

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

OFFICER-INVOLVED SHOOTING – 019-07

Division	Date	Time	Duty-On (X) Off()	Uniform-Yes(X) No()
Van Nuys	02/25/2007			

Officer(s) Involved in Use of Force	Length of Service
Officer A	34 years, 11 months
Officer B	16 years, 10 months

Reason for Police Contact

Officers responded to a call for a man with a gun. Upon identifying Subject 1's vehicle, and observing the vehicle starting to move, a pursuit was initiated.

Subject	Deceased ()	Wounded ()	Non-Hit (X)
Subject 1: Male, 33 years old.			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate the 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 and addenda items); the 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 January 15, 2008.

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

Officer B and Officer C responded as a backup unit to a radio call of a man (identified as Subject 1) with a gun. As Officers B and C drove toward the call location, the primary unit broadcast additional information about Subject 1, including his physical description, a description of the vehicle he was currently driving, and his last known direction of travel. Officers B and C drove in search of Subject 1, but they were unable to locate him.

Later, Officers B and C heard another radio call which indicated that Subject 1 had returned to the area of the prior call. They responded toward that location, and Officer B requested the response of an airship as well. As they drove, Officer B noticed Subject 1's vehicle parked approximately three blocks away.

Officers B and C stopped their police vehicle behind Subject 1's. Officer C then observed the brake lights of Subject 1's vehicle illuminate, and he believed that the vehicle had either been started or put into gear. Officer C told Officer B that it looked like the vehicle might be driven away, and he then observed Subject 1's vehicle begin to move. Officers B and C followed Subject 1's vehicle.

Subject 1 made several turns and failed to stop for a posted stop sign. Officers D and E arrived in the area to back up Officers B and C. As Officers D and E drove, they observed Subject 1's vehicle coming toward them, followed by Officer B and C. Officers D and E negotiated a U-turn and followed behind Officer B and C's police vehicle. Subject 1 then stopped his vehicle. Officers B and C stopped behind Subject 1.

Officers B and C then exited their police vehicle and drew their weapons. Officer B observed Subject 1 exit his vehicle and begin to move around the front of his vehicle. Officer B yelled, "Freeze," and observed that Subject 1's right hand was either in his pocket or his waistband. Officer B believed Subject 1 was armed with a handgun.

As Subject 1 reached the front of his vehicle, Officer B re-deployed using a telephone pole for cover. Meanwhile, Officer C saw the rear passenger door of Subject 1's vehicle "crack open about a couple inches." Officer B next saw Subject 1 running toward his residence. Officer B saw Subject 1 holding a dark object in his hand "a few inches off his leg." Officer B stated, "And I thought definitely he's gonna try and shoot me or – or shoot at my partner." Subject 1 stated that he did not have a weapon with him at the time of the incident.

At this point, Officer B fired one round at Subject 1, who continued moving toward his residence until Officer B lost sight of him. Officer C broadcast a help call, indicating that shots had been fired.

Officer B then attempted to see where Subject 1 had gone. Other officers at the scene then began to establish a perimeter. Meanwhile, additional units began to arrive at the scene. Among the officers who eventually responded were Metropolitan Division, Special Weapons and Tactics (SWAT) officers, Officer A, Officer F, and Officer G.

While Subject 1 remained inside his residence, Officer A communicated with a crisis negotiation team that had responded and had gathered information about Subject 1, including his tendency to go into the attic of the residence when police were attempting to contact him. Attempts to contact Subject 1 telephonically were met with negative results. Tear gas was also unsuccessfully deployed in an attempt to force Subject 1 out of his residence.

Eventually, Officers A, F, and G (along with additional Department personnel) entered and began to clear each room. Officers focused their attention on one bedroom in

which the attic was accessible through a ceiling door. The officers deployed tear gas directly into the attic, but they remained unsuccessful in forcing Subject 1 to come out.

Officers subsequently used a fire department pole to poke another hole into the attic so that they could look in from a different angle. As the hole was being created, Subject 1 dropped through the doorway and into the bedroom with Officers F and G, who each observed that Subject 1 moved his left hand toward his waistband as he fell.

Observing that Subject 1 appeared to be in a combative state, and seeing a hand move toward Subject 1's waistband area, Officer A decided to use his taser on Subject 1. Officer A shouted the word "taser" to Officers F and G, and then he fired the taser darts at Subject 1. After being struck by the darts, Subject 1 was subdued enough to allow Officers F and G to handcuff him. He was subsequently searched for weapons and removed from the residence. Subject 1 then received medical treatment from Los Angeles Fire Department (LAFD) personnel at the scene, and he was transported by a Rescue Ambulance (RA) to a nearby hospital for further treatment.

No gun was recovered from Subject 1's person nor during a subsequent search of the residence conducted by Department personnel.

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 that Officer C's tactics did not warrant additional training. The BOPC found that Officer B's tactics warranted divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer B and C's drawing to be in policy.

C. Less-Lethal Use of Force

The BOPC found Officer A's less-lethal use of force to be in policy.

D. Lethal Use of Force

The BOPC found Officer B's lethal use of force to be in policy.

Basis for Findings

A. Tactics

The BOPC noted that, during their first encounter with Subject 1, Officers B and C exited their vehicle and gave orders to Subject 1, who drove away from the officers. Officers B and C entered their police vehicle and followed Subject 1. Officer B and C's decision not to initiate a pursuit was reasonable. The air unit was overhead, a back-up unit was enroute, and the following traversed one-half mile.

Prior to the OIS, Officers B and C re-deployed, thereby affording them a clear view of Subject 1 and appropriate cover had Subject 1 decided to fire on the officers. Responding officers, along with Officers B and C, appropriately cleared Subject 1's vehicle and maintained their self-discipline by establishing a perimeter that contained Subject 1 in a specific area and thus removed the inherent risks associated with pursuing an armed suspect.

Following the OIS, the BOPC noted that Officer B did not de-cock his pistol until after he cleared Subject 1's vehicle. Although the Chief determined this action to be appropriate, noting that the potential for the vehicle to contain additional suspects presented a threat that warranted this delay, the BOPC noted that Department policy requires that, generally, a pistol should be de-cocked when the "involved officer has determined that the immediate necessity to fire no longer exists."¹

In this case, Officer B maintained his pistol in a cocked condition after the immediate necessity to fire had ceased. Further, no circumstance that would warrant deviation from the general requirement to de-cock was apparent.

The BOPC found Officer B's tactics to warrant divisional training. The BOPC found that Officer C's tactics did not warrant additional training.

B. Drawing/Exhibiting/Holstering

The BOPC noted that once Subject 1 stopped his vehicle, Officer C positioned the police vehicle behind Subject 1's vehicle. Fearing an armed confrontation, Officers B and C exited their police vehicle and drew their service pistols.

The BOPC determined that Officers B and C had sufficient information to believe that the situation had escalated to the point where deadly force may become necessary.

The BOPC found Officer B and C's drawing to be in policy.

¹ Los Angeles Police Department Manual, Volume 3, Section 610.25.

C. Less-Lethal Use of Force

The BOPC noted that the Crisis Negotiation Team attempted to establish contact with Subject 1 with a landline and a cellular telephone. Subject 1 did not respond. On several occasions, contact was attempted with Subject 1 via a bullhorn from several different positions. Subject 1 did not respond. Tear gas was then utilized without success, prompting the SWAT officers to make entry into the residence and search the location. Subject 1 was located in the attic area and was ordered to exit. Subject 1 finally complied and exited through the attic hatch, falling onto the bedroom floor. Subject 1 was uncooperative and did not comply with the officers orders. Subject 1 continuously moved around on the floor and attempted to get to his feet while placing his left hand underneath his waistband area. The officers were unable to observe Subject 1's hands and could not determine if he was armed. The officers felt it was unsafe to approach and take him into custody.

Officer A stood in the bedroom doorway, observed Subject 1 reaching for his front waistband, and believed that he may arm himself. Officer A yelled "taser," which provided Subject 1 a moment to comply and alerted the other officers in the bedroom.

Officer A fired the taser at Subject 1 and struck him in the torso, which allowed the officers to move in and take Subject 1 into custody without further incident. The BOPC determined that Officer A's use of the taser was reasonable to overcome Subject 1's resistance and take him into custody.

The BOPC found Officer A's less-lethal use of force to be in policy.

D. Lethal Use of Force

The BOPC noted that, as Subject 1 ran past the front of the parked vehicle, Officer B observed Subject 1 holding a dark object resembling a handgun in a pistol grip fashion. Subject 1 looked in the direction of Officer B and pointed the object at him, casting his right arm upward from his right side at a 30-degree angle. In fear for his life, Officer B fired one round at Subject 1.

No gun was recovered during the investigation of this incident. However, the BOPC did not believe that the presence or absence of an actual gun at the scene is determinative as to whether the use of force conformed with Department policy.

The BOPC determined that Officer B reasonably believed that Subject 1 presented an immediate threat of serious bodily injury or death.

The BOPC found Officer B's use of lethal force to be in policy.