

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

**OFFICER-INVOLVED SHOOTING – 017-12**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Foothill	03/21/12		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer J	4 years, 2 months
Officer K	14 years, 3 months
Officer L	4 years, 6 months
Officer P	2 years, 9 months

**Reason for Police Contact**

Officers pursued a robbery suspect when the suspect pointed a gun at himself and then at officers, resulting in an officer-involved shooting.

<b>Subject</b>	<b>Deceased (X) Wounded ( ) Non-Hit ( )</b>
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Subject 1: Male, 30 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 subject 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 February 5, 2013.

## **Incident Summary**

Subject 1 entered a store with a revolver and demanded the money from the register and cigarettes. A co-worker in a back room and a nearby store owner both overheard the robbery in progress and called Communications Division (CD) via 9-1-1.

Subject 1 filled a trash bag with money and cigarettes, shot one of the store employees in the leg, and fled the store running across the street.

Officers A and B were assigned to a specialized task force and were in plain clothes, eating at a restaurant across the street from the store, when they heard CD broadcast the robbery in-progress radio call. The officers had a clear view of the store from the restaurant and decided to monitor the location. Officer A watched through windows on the side of the restaurant, while Officer B positioned himself at the door.

Subject 1 ran across the street, toward Officers A and B. Both officers believed Subject 1 was the robbery suspect. The officers believed the situation could rise to the use of deadly force based on Subject 1's actions, as well as the nature of the radio call, and they drew their service pistols.

As Subject 1 continued running across the street, Officer B, while using the door frame as cover, identified himself as a police officer and ordered Subject 1 to stop. Subject 1 ignored the commands and continued running.

Officers A and B continued to follow Subject 1 and observed him drop his trash bag and continue running towards a vehicle parked on the street near the restaurant, with the engine running. At this time, uniformed Officers C and D approached the location in their marked black and white police vehicle and observed Officers A and B.

Subject 1 ignored Officer D's commands to get on the ground and entered the driver's side of the vehicle. Subject 1 sped off in the vehicle, with Subject 2 in the passenger seat.

Officers C and D holstered their service pistols, entered their police vehicle, and pursued the subject vehicle.

Officers A and B holstered their service pistols, gathered the black bag that was dropped by Subject 1, and secured the crime scene at the store. Officers A and B confirmed that a robbery had occurred and after learning that one of the employees had been shot requested an ambulance.

Officers C and D pursued the subjects' vehicle at a high rate of speed through a residential area until the subjects' vehicle collided with a brick pillar that was part of a wrought-iron fence surrounding a property. The driver's side door was open and the driver's seat was unoccupied. Officer E advised CD that the subjects' vehicle was abandoned at the location and that Subject 1 was running down the street.

Officer D made contact with Subject 2, who was seated in the passenger seat and immediately claimed that Subject 1 carjacked her. The officers learned that Subject 2 was not injured and asked her questions about Subject 1. Subject 2 initially did not respond to questions about which direction Subject 1 may have fled and claimed not to know Subject 1. She ultimately told the officers that Subject 1 ran from the vehicle after the collision.

Officer C also broadcast the location and updated CD of Subject 1's last known location and requested a perimeter. Officers G and H arrived overhead in an air unit and assisted in establishing the perimeter and search for Subject 1.

Uniformed Officers I and J were assigned to the perimeter. Officers from a neighboring Area, uniformed Officers K and L, were assigned to a specialized unit and were also assigned to the perimeter, west of Officers I and J.

Meanwhile, Subject 1 had broken into a nearby trailer where he had changed clothes before hopping a wall and attempting to exit to the street.

Officers M and N were positioned near a residence when they observed Subject 1 climb a wall and walk towards them. The officers believed Subject 1's clothing to be different than earlier described but believed him to be the armed robbery subject based on his actions of climbing the wall within the perimeter. The officers unholstered their service pistols. Subject 1 continued to walk through the property while holding a phone to his ear. Both officers commanded Subject 1 to get on the ground and drop the phone.

Subject 1 walked to the front of a residence near the driveway. Officers M and N continued to command Subject 1 to get on the ground. Subject 1 ignored all of the commands and appeared to be arguing with someone on the phone. Subject 1 turned around and walked back to one side of the property, while the officers maintained their positions.

Subject 1 climbed the cinder block wall and walked towards a trailer that was parked in the back of the property. The air unit briefly lost sight of Subject 1 in the area.

The air unit observed Subject 1 near the trailer at the back of the residence. Subject 1 climbed the cinder block wall and traveled within the perimeter. The air unit continued to broadcast Subject 1's description and movement.

The officers heard the air unit advising that Subject 1 was heading towards a driveway adjacent to their position. The four officers adjusted their positions to give themselves a better position of advantage.

The air unit advised the officers that Subject 1 was coming out of a driveway. Officer I observed Subject 1 walking out of driveway and alerted the other officers. Subject 1 stopped at the base of the driveway, which placed him approximately 58 feet from Officers K and L and 73 feet from Officers I and J. The four officers observed a chrome

revolver in Subject 1's right hand. Once Officer K observed that Subject 1 was armed with a handgun, he believed the situation could rise to the use of deadly force. He placed the beanbag shotgun on the ground and unholstered his service pistol.

Officer I ordered Subject 1 to drop the gun several times. Subject 1 looked around in all directions and placed the barrel of his gun to his right temple. Officer I pointed his shotgun at Subject 1 briefly, then brought it down to the low-ready position, and ordered Subject 1 to "drop the gun" and "don't do it." Subject 1 ignored the commands and shouted back words that were unintelligible to the officers.

From their positions, Officer I held the shotgun at the low ready, Officer J held the TASER at the low ready, Officer L had his shotgun pointed at Subject 1, and Officer K was at the high ready with his service pistol.

Subject 1 walked into the street, closer to the officers, and placed the muzzle of the gun into his mouth, pointed upwards. Officer I continued to give commands to Subject 1. Subject 1 ignored the commands, walked slightly down the street, parallel to the officers, and dropped to his knees with the muzzle of the gun in his mouth. Subject 1 moved the gun back to his right temple and stood back up. Subject 1 turned away from the officers and started slowly walking westbound.

Officer J believed the distance between him and Subject 1 was longer than the range of the TASER and believed Subject 1 could cause serious bodily injury or death with the handgun he was holding. Officer J placed the TASER into his pocket and unholstered his service pistol.

According to Officer J, Subject 1 was moving westbound, away from him, waving the gun with his right hand, and the muzzle was pointed directly at the officers. Officer J fired one to two rounds at Subject 1. According to Officer J, Subject 1 was still waving the gun around and covering the officers with his gun. Further according to Officer J, Subject 1 was going back and forth, moving his body side to side, and pointing the gun at the officers most of the time, during the side to side motion. When Officer J saw the gun pointed at him directly, Officer J feared for his life and safety and his partner's safety. Officer J walked along a grass area on the curb, as Subject 1 continued moving westbound, and fired two additional rounds in Subject 1's direction.

Officer L watched Subject 1 through the scope of his shotgun and observed Subject 1 slowly walk westbound away from the officers, while waving the gun above his head in a round motion as he continued to walk sideways. Officer L indicated that Subject 1 then made a "furtive movement," which involved Subject 1 bringing his right shoulder towards the officers, which led Officer L to feel that his life was in danger, and others were at risk for serious bodily injury and death. Officer L, while standing behind the passenger door of the vehicle, fired several slug rounds from his shotgun towards Subject 1. Officer L reassessed and observed Subject 1 bent over at the waist, facing the officers, and still holding the handgun. Officer L believed his first series of rounds struck Subject 1, causing him to hunch over. Officer L continued to feel threatened and that Subject 1

could have easily come up and fired a round at the officers. Officer L fired one to two additional slug rounds at Subject 1.

According to Officer K, Subject 1 was walking westbound, when he paused with the gun in his right hand and pointed it at his own head, moving the gun back and forth between his head and his face. Subject 1 then swung his left arm in the officers' direction and moved his right hand and the gun down from his head towards the officers. Officer K stated he was afraid Subject 1 was either going to shoot him or his partner and, while in a kneeling position with two hands on his service pistol, fired two rounds towards Subject 1. Officer K lowered his gun to reassess and realized Subject 1 was facing the officers and still had the gun in his hand, pointing it in their direction. Officer K believed the officers' lives were still in danger due to Subject 1's continuous threatening movements and fired an additional two rounds to stop Subject 1. Subject 1 appeared to have been struck and fell to the ground.

Subject 1 fell forward to the ground on his left side and according to Officer J, raised the gun again and pointed it in his direction. Officer J then fired one additional round from his service pistol, from a distance of approximately 75 feet.

The officers at the scene indicated that Subject 1's body was slightly moving and the gun remained in his right hand. Officer Q feared that Subject 1 would still be able to shoot him if they were to approach and suggested the use of beanbag rounds to see if Subject 1 remained responsive. Detective A agreed and requested a beanbag shotgun.

Officer P retrieved the beanbag shotgun from his vehicle. Detective A directed Officer P to fire a beanbag round at Subject 1.

Officer P, from a distance of 58 feet, behind the engine block of a police vehicle, fired one beanbag round (a Super Sock round) towards Subject 1's upper body. The Super Sock round missed Subject 1. Officer P fired again, striking Subject 1 on the left side of his upper body. Subject 1 slightly moved after the beanbag round struck him. Officer P fired another Super Sock round, striking Subject 1 again on the left side of his upper body. Subject 1 did not respond or move.

The officers took Subject 1 into custody without further incident. The officers requested an ambulance for Subject 1. Subject 1 was pronounced dead at the scene.

### **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 of a firearm 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 made the following findings.

#### **A. Tactics**

The BOPC found Detective A's tactics, as well as those of Officers A, B, I, J, K, L, and P, to warrant a Tactical Debrief.

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

The BOPC found Detective A's, along with Officers A, B, I, J, K, and L's, drawing and exhibition of a firearm to be in policy.

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

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

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

The BOPC found Officers J, K, and L's use of lethal force to be in policy.

### **Basis for Findings**

#### **A. Tactics**

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

##### 1. Apprehension versus Containment

As Subject 1 approached the restaurant, Officer B identified himself and ordered him to stop, in an attempt to apprehend Subject 1. Once Subject 1 observed Officer B, he changed direction and fled, which prompted a short foot pursuit.

Officer B felt as though Subject 1 was coming towards him and based on the radio call that there had been a robbery in progress and shots were fired, he felt that whenever there's a robbery, a handgun is used.

As Subject 1 ran directly toward him, Officer B identified himself as a police officer and ordered Subject 1 to stop. After stumbling, dropping the bag and retrieving the bag, Subject 1 ran down the street. Officers A and B pursued Subject 1 on foot; however, they did not close the distance between themselves and Subject 1. Both officers remained behind Subject 1 and updated their status and location via CD, effectively remaining in containment mode, while directing the response of additional units.

The BOPC thoroughly assessed Officers A and B's actions and determined that Officer B, who was faced with Subject 1 running directly toward him, responded appropriately by identifying himself and ordering Subject 1 to stop. Officers should take action to stop aggressive behavior and prevent subjects from escaping into the community, especially when they are believed to be armed and have just committed a violent felony crime involving the discharge of a firearm. Once Subject 1 failed to heed Officer B's orders, both officers maintained a safe distance, monitored Subject 1 and provided vital information to CD for responding units.

- 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, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

After a thorough review of the incident, it was determined that the identified areas for improvement neither individually nor collectively substantially deviate from approved Department tactical training. Therefore, the most appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place is a Tactical Debrief.

In conclusion, the BOPC found Detective A's tactics, as well as those of Officers A, B, I, J, L, K, and P, to warrant a Tactical Debrief.

## **B. Drawing/Exhibiting**

- **Detective A**

At the conclusion of the officer-involved shooting (OIS), Subject 1 was unresponsive lying on the ground, with his back facing the officers, with the handgun in his right hand. After Detective A formulated a tactical plan to utilize a beanbag shotgun to ensure Subject 1 was no longer a viable threat and safe to approach, he approached with the arrest team. Detective A, believing the situation may escalate to the point where deadly force may become necessary, drew his service pistol.

The BOPC determined that a detective with similar training and experience, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Detective A's drawing and exhibition of a firearm to be in policy.

- **Officers A and B**

Officers A and B heard the initial radio call of a robbery in progress and the subsequent broadcast that shots had been fired. The officers observed Subject 1, wearing a clear plastic mask, exit the store while carrying a bulky trash bag over his shoulder. As Subject 1 ran across the street toward them, based on the totality of the circumstances, Officers A and B formed the opinion that Subject 1 was the robbery subject. Officers A and B believed that the situation may escalate to the point where deadly force may become necessary and drew their respective service pistols.

The BOPC determined that officers with similar training and experience, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers A and B's drawing and exhibition of a firearm to be in policy.

- **Officers K and L**

While assigned to the perimeter, Officers K and L positioned themselves by the passenger side door of a police vehicle. The air unit advised Officers K and L that Subject 1 was walking toward them. Subject 1 exited the driveway of the nursery with a handgun in his hand. Once Officer K observed Subject 1 with a handgun, he believed the situation may escalate to the point where deadly force may become necessary, placed the beanbag shotgun on the ground and transitioned to his service pistol.

Officer L observed Subject 1 with a handgun, and believing the situation may escalate to the point where deadly force may become necessary, retrieved his shotgun from the trunk of his vehicle.

The BOPC determined that officers with similar training and experience, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers K and L's drawing and exhibition of a firearm to be in policy.

- **Officers I and J**

Officers I and J were aware that shots had been fired during the robbery as they maintained a position on the perimeter. When Subject 1 walked from inside the nursery toward them, Officers I and J took cover behind a metal utility box.



Officer J, believing the situation may escalate to the point where deadly force may become necessary, and realizing the distance to Subject 1 was greater than the range of the TASER, placed the TASER into his pocket and drew his service pistol. Officer I, believing that Subject 1 was armed with a handgun and that the situation may escalate to the point where deadly force may become necessary, deployed a shotgun.

The BOPC determined that officers with similar training and experience, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Officers I and J's drawing and exhibition of a firearm to be in policy.

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

- **Officer P** (beanbag shotgun, 3 sock rounds)

At the conclusion of the OIS, Subject 1 lay on the ground with the handgun in his right hand and his back turned toward the officers. Detective A formulated a tactical plan to utilize a beanbag shotgun to ensure Subject 1 was safe to approach by the arrest team. After announcing to surrounding officers that the beanbag shotgun was going to be utilized, Detective A directed Officer P to discharge a sock round at Subject 1.

Officer P followed Detective A's direction to discharge the beanbag shotgun at Subject 1 in the event that he remained armed with the handgun, was feigning his incapacitation and was unsafe for officers to approach. Officer P complied with Detective A's direction and discharged a sock round at Subject 1's back. The first round missed. Detective A directed Officer P to shoot again. Officer P discharged a second sock round, which impacted Subject 1's upper back/left shoulder area and Subject 1 moved slightly.

After the third sock round was fired, no movement was detected from Subject 1. Officer P approached with the arrest team and Subject 1 was handcuffed without further incident.

The standard set forth in Department policy dictates that the decision to use force must be judged through the perspective of a reasonable officer with similar training and experience and in a similar circumstance. The BOPC determined that an officer with similar training and experience would reasonably believe that the force used to ensure a safe approach and arrest was reasonable and would have acted in a similar manner.

In conclusion, the BOPC found Officer P's use of less-lethal force to be in policy.

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

- **Officer L** (shotgun, five slug rounds)

As Subject 1 began to point the handgun at him and the other officers, Officer L believed that Subject 1 was going to shoot him and discharged his shotgun at Subject 1 to stop his actions. After firing the initial three to four rounds, Officer L believed that a round struck Subject 1, causing him to bend at the waist, although Subject 1 remained armed with the handgun. Officer L quickly assessed, observed Subject 1 with the handgun pointed in his direction, and fired one to two additional rounds at Subject 1 to stop his actions.

Given the totality of the circumstances, an officer with similar training and experience as Officer L would reasonably believe that Subject 1 posed an imminent threat of serious bodily injury or death and that the use of lethal force would be justified.

In conclusion, the BOPC found Officer L's use of lethal force to be in policy.

- **Officer J** (pistol, four rounds)

As Subject 1 walked westbound, he moved from side to side while waving his handgun and then pointed it at Officer J and the other officers. Officer J, believing Subject 1 was going to shoot him or the other officers, fired one round while near the utility box, then two additional rounds while moving to gain additional cover, simultaneously addressing the deadly threat that Subject 1 posed. Subject 1 fell to the street while continuing to hold the handgun. While down on the street, Officer J observed Subject 1 pointing the handgun at him, and believing Subject 1 was going to shoot, fired one final round to stop his actions.

**Note:** The investigation revealed and physical evidence supports that Officer J fired a total of four rounds during the incident. It was not determined precisely where Officer J was when firing all four rounds; however, he began firing from a position near the utility box at approximately 100 feet from Subject 1. Officer J then fired while on the move to a distance of approximately 75 feet from Subject 1.

Given the totality of the circumstances, an officer with similar training and experience as Officer J would reasonably believe that Subject 1 posed an imminent threat of serious bodily injury or death and that the use of lethal force would be justified.

In conclusion, the BOPC found Officer J's use of lethal force to be in policy.

- **Officer K** (pistol, four rounds)

Officer K observed Subject 1 point the handgun at his own head, then move it down, pointing in Officer K's direction. Believing that Subject 1 was going to shoot him or

the other officers, Officer K fired two rounds to stop his actions. Officer K lowered his service pistol and assessed if Subject 1 remained a deadly threat. After his assessment, Officer K observed Subject 1 continuing to point the handgun in his direction and fired two additional rounds at Subject 1 to stop his actions.

Given the totality of the circumstances, an officer with similar training and experience as Officer K would reasonably believe that Subject 1 posed an imminent threat of serious bodily injury or death and that the use of lethal force would be justified.

In conclusion, the BOPC found Officer K's use of lethal force to be in policy.