

**ABRIDGED SUMMARY OF AN OFFICER-INVOLVED SHOOTING AND FINDINGS  
BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

**OFFICER-INVOLVED SHOOTING – 052-08**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On(X) Off()</u></b>	<b><u>Uniform-Yes(X) No()</u></b>
Foothill	05/29/08		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	8 years, 9 months
Officer B	12 years, 2 months
Officer C	11 years, 6 months
Officer D	11 years
Officer E	17 years, 11 months
Officer F	7 months
Officer G	1 year, 5 months

**Reason for Police Contact**

Officers observed a potential Driving Under the Influence (DUI) subject who fled from the officers. Multiple officers used force to apprehend the subject.

<b><u>The subject(s)</u></b>	<b><u>Deceased ( )</u></b>	<b><u>Wounded (X )</u></b>	<b><u>Non-Hit ( )</u></b>
Male, 27 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 BOPC 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. 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 May 19, 2009.

## **Incident Summary**

Officers C and D, each deployed on a marked police motorcycle, were working a Driving Under the Influence (DUI) task force.

Officer C observed a vehicle traveling in front of him driving erratically. Officer C opined that the driver (subject) was driving under the influence. The subject drove his vehicle in the same manner for several blocks until he turned into the parking lot of a liquor store and stopped his vehicle.

**Note:** Officer C did not advise Communications Division (CD) of his status or location prior to initiating the motor vehicle stop.

Officer C positioned his motorcycle behind the subject's vehicle and activated his forward facing red light to conduct a traffic stop. Officer C was in the process of dismounting his motorcycle when he observed the subject looking at him through his rearview mirror. The subject moved his head from left to right, started his vehicle and drove out of the parking lot.

Officer C mounted his motorcycle, started the engine and activated his emergency lights and siren. Officer C proceeded to follow the subject's vehicle toward a nearby intersection.

Meanwhile, Officer D observed the subject's vehicle leaving the parking lot with Officer C following on his motorcycle. Officer D proceeded to join Officer C.

Officer C attempted to broadcast that he was in pursuit; however, he realized that the communications plug on his helmet was not connected into his motorcycle. The subject then failed to stop for a posted stop sign. Officer C observed the subject lose control of his vehicle and then saw smoke. The subject's vehicle came to a stop on the sidewalk.

Officers C and D stopped their motorcycles behind the subject's vehicle and dismounted their motorcycles.

Officer C ordered the subject to exit the vehicle. The subject did not comply with Officer C's verbal commands, but instead accelerated his vehicle, drove off the sidewalk and continued driving. Officers C and D mounted their motorcycles, started their engines and proceeded to follow the subject.

Officer C reconnected his communications plug and broadcast that he was in pursuit. Officer C believed that one of the subject's tires had blown out and observed the subject's vehicle leaning to the right.

At an intersection, the subject turned and failed to stop for a posted stop sign at the intersection. The subject accelerated at speeds up to 60 miles per hour, driving through several red tri-signals, posted stop signs and almost collided with vehicles on the roadway. Officer C requested back-up and an Air Unit.

Officers B and G monitored the pursuit broadcast from a location approximately four blocks away. Next they observed the subject's vehicle heading towards them with Officer C in pursuit. Shortly thereafter, the subject and Officer C drove by Officer B and G's police vehicle.

Officer B activated his emergency lights and sirens and negotiated a U-turn. Officer C observed a black and white police vehicle behind him and slowed his motorcycle down to allow the police vehicle to go in front of him. Officer G broadcast that he and Officer B would take over as the primary pursuit unit.

Officers A and F were in the vicinity of the vehicle pursuit and joined the pursuit.

The subject continued driving, encountered traffic, and negotiated a U-turn, driving over the center median curb. The subject then continued driving.

After negotiating a U-turn, Officer A directed Officer F to broadcast that they would take over as the secondary unit pursuit. Officers C and D slowed their motorcycles down to allow Officer A's police vehicle to pass them. Officers C and D deactivated their sirens and followed behind the pursuit.

When the subject reached a main road, he turned and accelerated. The subject started to lose control of his vehicle and began drifting towards the curbs. The subject's vehicle then spun around and came to a stop.

Officer B stopped his police vehicle. Officers B and G exited their police vehicle, drew their pistols and utilized the vehicle's door frames for cover. Officer B ordered the subject to exit his vehicle several times.

Officer A drove his police vehicle toward the subject's front bumper with the intent of pinning the subject's vehicle between the curb and the police vehicle. After the vehicles made contact, Officers A and G exited their police vehicle, drew their pistols and utilized the vehicle's doorframe for cover. Officer F ordered the subject to put his hands outside the window.

Officers A, B, F and G observed the subject inside his vehicle manipulating the gears and attempting to start the vehicle again. From the driver's side door frame, Officer A holstered his pistol, opened the trunk of his police vehicle and retrieved a less-lethal beanbag shotgun. As Officer A was retrieving the beanbag shotgun, he heard an unknown officer instruct that he should deploy the beanbag shotgun. Officer A then positioned himself behind the passenger's side door frame next to Officer F.

The subject continued to ignore Officers B and F's commands, managed to restart his vehicle and began driving in reverse toward the sidewalk. Officer A then proceeded to approach the driver's side of the subject's vehicle. According to Officer A, from his peripheral vision he observed officers to his side. To prevent the subject from driving into the officers and continuing the pursuit, Officer A fired two consecutive beanbag

rounds, aiming for the subject's arm. According to Officer A, his beanbag rounds appeared to have no effect and the subject managed to turn his vehicle around.

The subject accelerated his vehicle. Officer A walked over from the passenger side of his vehicle over to the driver's side. Fearing that the subject was going to run over one of the other officers, Officer A fired a third beanbag round, aiming for the subject's arm.

Meanwhile, Officers C and D had arrived on their motorcycles, followed shortly by Officers E and H. The officers observed the subject maneuvering his vehicle away from Officers A and F's vehicle. Officer D parked his motorcycle, dismounted, drew his pistol, and walked up behind Officer G.

Officer H parked his motorcycle, dismounted, drew his pistol and took cover behind Officer A and F's vehicle. Officer E also took a position of cover behind Officers A and F's vehicle.

Officer C parked his motorcycle between the street curb and Officers B and G's police vehicle.

Officer C then observed the subject turn his vehicle in his direction and accelerate toward him. Officer C dismounted his motorcycle, drew his pistol and began moving toward the sidewalk; however, a chain-link fence separated the hillside from the sidewalk. After realizing that the chain-link fence would prevent him from obtaining cover, Officer C walked back to his original position. Officer C heard the vehicle's engine and believed that the subject was going to run him over.

In response, Officer C aimed for the subject's head and torso area and fired one round from his pistol, then fired a second round as he continued to move backward. The subject's vehicle stopped after Officer C fired his second round. Officer C then walked at a fast pace to Officers B and G's police vehicle.

**Note:** The subject's vehicle sustained an impact to the hood and to the front windshield.

After coming to a stop, the subject remained seated in his vehicle. The officers ordered the subject to exit the vehicle. The subject then opened the door of his vehicle but he still did not exit. Officer A observed the subject turning and his hand moving toward his waistband area. Believing that the subject was attempting to arm himself, Officer A fired a fourth beanbag round, aiming for the subject's abdomen and chest. The subject yelled and raised his arms.

Officer B observed the subject with his arms up and advised Officer G that he would take the subject into custody. Officer B holstered his pistol and approached the subject. Officer B grabbed the subject's arm and collar to pull him out of the car. The subject got on his knees and Officer B pushed him down to the ground.

The other officers holstered their pistols and approached to assist Officer B. The subject was then handcuffed by Officer G.

The subject was assisted to his feet and searched. Officer G observed abrasions on the subject's nose and neck. Officer G requested a rescue ambulance (RA) and walked the subject over to a police vehicle, where he was placed in the back seat.

### **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 Officers A, B, C, D, E, F, G and H tactics to warrant a Tactical Debrief.

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

The BOPC found Officers A, B, C, D, F, G and H's drawing and exhibiting to be in policy.

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

The BOPC found Officers B, C, D, E, F and G's use of non-lethal force to be in policy.

#### **D. Less-Lethal Use of Force**

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

#### **E. Lethal Use of Force**

The BOPC found Officer C's use of lethal force to be Out of Policy.

## **Basis for Findings**

### **Tactics**

In adjudicating this incident, the BOPC considered that:

1. Officer C conducted a traffic stop without notifying Communications Division (CD) of his status and location. Officer C observed a vehicle straddling lanes of traffic and believed the driver was under the influence of alcohol or drugs. Officer C conducted a traffic stop by himself without advising Communications Division of his status and location. Officer C is reminded to advise CD of his status and location.
2. Officer C conducted a traffic stop by himself at night. Although Officer C's partner was in the vicinity, he was not physically with Officer C when he conducted the traffic stop. At the time of the traffic stop, Officer C was not aware of his partner's exact location.

In this instance, Officers C and D should have conducted the traffic stop together and worked as a team to increase their level of safety.

3. Multiple officers simultaneously issued verbal commands to the subject. At the termination of the pursuit, multiple officers gave commands to the subject. When multiple officers give commands, it may create confusion in the mind of the suspect and the other officers at scene. Officers are trained to utilize the concept of contact and cover in which one officer gives the verbal commands while the other provides cover.

### **Drawing/Exhibition/Holstering**

- In this situation, Officers A, B, C, D, F, G and H arrived at the termination of a vehicle pursuit. Tactical practices dictate that terminations of pursuits are to be handled as high-risk stops. In such stops, officers draw their pistols with the perception that the suspect may be fleeing due to unforeseen circumstances and that the suspect's actions may necessitate the use of lethal force. A reasonable officer would believe that they may have to use lethal force in order to defend themselves or others from the potential actions of the suspect.

Therefore, due to Officers A, B, C, D, F, G and H's reasonable belief that the situation had escalated to a level where deadly force may become necessary, the BOPC found Officers A, B, C, D, F, G and H's Drawing/Exhibiting to be in policy.

### **Non-Lethal Use of Force**

- In this instance, Officers B, C, D, E, F and G were confronted with an aggressive and combative suspect. The subject resisted the officers' attempt to arrest him which forced the officers to use non-lethal to take him into custody. The non-lethal force utilized by the officers in this incident was objectively reasonable and within Department guidelines.

Therefore, the BOPC found Officers B, C, D, E, F and G's non-lethal use of force to be in policy.

## **Less-Lethal Use of Force**

### **Rounds 1-2**

- Officer A deployed the beanbag shotgun when the subject was not complying with the officers' commands. The subject restarted his vehicle and revved the motor. The subject then began to back his vehicle toward the sidewalk. Fearing that the subject was going to flee toward the officers, Officer A aimed at the subject's arm which was visible through the closed driver's side window and fired two beanbag rounds at the subject.

### **Round 3**

- The subject was able to maneuver his vehicle out from between the curb and the police vehicle and proceeded to drive toward Officers B and C. Officer A redeployed to the driver's side of the police vehicle. Fearing that the subject was going to run the other officers over with his vehicle, Officer A fired another beanbag round at the subject's arm, which was on the steering wheel. Officer A did not see the beanbag round strike the subject and did not see a reaction from the subject; however, the subject stopped his vehicle at that time.

In this situation, Officer A fired the first three beanbag shotgun rounds at the driver's arm of a moving vehicle who was behind what he perceived to be a closed window. According to Officer A, his intention was twofold. Officer A wanted to protect the public from the subject continuing the pursuit in a reckless manner and secondly, to stop the subject from driving into the officers located south of the subject's vehicle. Officer A chose to utilize a less-lethal weapon system in an attempt to protect the lives of these two groups of individuals.

Current Department policy states, *"Tactical discharges (shooting out lights, windows, etc.) are generally prohibited due to the fact that they may cause secondary projectiles."* In evaluating Officer A's decision to fire the beanbag at the closed window of the suspect's vehicle, the BOPC considered the "generally prohibited" wording of the policy. However, in this case, it was not Officer A's intention to break out the window. Officer A fired at the driver's arm to stop his actions and prevent a deadly threat to other officers.

In this instance, Officer A was attempting to prevent the subject from dislodging his vehicle and continuing in the pursuit; therefore placing the public and officers at risk. The risks associated with allowing the suspect to continue in the pursuit outweigh the risks associated with attempting to stop him by utilizing a beanbag shotgun. The

BOPC determined that Officer A's decision to utilize the beanbag shotgun in this situation was reasonable.

#### Round 4

- When the subject's vehicle came to a stop, the driver's door opened and the subject began to exit his vehicle and, when he was about half-way out, Officer A observed the subject's hand reaching for his waistband. The subject continued to ignore officers' commands to put his hands up. Fearing that the subject was trying to arm himself, Officer A fired a fourth beanbag round at the subject's abdomen.

The BOPC evaluated the fourth beanbag round that was fired by Officer A and found that the movement of the subject's hand to his waistband area combined with his actions earlier in the incident provided sufficient justification for Officer A to fire a beanbag round at the subject. It was further noted that there appeared to be insufficient time to provide a verbal warning to the subject prior to firing the weapon.

Therefore, it was the BOPC's assessment that the actions of Officer A were objectively reasonable and found Officer A's use of less-lethal force to be in policy.

#### Lethal Use of Force

- According to Officer C, as he dismounted from his motorcycle, he observed the subject backing up his vehicle. The subject then turned his vehicle in Officer C's direction.

Although there is little doubt that Officer C was in fear of being struck by the vehicle, Department policy prohibits shooting at moving vehicles "*unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means **other** than the vehicle.*" The policy further states, "*the moving vehicle itself **shall not presumptively** constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants.*"

In this situation, the subject was driving toward Officer C at an estimated speed of five to 15 miles an hour. The subject's vehicle traveled approximately 27 feet from the point where its front bumper was against that of the police vehicle to its final at-rest position. Had the vehicle continued at the maximum estimated speed toward Officer C, it would have had to travel an additional 29 feet before it reached the officer. At 15 miles per hour, it would have required approximately 2 ½ seconds for the vehicle to travel from its initial position near the police vehicle to that of Officer C. This figure does not include the additional time necessary for the vehicle to accelerate to 15 miles per hour or take into account that the vehicle had flat tires which would have given Officer C additional time to move out of its path. During roughly the same period, Officer A fired two rounds from a beanbag shotgun, ran approximately 30 feet and fired a third beanbag round at the subject. Although



these are estimates of the times and distances involved, it appears that Officer C had adequate time to move out of the path of the oncoming vehicle rather than resorting to lethal force.

The BOPC found Officer C's use of lethal force to be out of policy.