

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

OFFICER-INVOLVED SHOOTING – 041-10

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Van Nuys	05/24/2010		

Officer(s) Involved in Use of Force	Length of Service
Officer A	13 years, 10 months
Officer B	12 years, 6 months
Officer C	4 years, 1 month
Officer D	2 years, 10 months

Reason for Police Contact

Officers observed Subject 1 speeding past them as they were issuing a traffic citation to another driver. The officers attempted to stop Subject 1. Following a vehicle pursuit, an officer-involved shooting occurred.

Subject	Deceased (X)	Wounded ()	Non-Hit ()
Subject 1: Male, 42 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 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 Commission and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports and for ease of reference, 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 04/05/11.

Incident Summary

Officers A and B had just finished issuing a traffic citation when Subject 1 drove past them. Subject 1 was traveling at approximately 55 miles-per-hour in a 35 miles-per-hour zone. The officers decided to stop Subject 1 with the intent of issuing him a traffic citation for speeding.

Officers A and B observed Subject 1's vehicle swerving from lane to lane and formed the opinion that he might be under the influence of alcohol. The officers positioned their vehicle directly behind Subject 1's and activated their siren and overhead emergency lights, but Subject 1 accelerated his vehicle.

Officers A and B broadcast that they were in pursuit of a possible Driving Under the Influence (DUI) driver and requested that a backup unit and an Air Unit respond. The pursuit continued through nine different local cities, including the City of Los Angeles.

Note: Officer A conducted a warrant check on Subject 1's vehicle, which revealed that it had not been reported stolen.

Officers C and D initiated their response to the request for an additional unit. Air Support Division Officers E and F (assigned to the primary Air Unit), in addition to Air Support Division Officers G and H (assigned to the secondary Air Unit), responded to the request for an Air Unit.

Note: One of the Air Units took over the pursuit and communicated the officers' location to Communications Division (CD).

Throughout the pursuit, Subject 1 continued to commit numerous traffic violations. Subject 1's vehicle speed continued to increase, he drove through red lights, swerved from one side of the road to the other, turned his headlights off and on, and came close to hitting several parked cars.

Sergeant A, who had been tracking the pursuit on the police radio, notified CD that he was also joining the pursuit and ordered the police units in pursuit and the Air Unit to initiate "tracking mode," as Subject 1's vehicle was exiting the City of Los Angeles limits, and it seemed as though Subject 1's vehicle was traveling at a high rate of speed.

As the pursuit continued, Subject 1 drove on a residential street which came to a dead-end. Officer A indicated that Subject 1 came toward the officers' vehicle at a high rate of speed. Officer B indicated that he had to maneuver the police vehicle out of the way to avoid a head-on collision with Subject 1.

As a result of Subject 1 coming very close to striking the officers' vehicles with his own, one of the Air Units broadcast that Subject 1 was wanted for Assault with a Deadly Weapon on a Police Officer. As the pursuit continued, Subject 1 drove into oncoming lanes of traffic and extinguished his vehicle lights, nearly striking numerous civilian

vehicles. According to Officer E, Subject 1 continued driving on the residential streets at approximately 90 miles per hour.

Sergeant A ordered police units to re-engage the pursuit.

Officers continued to pursue Subject 1 as he proceeded west on a local freeway. Officers C and D entered the freeway and attempted to catch up to Officers A and B, but due to Subject 1's speed, they were unable to keep up a close distance. Eventually, Officers C and D did catch up and became the secondary unit.

Officers A and B continued to follow Subject 1's vehicle on local freeways. The Air Unit's GPS moving map system monitored Subject 1 traveling on the freeway at speeds up to 122 miles per hour. According to Officer G, who was monitoring Subject 1, Subject 1 was "consistently in excess of 120 miles an hour."

The officers continued to observe Subject 1's vehicle swerving out of traffic and driving very erratically. Officer A also indicated that Subject 1 would sometimes "black out" and then turn his lights back on, causing the officers to lose sight of him, but due to the Air Units' tracking of Subject 1's vehicle, the officer units continued to be directed to Subject 1's location.

Officer B indicated that Subject 1 was traveling at a high rate of speed and moved from the Number 1 lane all the way to the Number 4 lane, while blacked out. Most of the time his lights were off. He was not signaling during his lane changes.

Note: According to Officer B, based on the irregular manner in which Subject 1 was driving, it seemed as though Subject 1 was trying to escape more than an average driver under the influence. Officer B believed Subject 1 could have been wanted for a serious crime.

At an unknown point during the pursuit, the Area Watch Commander (WC), Sergeant B, contacted a local Police Department to obtain additional information about the registered owner of the involved vehicle in the pursuit. Sergeant B broadcast this information over the police radio. Officers A and B were advised by Sergeant B that two guns were registered to the owner of the gold sedan, who had been identified as Subject 1, and also that Subject 1 had a possible history of mental illness.

Officers A and B were told that Subject 1 had some prior contact with his local Police Department, and had a "5150" history. Officer B formed the opinion that the officers were dealing with a potentially violent, possibly mentally unstable individual, who could have had access to weapons. Officer A told Officer B that he planned to deploy his shotgun.

While on the freeway, Subject 1 swerved multiple times and lost control of his vehicle, causing him to collide into the middle divider of the freeway and then spin out of control, crashing into a civilian black vehicle. Subject 1's vehicle stopped against the center

divider facing south in the northbound No. 1 lane of the freeway, and the black vehicle came to rest beside Subject 1's vehicle, facing in a southeast direction.

Officer B stopped his police vehicle and, according to Officer B, the Air Unit notified CD of the officers' current location. According to Officer E, from the sky, it took anywhere from 30 to 40 seconds before the first black and white pulled up after the traffic collision occurred.

After Subject 1 collided with the black vehicle and stopped, Officer B observed Subject 1 moving around inside the vehicle. Officer B observed Subject 1 exit his vehicle armed with a large knife.

According to Officer A, after the traffic collision, Subject 1 grabbed the knife and rapidly ran towards the rear of the black vehicle. There was a female passenger and male driver who were yelling and screaming, appearing to be very frightened. Subject 1 ran behind them holding the knife down near his right pants pocket area.

Note: The kitchen knife Subject 1 armed himself with had a 9.5 inch blade.

According to Officer C, he maneuvered his vehicle to stop on the right side of the primary pursuit vehicle in an attempt to prevent incoming traffic from hitting the officers and Subject 1 on the freeway. Officer C observed that Subject 1 had already exited his vehicle and held a knife in his right hand, pointing it downward as he walked toward the black vehicle.

Meanwhile, Officer A obtained the shotgun from the rack in his vehicle, chambered a round, and exited the police vehicle. Officer B exited the vehicle and immediately unholstered his service pistol, knowing that Subject 1 may have had access to firearms and feeling as though the incident could rise to the level where he may have to use deadly force. Officer B took cover behind the front engine block of the black vehicle. Subject 1 was positioned between his own vehicle and the black vehicle.

According to Witness A, the passenger, she saw Subject 1 with a knife in his hand and thought he was coming toward her and her driver. Witness A further indicated that the blade of the knife was up and "erect." According to the driver of the vehicle, Witness B, "the guy who [...] presumably hit me walked past our car [...] A very large knife in his hand[.]" Witness B indicated Subject 1 was holding the knife with his right arm with the blade facing down and that Subject 1 was yelling but he could not make out any specific words.

Officers C and D exited their vehicle to assist the other officers. Officer D indicated he unholstered his weapon when he ran up to Subject 1 because he knew Subject 1 had a knife.

Officer A indicated he was “afraid for the safety of the two people” in the civilian vehicle and “believed that [Subject 1] might take them hostage[.]” Officer A observed Subject 1 run on the passenger side of the civilian vehicle where Witness A was sitting, toward the back of the vehicle, and then around to the driver’s side. Witness B also thought Subject 1 was “going to walk up and attack [his] car.”

All the officers at the scene were giving orders to Subject 1 to drop his weapon and warned him that if he did not, force would be used. Subject 1 did not comply with the commands. Officer B indicated that Subject 1 was yelling something like, “No. No. No,” though he could not discern exactly what Subject 1 was saying.

Note: According to Witness B, the officers “were warning [Subject 1] to stop whatever it was that he was attempting to do.” Witness B also indicated that the officers told Subject 1 several times to, “Put it down,” and he assumed that the officers were referring to the knife.

According to Officer A, Subject 1 ignored his commands, lifted his hand in an “over throw motion,” or, “overhand motion,” took a step toward Officer C, “and then swung the knife. And [Officer A] believe[d] he was [...] aiming at Officer C.”

Also according to Officer A, Subject 1 appeared to be “very angry,” and was yelling. Officer A indicated it, “appeared that he might be under the influence of possibly drugs or – or drugs and alcohol.”

According to Officer B, Subject 1 was “very irate” and was moving around a lot. Officer B also indicated that Subject 1 took a “step forward and lunged toward the two officers that were to [his] right [...] it appeared [...] Subject 1] was going to lunge in a full sprint or throw the knife [...] at the officers.”

Note: Officer B further described Subject 1’s movement as “raising his right arm [...] and, you know, going forward with his body and arm.” When asked whether Subject 1’s step forward and throwing of the knife was one motion, Officer B indicated that “[i]t was all one motion but [...] he kind of [...] went forward first and then went with his arm second.”

According to Officer D, Subject 1 was “gripping the knife in his [...] hand, he [...] waved it over his head in a threatening manner [...] in the direction of [Officer C] [...] and] lunged in the direction of [Officer C].” Officer D also relayed that Subject 1 was holding the knife up to his head “in a stabbing overhand motion.”

Note: According to Officer D, Subject 1 lunged by “closing the distance” to Officer C.

According to Officer C, Subject 1 was approximately 20 feet in front of him and parallel to the freeway center divider when Subject 1 turned towards him and moved with the knife still in his right hand and over his head. Officer C indicated that Subject 1 was

“fidgeting, angry [,...] moving around [...] with his left fist and [...] very rigid.” Also according to Officer C, he thought Subject 1 was going to harm the occupants of the civilian vehicle, but then he saw the knife in Subject 1’s right hand and saw Subject 1 lunge toward him.

Note: According to Officer C, Subject 1 took a step as he was about to start “putting force” behind his arm movement, “[a]lmost like a pitcher.”

According to Officer A, he was afraid Subject 1 was going to cause great bodily harm or death to Officer C, so he fired one shot at Subject 1, attempting to stop him and aiming at his center body mass.¹ Officer A believed he struck Subject 1.

Note: Also according to Officer A, he fired when Subject 1 still had the knife in his hand and was in the process of the overhand motion.

Note: Officer A indicated he was aware that Officer D, who was right next to him when he fired his round, also fired a shot at Subject 1.

According to Officer D, when Subject 1 lunged toward Officer C, Officer D also fired one round at Subject 1 at his center body mass, and also believed he struck him.² According to Officer D, he “shot to protect [himself] and [his] partner and the victims in the vehicle from the immediate threat of death or seriously (sic) bodily injury; and also to prevent a crime where [Subject 1’s] actions could place people in jeopardy[.]”

Note: Officer D also stated that “Officer B simultaneously had shot. I think his was like a hair at first like a fraction of a second before mine.”

Note: According to Officer B, “When [...Subject 1] started lunging forward [...] and was making a forward motion with [...] his arm[...] I heard two shots.” After the shots, according to Officer B, he saw the knife being thrown towards the officers. Officer B indicated he did not fire because he felt as though the two civilians were too close to him.

According to Officer C, he “notice[d] an object coming [...] towards [him and tried to] block the object by raising [his] left arm” and turning his head. According to Officer C, he “saw the knife coming at [him] directly. [Subject 1] was facing [Officer C].” Officer C held his weapon at a low-ready position with his right arm while he put his left arm above his head to block the knife. Officer C indicated that the knife “bounced off [his] arm and [...] onto [...] the right side of [him...] and then it landed on the floor.”

Note: According to Officer C, he heard shots fired but did not see who fired. He also saw the knife land directly to his right, ten feet from him on

¹ Officer A was armed with a shotgun.

² Officer D was armed with a semi-automatic pistol.

the ground. Officer C indicated that “[e]verything happened [...] at the same time” and that the two rounds sounded different – one coming from a Glock pistol and the other from a shotgun.

According to Officer E, from the air he saw Subject 1 “stop, turn at the officers and do like a throwing motion, like he was throwing a baseball [...] Overhand-type throw. [He] saw [Subject 1] go down to the ground. Maybe about, approximately three to five seconds after that, he had gotten back up again. Took, maybe, one step towards the officers and then fell again.” Officer E clarified that “[i]t was almost like [Subject 1] paused for a second, faced the officers and then almost like a perfect pitchers throw, a step forward and overhand throw.”

Note: Officer E’s partner, Officer F, in addition to the two officers in the secondary Air Unit all believed that Subject 1 fell to the ground twice.

Note: Officer E did not see Subject 1 holding a weapon, nor did he see a muzzle flash.

Note: Officer F indicated that approximately two to three seconds passed between the time Subject 1 “collapsed to the ground” and jumped back up again. According to Officer F, he believed there had been two OISs because of the reactions of Subject 1’s body. Officer F indicated he was observing the incident from approximately 400-500 feet in the air.

According to Witness B, he “saw the first shot. [He] saw the recoil and [he knew] it was the [...] shotgun.” Witness B also indicated that he didn’t see what sort of movement Subject 1 might have made to provoke the shot.” When asked whether he ever saw Subject 1 “go towards officers” with the knife, Witness B indicated that he did not see that motion and that Subject 1 was out of his sight.

Also according to Witness B, he heard two shots, which were fired “within seconds but not simultaneously.” Witness B also indicated, “It was like one shot and then lots of warnings and another shot.” Witness B further stated that he was “pretty sure” the officer with the shotgun struck Subject 1, but he also stated that he did not see the second shot being fired.

Note: Witness B also believed that Subject 1 “must have [ingested] PCP or an amphetamine or something [...] Either that or he’s mentally disturbed.”

According to Witness A, she “suddenly [...] heard two gunshots [...] boom, boom. And [Witness B] said, ‘Put your head [...] down. Down [... She] didn’t know where the bullets were coming from, nor did [she] know who shot nor anything.” Witness A also indicated she ducked at the moment of the gunshots “[b]ecause we thought that the man had [a] gun[.]”

After the OIS, Subject 1 went to the floor, and Officers B and C handcuffed Subject 1. After Officer C checked himself upon being struck with the knife, he looked back up and saw Subject 1 on the ground. He approached Subject 1 with his weapon drawn. As Officer B approached, Officer C put his foot on Subject 1's back to prevent him from getting up, went down to his knee to assist with handcuffing Subject 1, and then holstered his weapon. According to Officer B, he slowly approached Subject 1, holstered his weapon and conducted a pat-down search of Subject 1.

Note: Officer D holstered his pistol when Subject 1 was taken into custody. Officer D assisted the other officers in handcuffing Subject 1 by helping with Subject 1's left arm.

Sergeant A arrived at the scene, as he had heard about the traffic collision and the OIS over the police radio. According to Sergeant A, he was approached by Officer A, who informed him that he had been involved in the officer-involved shooting (OIS). Sergeant A directed Officer A to secure the shotgun in the vehicle and ordered him not to unload it. Sergeant A also approached the civilian vehicle and told the occupants to remain in the vehicle until the scene was secured. He noted that "the female was visibly upset."

Sergeant A broadcast a request for a Rescue Ambulance (RA) to respond for Subject 1 and two RAs for the civilians in the black vehicle. After being informed that Officer C had been injured, Sergeant A requested a fourth RA.

Subject 1 was transported to a hospital by the RA and was subsequently pronounced dead.

In the meantime, back at the scene, Sergeant A obtained a Public Safety Statement (PSS) from Officer A, who stated that he fired one round in a southwest direction across the freeway. Sergeant C arrived and discerned that Officer D had also been involved in the OIS. Sergeant C separated and monitored Officer D and took his PSS.

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 and D's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A, B, C and D's drawing and exhibiting to be in policy.

C. Use of Force

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

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

1. The tactical concept of containment had to be balanced with the spontaneous actions of Subject 1 and the presence of the occupants in the black vehicle. Subject 1 was armed with a knife and approaching the potential victims inside the black vehicle. To that end, the officers' tactical deployment decisions were appropriate in that they were influenced by Subject 1's actions and the necessity to be in a position to deter Subject 1's movement toward the potential victims.
2. Following the OIS, Officer C approached Subject 1 to assist with handcuffing. As long as Officer C maintained an unholstered service pistol, the most effective role for him to serve was as the cover officer. In the event the situation escalated wherein assistance was necessary to overcome the subject's resistance, tactical best practices encourage that an officer holster his/her service pistol before engaging in a physical confrontation. Officer C briefly stepped on Subject 1's back before he quickly transitioned to a kneeling position, applying his bodyweight to maximize control to assist in handcuffing.

The BOPC found Officers A and B's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

The BOPC determined that Officers A and B were victims of an assault during the vehicle pursuit; had knowledge of the registered handguns and the reported mental health history; and observed Subject 1 in possession of a knife. An officer with similar training and experience would reasonably believe that there was *"a substantial risk that the situation may escalate to the point where lethal force may be justified."*

Officer C observed Subject 1 in possession of a knife and approaching a disabled vehicle with two occupants. An officer with similar training and experience would

reasonably believe that there was “a substantial risk that the situation may escalate to the point where lethal force may be justified.”

Officer D observed Subject 1 with the knife and unholstered his service pistol after he moved into position with other officers to confront Subject 1 and safeguard human life. An officer with similar training and experience would reasonably believe that there was “a substantial risk that the situation may escalate to the point where lethal force may be justified.”

The BOPC found Officers A, B, C, and D’s drawing and exhibiting to be in policy.

Lethal Use of Force

The BOPC considered that after the traffic collision, Subject 1 exited his vehicle in possession of a large knife. Subject 1 approached the black vehicle and ran on the passenger side of the vehicle. Officer A observed the civilian witnesses yelling and screaming, and they appeared to be very scared. The officers were concerned that Witnesses A and B were at risk of becoming victims of a stabbing, being taken hostage, or having their vehicle carjacked and deployed in a manner to contain Subject 1. Attempts to obtain compliance through several verbal commands to “Drop the knife!” were met with negative results as Subject 1 moved toward Officer C.

Officer A – one round, from approximately 20 feet

In this instance, Officer A reacted, as any reasonable officer would, when he fired one round from his 12 gauge shotgun to protect Officer C from the “*imminent threat of death or serious bodily injury.*” The decision to use lethal force was “*objectively reasonable*” in that an officer with similar training and experience would have reasonably perceived Subject 1’s actions to be life threatening.

Officer B – one round, from approximately 15 feet

In this instance, the BOPC determined that Officer D reacted, as any reasonable officer would, when he fired one round from his service pistol to protect Officer C from the “*imminent threat of death or serious bodily injury.*” The decision to use lethal force was “*objectively reasonable*” in that an officer with similar training and experience would have reasonably perceived Subject 1’s actions to be life threatening.

The evidence in this case supports that Subject 1 was armed with a knife, did not respond to verbal commands, raised the knife either in a throwing or stabbing motion, “took a step” or “lunged” toward Officer C. When consideration is given to the proximity to Officer C and the actions with the knife as perceived by both Officers A and D, it was reasonable to believe that Subject 1’s actions could produce serious bodily injury as defined by Department policy.

The BOPC found Officers A and D’s lethal use of force to be in policy.