

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

LAW ENFORCEMENT RELATED INJURY -- 050-08

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off()</u>	<u>Uniform- Yes(X) No()</u>
West Valley	05/25/2008		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	19 years, 10 months

Reason for Police Contact

A domestic dispute between Subject 1 and Victim A led to a subsequent altercation between Subject 1 and Witness B, a condominium complex security guard who was attempting to protect Victim A. Subject 1 fired shots and Witness B; other witnesses who heard the shots called 911. Officers conducted a stakeout of Subject 1's residence and a confrontation with Subject 1 subsequently occurred.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject 1, Male, 28 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 05/12/09.

Incident Summary

Victim A and Subject 1 were involved in a dating relationship and lived together in a condominium complex.

Victim A and Subject 1, along with Witness A, went to a dance club where they stayed until early the following morning. When Victim A and Witness A were ready to leave,

they were unable to locate Subject 1. Victim A and Witness A left without Subject 1 and drove to Subject 1 and Victim A's residence.

Victim A and Witness A were watching television in the living room when there was a pounding on the front door. When Victim A opened the door, Subject 1 entered the residence and immediately became verbally abusive to Victim A. Scared, Victim A turned and ran. Subject 1 caught Victim A, grabbing her by the hair and used his fists to punch her repeatedly in the face. Victim A eventually broke free and ran from the residence.

Victim A ran into the parking lot where she saw two security guards, Witnesses B and C. Victim A told the security guards that Subject 1 had beaten her. Witness B went to investigate while Witness C stayed with Victim A.

In the meantime, Witness A was still inside the residence with Subject 1; Witness A was trying to calm Subject 1 down, but Subject 1 ignored Witness A, went to his gun safe and removed a rifle. While loading the weapon, Subject 1 said, "She's gonna die." Subject 1 then left the residence with the rifle.

As Witness B entered Victim A's condominium building, he observed Subject 1 walking toward him, carrying a rifle. Subject 1 pointed the rifle at Witness B and Witness B ran. Witness B then heard what he believed were several gunshots.

Victim A, standing in the parking lot with Witness C, saw Subject 1 exit the condominium building. Victim A did not see Subject 1's weapon, but heard gunshots and saw a spark from Subject 1's rifle. Victim A, along with Witnesses B and C, got into a vehicle and left the condominium complex.

Communications Division (CD) received several 911 calls from residents within the condominium complex reporting gunshots, and a "shots fired" radio call was broadcast.

Police officers arrived and established a perimeter around the entire condominium complex. Efforts to locate Subject 1 failed and additional officers were contacted.

Sergeant A and Officers A, B, C, D, E, and F responded to the scene, along with several additional police officers. Upon arrival, the officers were briefed by Lieutenant A, who reported that earlier, Subject 1 had been involved in a domestic violence dispute that had escalated when Subject 1 pointed a rifle at Witness B and fired several shots.

Officer B designed the tactical plan for the operation. Officer B utilized police officers to create an interior perimeter around Subject 1's condominium building. A search of the outer buildings and common areas within the complex was then conducted with negative results.

In the building containing Victim A and Subject 1's condominium, the front door of each unit opened into a common hallway. Officer B assigned Officers A and C to one end of the hallway and Officers D and E to the other end. Officer B and Sergeant A took a

position behind Officers A and C. Officer A was armed with his assigned duty weapons along with a 37 millimeter less-lethal munitions weapon. Officer C was armed with his assigned duty weapons along with a shotgun. In an effort to avoid crossfire in the hallway, Officer B assigned Officers A and C as the designated cover officers, in case Subject 1 exited the front door of his residence.

In addition to the front door, Victim A and Subject 1's condominium had a patio door that exited into a common courtyard. Officers G and H were deployed to that location to provide containment. Officers F, I and J were positioned just outside of the hallway where Officers D and E were deployed. Officers F, I, and J were tasked with containment and positioned to observe the rear of Subject 1's condominium.

While setting up the perimeter and searching the interior of the condominium complex for Subject 1, officers conducted several interviews with Victim A, who revealed that Subject 1 had access to handguns, rifles and ammunition inside the condominium. This information was given to Officer B, who in turn disseminated the information to the officers deployed around Subject 1's condominium building. Officer B obtained a California Department of Motor Vehicles photograph of Subject 1, which he showed to all of the officers on the interior perimeter, including Officers A, C, D and E.

Believing that all officers had been properly briefed and were deployed to their designated locations, Officer B prepared to have Subject 1's residence telephoned by a fellow police officer. Unexpectedly, and before the telephone call was placed, Subject 1 came out of his front door and stepped into the hallway. Subject 1 initially turned in the direction of Officers A and C, at which point Officer A recognized Subject 1 based on the photograph shown to him by Officer B. Subject 1 was carrying a bottle of brown liquid in his left hand and his right hand was either in his pants or jacket pocket.

Officer C gave Subject 1 commands to put his hands up but Subject 1 did not comply and did not take his hands out of his pocket. Officer A's position in the hallway did not afford him a full view of Subject 1, so Officer A redeployed into a small alcove where his view of Subject 1 was unobstructed. Officer A then took over the responsibility of giving commands to Subject 1.

Officer A ordered Subject 1 to stop and not to move. Subject 1 looked at Officer A, then turned and started walking away from Officers A and C. Fearing that Subject 1 was arming himself based on Subject 1 putting his hand into his pocket, Officer A fired one round from his 37 millimeter less-lethal munitions weapon, striking Subject 1 on the right side of his torso.

Subject 1 did not fall to the ground following the strike but stepped to one side, brushed against the hallway wall and again began to walk toward the other end of the hallway. Officer A said that his hand still was not visible, so Officer A continued to give Subject 1 commands, but Subject 1 did not comply. Officer A fired one additional round from his 37 millimeter less-lethal munitions weapon, striking Subject 1's leg. Subject 1 then fell to the floor.

Note: Officer A did not give a verbal warning prior to firing his rounds due to the rapidly unfolding nature of the situation and the fact that it would have taken him away from the responsibilities of providing safety cover for himself as well as the other officers.

At the same time, Officer F moved to the other end of the hallway near Officers D and E, upon hearing the commands by Officers A and C. After hearing the first round of shots, Officer F “peeked” down the hallway to get a view of what was happening.

As Subject 1 fell to the floor, he did so in a prone position. Subject 1 was ordered to put his hands out to his side, and he complied. Officer B instructed Officers D and E to approach Subject 1 and take him into custody. Officer D was the cover officer as Officer E handcuffed Subject 1. Subject 1 was taken into custody without further incident.

Subject 1 was taken to the Command Post where Los Angeles Fire Department personnel examined his injuries. Firefighter/Paramedics determined that a police vehicle could safely transport Subject 1 to a medical facility for treatment.

Officers K and L transported Subject 1 to a local hospital. Subject 1 was treated and cleared for booking however, once at the station holding cell, Subject 1 discovered that he had blood in his urine. Subject 1 was transported back to the hospital, where he was admitted for his injuries.

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 Sergeant A’s and Officers A, B, C, D, E, and F’s tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officers A, C, D, and F’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.

Basis for Findings

A. Tactics

In adjudicating this incident, the BOPC considered that:

1. Officer A did not issue a verbal warning prior to deploying the Launcher Device.

It would have been prudent for Officer A, had it been feasible, to provide a verbal warning prior to a use of force incident which may cause a significant risk of serious injury.

2. Officer F did not maintain his position of cover after Officer A deployed the first 37mm round.

It would have been prudent for Officer F to have remained in a position of cover and waited for the officers who had a visual of Subject 1 to communicate their observations, rather than placing himself in the background of potential gunfire.

The BOPC found Sergeant A's and Officers A, B, C, D, E and F's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

Officers A, D and F responded to a call of a domestic violence incident wherein a male armed with a rifle had pointed the weapon at the victims and had fired several rounds. As the officers deployed around Subject 1's condominium they drew and exhibited their respective weapons believing that the subject's prior actions demonstrated his propensity for extreme violence and that the use of deadly force may become necessary.

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

C. Less-Lethal Use of Force

When Officer A ordered Subject 1 to stop, he ignored the officer's commands, placed his right hand inside his jacket pocket and walked away. Officer A feared that Subject 1 was arming himself and fired one 37mm round at Subject 1.

Subject 1 continued to walk away while maintaining his right hand inside his jacket pocket. Officer A feared that Subject 1 was arming himself and fired a second 37mm round at Subject 1.

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