

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

OFFICER-INVOLVED SHOOTING – 049-08

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes(X) No()</u>
North Hollywood	05/24/2008		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Officer A	5 years, 6 months
Officer B	11 months

Reason for Police Contact

Officers A and B attempted to stop a car being driven by Subject 2. The car also contained Subjects 1 and 3. A pursuit ensued, and, during and after the pursuit, Subject 1 fired a handgun at Officers A and B, prompting Officer A to return fire. Officers C and D arrived at the pursuit termination point and were also fired upon by Subject 1. Officer D fired one round from a shotgun at Subject 1.

<u>Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit (X)</u>
Subject 1: Male, 25 years (Non-Hit).			
Subject 2: Male, 25 years (Hit).			
Subject 3: Female, 27 years (Non-Hit).			

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 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.

The following incident was adjudicated by the BOPC on 05/12/09.

Incident Summary

Officers A and B were assigned to uniformed patrol. Officer B was the driver of their police vehicle.

During that evening's roll call, Officers A and B had been made aware of the fact that a rash of vehicle thefts had occurred in the area, and that the stolen vehicles were having their license plates removed and paper license plates were being substituted for the removed license plates.

As Officers A and B were patrolling they saw a car double-parked. Officer A saw that the car had paper plates.

Note: The car had been previously reported stolen.

According to Officer A, "I observed an unknown person [Subject 1] standing by the passenger side of the vehicle." Officer A observed that Subject 1 appeared to be startled at the presence of the police vehicle. Subject 1 jumped into the car and the vehicle sped away.

Note: The car was being driven by Subject 2. Subject 1 was seated in the right front seat. Subject 3 was seated in the rear seat of the Car.

According to Officer B, "So as soon as we noticed [. . .] they were speeding away, he [Officer A] said, 'We're going in pursuit. The car's stolen.' So I activate my lights and siren."

Officer A used his radio to broadcast that he and Officer B were in pursuit of a vehicle that was possibly stolen.

As the officers continued the pursuit, an occupant of the vehicle fired a handgun at them through the sunroof. Officer A broadcast an "officer needs help" call.

Officers C and D were at the police station when they heard Officer A's radio broadcast.

Meanwhile, the pursued car suddenly stopped.

As recalled by Officer A, "I attempt to exit the vehicle, I have shots fired. At this point in time, I can't distinguish whether the shots came from the sunroof again [. . .] I remember the door opening [. . .] I'm not sure if the shots were coming from the passenger side [. . .] I did recognize that shots was (*sic*) fired and they were fired in our direction [. . .] In fear of my life and believing that the situation could escalate to the use of deadly force, I drew my weapon [. . .] I fired rounds back at the subjects to protect both my partner and I from serious [. . .] injury or death."

Note: Officer A fired four rounds.

As recalled by Officer B, “My partner and I get out. I draw my gun out to do a felony stop on the vehicle. As soon as I’m getting out, pulling out my gun, the vehicle speeds away [. . .] I looked at my partner and we get back in the vehicle.”

As recounted by Officer A, “I continued to broadcast what we had. Right after the shots were fired, I then again put out shots fired, officer needs help.”

According to Officer B, “We continue following the vehicle [...] Again, I see a hand coming out of the sunroof [. . .] And at that point, I hear another couple of bang, bang, bang.”

Meanwhile, Officers E and F had monitored Officer A’s radio broadcast and responded to the area. Officers E and F joined the pursuit as the secondary unit.

As recalled by Officer A, “I made it clear to my partner that I wanted Officer B to keep some distance [. . .] I didn’t want to get too close [. . .] I remember at some point in time, I remember seeing lights behind me [Officers E and F] [. . .] I do remember seeing police lights behind me.”

Officer B continued driving northbound and saw the subject vehicle leave the roadway and crash into a fence.

Officer B recalled, “I see the vehicle crash, and the next thing I know is I see the subject wearing a grey [. . .] white shirt and blue jeans running out of the vehicle and going northbound.”

According to Officer A, “I do remember seeing someone exit that vehicle and they were running eastbound.”

Note: The person running eastbound was Subject 2. The investigation of the incident established that Subject 2 was not the person Officer B had seen getting into the car just prior to beginning the pursuit.

Note: Officer A recalled that the left front and right front doors on the car were open.

Note: According to Officer B, “As we drove by, I kind of looked at it [the car] and it looked like everyone in the vehicle, the doors were open, and it looked like they fled [. . .] I didn’t see anyone else.”

As the officers drove eastbound, Officer A heard approximately three to four gunshots.

Note: Parked along the east curb were two 55-foot long semi-trucks with attached trailers.

According to Officer A, “[T]he Ssubject that we were after [Subject 2], he appeared as if he was surrendering as he got on the ground.”

As recalled by Officer B, “I put the car in park. I’m taking off my seat belt to get out of the vehicle. As soon as I start to step out of the vehicle, that’s when I hear shots being fired [. . .] I hear his [Officer A’s] voice on the passenger’s side where he’s at [. . .] I just hear his voice, ‘Take cover. Take cover.’”

Note: Officer A and B both unholstered their pistols as they stepped out of their police vehicle.

As Officer A focused his attention on Subject 2, whom he believed to be armed, he heard additional gunshots coming from the area of the east sidewalk.

According to Officer A, “I turn to my right and I see muzzle flash [. . .] I returned fire in that direction [. . .] to protect both me and my partner from serious body (*sic*) injury or death.”

Note: Officer A fired three rounds.

Officer B recalled, “I’m trying to assess where the shots are coming from. After a couple of seconds, I see my partner coming in front of [. . .] our vehicle and taking cover [. . .] and he’s looking kinda looking southbound [. . .] So I’m thinking the shots came from [. . .] behind us.”

As Officers B and A turned their attention away from Subject 2, he got to his feet and ran eastbound.

Meanwhile, Officer E heard Officer A broadcast that the subject vehicle had crashed and the subjects were running. Officer E then turned eastbound.

According to Officer E, “I heard Officer A broadcast that the subject crashed into a fence and the subjects were running [. . .] I turned [. . .] westbound [. . .] [W]e decided to go into a lock-down mode or a perimeter mode [. . .] [W]e observed a male running directly towards us, running pretty hard [. . .] I exited the vehicle. I drew my firearm; immediately started giving commands to put his hands up. The subject [Subject 2] complied with my commands. My partner and I walked up on him. My partner, Officer F, took him into custody with no issues, no problems. And at that point, he [Subject 2] stated, ‘I’ve been shot in the leg.’”

As Officers C and D neared the termination point of the pursuit, Officer C recalled, “We got real close to the area where the crash was and I stopped the car [. . .] I had never heard how many subjects were in the car. So I stopped north of where the car crashed. I then heard officers broadcast they were in foot pursuit. About that time, I was opening my door. I believe my partner was opening his door. We heard gunfire [. . .] east of where we were at.”

As recalled by Officer D, “I hear shots fired. I tell my partner [. . .] I opened the door at that time because we were basically stopped. I deployed the shotgun [. . .] We see Subject 1 running. I see him take one shot [. . .] towards Officers A and B.”

Officer C recalled, “I don’t believe we were fully out of the car when we saw the subject and he began to fire at us [. . .] At that point we got back into the car [. . .] I began driving towards where the subject was [. . .] I wasn’t driving real fast. I wanted to keep a distance away not knowing what kind of firearm he had [. . .] [T]rying to keep an eye on him.” Officer C continued, “[A]s we were moving towards him, he went down [. . .] to the corner. I think there’s a mailbox there. He stopped right there and fired a second round at us. In between the first round and second round, as I was moving the car forward, my partner told me, ‘I’m going to get the shotgun.’ I told him go ahead and get it.”

Officer D recalled that, as the officers drew closer to Subject 1, “The subject sees us creeping. We stop. Subject turns at us, points his semiautomatic pistol at us [. . .] two shots [. . .] Simultaneously, I’m trying to get out of the vehicle because I don’t want to be a death trap in the vehicle. I opened up the door, used that as cover. I pulled the shotgun out and I put one round down range at the subject that was shooting at us.”

According to Officer C, “He [Subject 1] fired his first shot, turned around and ran a few feet, turned back around and fired the second shot. My partner then fired the round. He [Subject 1] proceeded down [. . .] the street [. . .] He [Subject 1] turned around a third time [. . .] He fired a third shot at us [. . .] [H]e left the sidewalk, ran into the street, and at that point [. . .] my intention was to run him over [. . .] As I’m starting towards him, I saw the handgun in his hand. It was now in slide lock.”

According to Officer D, who was still armed with the shotgun, “I came up on target again and I saw him [Subject 1] hesitate, look at his gun, he started running, threw his gun, and then put up his hands.

Meanwhile, Officers G and H had monitored the pursuit and responded to the area.

Officer G recounted that as he and Officer H approached the pursuit termination point, “I negotiated a left turn; there was a unit [Officers C and D] that was stopped. Both doors are open and both officers were standing behind their open doors [. . .] I saw Subject 1 in the middle of the street about 30 feet in front of us [. . .] In the process of going down to [. . .] the ground.”

As recalled by Officer H, “He [Subject 1] was standing at the time and he was attempting to run but since it was wet, he slipped and fell [. . .] he landed on his left side [. . .] He attempted to get up but at that time, my partner and I and [. . .] one of the other officers assisted us [. . .] in containing him.”

Officers G and H contacted Subject 1 and handcuffed him while Officers C and D provided cover.

Officer G recalled that Subject 1 was uncooperative while being handcuffed. “When he [Subject 1] was being handcuffed, he was squirming [. . .] and [he] kept yelling, ‘Ow, ow, ow.’”

As recalled by Officer H, “He [Subject 1] was jerking, trying to free himself.” According to Officer D, “Subject 1 kept on moving his legs and started flailing his arms around.”

Meanwhile, Police Officer I, and Police Officer J arrived at the pursuit termination point. They were joined by Police Officers J, L, and M.

According to Officer I, he asked Officers A and B if they were okay and if they needed any further assistance. He also inquired as to the location of the subject’s vehicle and if there were any outstanding subjects. They pointed out the car and he inquired if it had been cleared. He was told it had not. At that point, he directed a group of officers in the area to clear the vehicle.

Officers I, J, K, L and M unholstered their pistols and approached the car. Subject 3 was seated in the rear of the car. She was ordered out and taken into custody.

Note: According to Subject 3, after the car crashed into the fence, Subjects 1 and 2 both ran from the vehicle. Subject 3 put her hands up and remained in the car. When the police officers did not approach the car or order her out, Subject 3 put her hands back down and remained seated.

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, G and H’s tactics to warrant a tactical debrief.

B. Drawing/Exhibiting/Holstering

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

C. Non-lethal Use of Force

The BOPC found Officers G and H's non-lethal use of force to be in policy.

D. Lethal 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 his adjudicating this incident, the BOPC considered that:

1. Officer A incorrectly broadcast the direction of the pursuit and did not broadcast a description of the pursued vehicle.

In this case, there was no evidence to support that the incorrect broadcast resulted in a delay of the responding officers; however, Officer A is to be reminded of the importance of providing an accurate initial broadcast in order to avoid any possible confusion or delay of the responding officers.

2. The first officer-involved shooting (OIS) occurred from a distance of approximately 31 feet.

In this instance, after braking, the police car came to rest only 31 feet from the rear of the subjects' vehicle. However, it takes between one third of a second and up to two seconds for an officer to perceive and react to a threat or an action.

Officer B's reaction was reasonable under the circumstances.

3. The subjects' vehicle was bypassed without being cleared.

In this instance, Officer B made a conscious decision to drive past the subjects' vehicle prior to it being searched for additional subject(s). Although officers are taught that all potential threats should be mitigated prior to passing them up, in this case, Officer B observed the driver and passenger doors open and believed that all occupants had fled.

Based on Officer B's perception that the vehicle was clear of additional threats, it was reasonable to drive past it and continue to pursue Subject 2.

4. There was a delay in clearing the subjects' vehicle.

Once Subject 1 and 2 were taken into custody, it is apparent that the primary officers did not effectively communicate with the responding officers, resulting in a delay in clearing the subjects' vehicle, which contained an additional subject.

The officers are reminded that communication between partners and other officers at scene is paramount to ensure officer safety. The tactical situation does not cease until all aspects of the problem are appropriately addressed.

The BOPC found Officers A, B, C, D, G and H's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

In this situation, the officers were confronted with an armed subject who fired a pistol at them and their partners. An officer with similar training and experience would reasonably believe that the subject's actions warranted an immediate lethal force response in order to protect their lives.

It was reasonable for Officers A, B, C, D and H to believe that the situation had escalated to the level where deadly force was necessary.

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

C. Non-lethal Use of Force

Officers G and H approached and attempted to handcuff Subject 2, who was on the ground lying on his stomach. Subject 2 was uncooperative and resisted being handcuffed. Subject 2 was squirming, flailing his arms and moving his legs while on the roadway. Officers G and H utilized firm grips and physical force to take him into custody.

In this instance, Officers G and H were confronted with an aggressive subject, who had demonstrated a propensity for extreme violence. While attempting to effect the arrest of Subject 2, he offered resistance, which necessitated that the officers utilize firm grips and physical force in order to take him into custody. The non-lethal force utilized by the officers was within Department guidelines.

The BOPC found Officers G and H's non-lethal use of force to be in policy.

D. Lethal Use of Force

The BOPC evaluated the circumstances relevant to Officers A and D's lethal use of force. The BOPC determined that Officers A and D's use of lethal force was reasonable to protect themselves and their partners from the immediate threat of serious bodily injury or death.

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