bound or otherwise prevented from leaving by at least two, if not three, potential subjects. The officers had a general description of the subjects and another description that they were armed. Officer E further indicated that the plan was to secure the officers’ position as best they could, and tactically enter the location by force, if necessary, in addition to engaging the subjects and assisting any victims.

According to Officer K, Sergeant A explained that entry into the house was necessary due to there being approximately two victims and two armed gunmen in the house and not knowing if there were exigent circumstances. Officer K also indicated that Sergeant A relayed that Metro was not coming. Officer I could not speak for why Sergeant A made the decision to enter but that the officers were trained to conduct a rapid deployment if SWAT was going to take too long to respond.

Sergeant A assigned various roles to the officers – Officer E was to deploy a rifle; Officer I would be his cover; Officer K was assigned the hook and ram for purposes of opening the door; an officer was assigned to a less-lethal role; and Officer B was assigned to set up the team. Sergeant A also directed officers to cover the perimeter and designated himself as team leader on entry, who would handle communication.

**Note:** According to Officer B, Sergeant A said that there were “possibly suspects inside the house with victims that were possibly tied up.”

**Note:** When Officer D, another entry team officer, was asked whether he knew there were possibly hostages inside the house, he said, “No, I did not.” When Officer D was subsequently asked, “Did you ever find out that there were people inside the house prior to making the entry,” he indicated, “No. That wasn’t brought to my attention.”

Sergeant A approached the house along with the entry team, drawing his weapon as he approached.

Officer E walked past the front door and front porch area, covering down the driveway area while the rest of the entry team began to work on the front door. Officer E noticed a side door, which was approximately 10-15 feet from where he was standing.

**Note:** Officer E also observed Officer I come up to him and squeeze him on the leg to communicate that he was with Officer E. According to Officer E, the squeeze indicated that Officer I was “ready and available,” so that Officer E did not have to take his eyes off of the target location.

Sergeant A then directed the entry team officers to conduct a “knock and notice” because he wanted to ensure the occupants of the house realized the officers were at their front door. After knocking three or four times, an announcement was issued. Sergeant A indicated that he gave the occupants of the house a chance to exit, but there was not anything happening. The breaching of the door was initiated within 30 seconds of the officers’ announcement.

#### *Events outside the house, leading to the OIS*

Meanwhile, Officer E could see on the side door of the house that the doorknob began to move and rattle, as if somebody was manipulating it from the other side. Officer E yelled, “Contact. Contact. I have a subject attempting to exit the house from the side door.” And it appeared that the manipulation of the doorknob from the inside stopped.

Officer E heard the front door to the house being breached and officers issuing commands to “Get down,” at which time he saw the side door being manipulated again. Officer E observed the side door open ajar and yelled, “Contact. Contact. I have a [subject] leaving the side door.” Officer E then observed the door being swung open rapidly and came up on target.

Officer E observed Subject 1 step from the house holding a handgun in his right hand. Subject 1 was holding the gun in his right hand, “casually,” pointing the weapon towards the ground. Officer E further indicated that Subject 1 stepped out, facing his left torso towards Officer E. Officer E described Subject 1’s gun as a blue steel, semi-automatic, larger-framed handgun, possibly a Tec-9 semi-automatic handgun.

Officer E issued repeated commands for Subject 1 to “drop the gun.” Next, according to Officer E, Subject 1 looked back and forth and in Officer E’s direction. He then turned his body towards Officer E and began to lift the handgun and raise it towards Officer E’s direction. It appeared to Officer E as though Subject 1 was evaluating his options and making a decision as to what his next course of action was going to be.

Then Subject 1 turned his body slightly toward Officer E and raised his arm up in the officers’ direction. Officer E indicated that Officer I screamed, “He’s got a gun,” three times. Officer E also believed Subject 1 had made his decision and was going to engage the officers and shoot them. Officer E indicated that he did not allow Subject 1

to get up on target and, accordingly, fired his rifle three or four times, aiming at Subject 1's center mass. Officer E observed Subject 1 drop his gun and fall to the ground.

**Note:** The investigation revealed that Subject 1 was struck by four gunshots. The trajectory of the gunshot wounds were as follows – (1) wound to the head – back to front, upwards; (2) wound to the jaw – left to right, slightly front to back and downwards; (3) wound to the chest – left to right; and (4) wound to the hip – back to front, left to right, upwards.

Meanwhile, according to Officer I, he yelled, "Gun, gun, gun," as he came up on target on Subject 1, when suddenly three rounds went off to Officer I's left. Officer I saw Subject 1's gun starting to draw in an upward position and the barrel starting to come up. Subject 1 then went down and dropped his weapon. Officer I then issued a broadcast requesting additional units while Officer E commanded Subject 1, "You better not move. You better not grab the gun."

Meanwhile, according to Sergeant A, as the frame of the front door was coming down, he heard someone yell, "Gun," and shortly after that he heard gunshots from what he believed to be a rifle. Sergeant A looked down the side of the house and saw a subject down. Sergeant A yelled at the officers to continue searching the inside of the residence and communicated with Officers E and I that he wanted them to continue covering the subject and not approach, given that he did not want them to potentially expose themselves to the subjects without proper coverage. Further, Sergeant A did not want to expose Officers E and I to any cross-fire. Sergeant A advised the Air Unit of the OIS rather than issuing a radio broadcast because he didn't want confusion that would have resulted from multiple units responding. The Air Unit then advised CD that an OIS had occurred and requested a Rescue Ambulance (RA).

#### *Events inside the house, occurring simultaneous to the OIS*

Consistent with Sergeant A's command to continue clearing the residence, entry team officers proceeded to clear the house and take all potential subjects into custody. Officer J entered the residence and observed a female and a male tied down. Officer J did not know if the male was a victim or subject.

Officer J then observed a second male, Subject 2 walking towards him from the kitchen with his hands up, and Officer J ordered him to get down on his knees. Officer J then heard yelling outside and three to four gunshots. Officer J indicated that another officer directed Subject 2 to put his hands behind his head and handcuffed Subject 2.

While other officers continued to clear the rest of the house, Officer B stayed with the victims on the floor. Officer B also ordered Witness D, who was still hiding behind the television, to come out. He conducted a pat down search of both Witnesses C and D and sat them on a couch next to one another.

Los Angeles Fire Department personnel treated Subject 1 for multiple gunshot wound injuries and then transported him to Harbor/UCLA Medical Center. Subject 1 was pronounced dead at the hospital.

### **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 and Officers A and B's tactics to warrant a tactical debrief.

#### **B. Drawing/Exhibiting**

The BOPC found Sergeant A and Officers A and B's drawing and exhibition of a firearm to be in policy.

#### **C. Lethal Use of Force**

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

### **Basis for Findings**

#### **A. Tactics**

In adjudicating this incident, the BOPC considered that:

Prior to making entry into the location, Sergeant A considered numerous factors in determining which course of action to pursue. Sergeant A took into account the information he had received that two to three armed subjects were inside the residence and that victims had been bound. Sergeant A recalled that he had heard in the comments of the call that the people were being tied up, and there were males armed with guns inside the house.

Sergeant A was also concerned with the amount of time that transpired due to the delay in locating the residence. Sergeant A believed the victims were hurt or about to be hurt.



He knew that they had been bound and that it had been a significant amount of time that these people had been tied up, given the amount of time it took to find the correct location.

Approximately three months prior to this incident, Sergeant A responded to the scene of a home invasion robbery in which one of the victims suffocated to death as a result of being bound and gagged. This experience was also factored into Sergeant A's decision making process.

While taking the above information into consideration and formulating a tactical plan, an incident occurred which Sergeant A considered a "tipping point" which resulted in the rapid deployment into the residence. Witness D, who was hiding inside the residence, telephoned his girlfriend (Witness E) to provide the officers on scene with further information. However, when the telephone was given to Sergeant A, there was no response from Witness D. Due to the lack of response, Sergeant A believed Witness D may have been discovered by the armed robbers. Sergeant A believed he had resources there such that he could deal with what was occurring and that was specifically the entry tools and the personnel that came along with it. He was also afraid that Witness D had just been discovered, and he didn't want to be standing outside when people inside were getting hurt.

The aforementioned articulable circumstances warranted the reasonable belief that the victims inside the residence were in a life threatening situation where delayed deployment could otherwise result in their death or serious bodily injury. Sergeant A was faced with a difficult decision and after giving consideration to the information known to him at the time, enacted a well thought out tactical plan wherein he maximized officer safety by initiating the entry only after appropriate personnel resources and entry tools were on scene. In the BOPC's opinion, although the decision to make immediate entry deviated from the specific criteria for an Immediate Action / Rapid Deployment scenario, the decision was justified and consistent with expectations that Department personnel take action when, as in this case, there was a reasonable belief that human life was at risk.

Although the circumstances deviated from the specific criteria, the decision to implement an immediate entry prior to contacting Special Weapons and Tactics (SWAT) was justified.

Second, the BOPC considered that Subject 1 was struck by Officer E's gunfire and fell to the ground. Officer I observed Subject 1's handgun underneath Subject 1's right leg. Officers E and I monitored Subject 1 as the search continued for additional subjects. Based on the ongoing search for additional subjects, Sergeant A told his officers to secure the weapon and handcuff Subject 1. Sergeant A didn't know how many other subjects there were while we were still actively searching. So he felt it best to take the weapon and put it somewhere where it couldn't be used.

Officer I retrieved Subject 1's handgun and then handed Subject 1's handgun to Officer K, who then secured it in the trunk of his police vehicle.

Although it is preferred that evidence within an OIS scene remain undisturbed, in this instance, Subject 1 fell to the ground next to the side door with the handgun underneath his right leg. Believing that there was at least one additional subject hiding inside the residence and other officers were still involved in an ongoing tactical situation, it was appropriate for Sergeant A to order the officers to recover Subject 1's handgun.

In conclusion, the BOPC found that Sergeant A's actions of ordering the officers to recover Subject 1's handgun did not substantially deviate from approved department tactical training.

Finally, the investigation revealed that a "knock and notice" was conducted prior to making entry to the residence. Although prior to the final determination of exigency, it was appropriate to attempt to call the subjects out of the residence utilizing a public address system; once exigency had been determined, a "knock and notice" was not required and was inconsistent with the exigency of the entry. As the leader of the entry team, Sergeant A should have directed the team to make immediate entry and forgo the knock and notice.

## **B. Drawing/Exhibiting**

In this instance, Officer E was assigned the point position of the team making entry into the location. In preparation, Officer E retrieved his rifle from the trunk of his vehicle. As the entry team approached the target location, Sergeant A and Officer I unholstered their service pistols. Given the fact that the officers perceived that they were going to force entry into a location containing armed subjects, an officer with similar training and experience would reasonably believe the situation could escalate *"to the point where deadly force may be justified."*

In conclusion, the BOPC found Sergeant A's and Officers E and I's Drawing/Exhibiting to be In Policy.

**Note:** In addition to the above listed employees, along with the other team members of the entry team and additional personnel that responded following the OIS, the officers drew or exhibited firearms. Their drawing/exhibiting was appropriate and requires no specific findings or action in regard to these officers.

## **C. Lethal Use of Force**

As the entry team officers initiated entry into the residence, Officer E took a position of cover and monitored a side door on the side of the residence. As the other officers utilized the ram and hook and made entry inside the residence, Officer E observed

movement as if someone manipulated the doorknob. As Officer E observed movement of the door handle, he screamed out, “*Contact, Contact!*” and then observed the door open abruptly. Officer E then observed Subject 1 exit the residence carrying a handgun.

Fearing Subject 1 was about to shoot him or his partner, Officer E fired four rounds from his police rifle at Subject 1. Subject 1’s four gunshot wound trajectories were established in the following directions – (1) wound to the head – back to front, left to right, upwards; (2) wound to the jaw – left to right, slightly front to back and downwards; (3) wound to the chest – left to right; and (4) wound to the hip – back to front, left to right and upwards.

The BOPC noted that the two back-to-front trajectories are consistent with Subject 1’s actions, as described by Officer E. According to Officer E, he saw Subject 1 open the door, and Subject 1 was holding the gun in his right hand, as he stepped outside onto the porch, facing his left torso towards Officer E. Officer E also described that Subject 1 looked back and forth and then looked in Officer E’s direction as he turned his body towards Officer E and began to lift the handgun and raise it towards Officer E. Officer E indicated that it looked as though Subject 1 was evaluating his options and making a decision as to what his next course of action was going to be. With Subject 1 turning towards the officers’ direction, and his body turned slightly toward Officer E, Subject 1 raised his arm up in the officers’ direction. It was at this point that Officer E fired four rapid, consecutive rounds.

In conclusion, the BOPC found Officer E’s use of Lethal Force to be In Policy.