

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

**OFFICER-INVOLVED SHOOTING – 067- 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>
West Valley	08/05/2008		

<b><u>Officers(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	12 years, 3 months
Officer C	2 years, 6 months
Officer E	12 years, 2 months
Officer F	10 years

**Reason for Police Contact**

Radio call

<b><u>Subject(s)</u></b>	<b><u>Deceased (X)</u></b>	<b><u>Wounded ()</u></b>	<b><u>Non-Hit ()</u></b>
Male, 24 years old			

**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 July 7, 2009.

**Incident Summary**

Officers A and B, driving a marked police vehicle, received a radio call of a "shooting just occurred" and proceeded to the location. Upon arrival, the officers broadcast their status and location and then met with the reporting party (Witness 1). Witness 1 advised the officers that while inside his residence, he heard someone knock at his front door. Upon opening the door, Witness 1 was confronted by his neighbor (the subject) who

told Witness 1 that he had thrown a gun over the fence and into Witness 1's back yard. The subject requested Witness 1's permission to retrieve the weapon. Witness 1 directed the subject to return to his own yard and agreed to hand him the gun over the fence. Witness 1 located a shotgun on top of his storage shed and handed it to the subject. As Witness 1 returned the shotgun, he inquired as to the gun being loaded. According to Witness 1, the subject said that his shotgun was loaded. A short time later, Witness 1 was inside his residence when he heard a gunshot. A few minutes later Witness 1 heard a second gunshot and called the police.

Based on Witness 1's statement, Officers A and B drove around the block to the subject's residence. Officers A and B parked their vehicle and exited their vehicle. Officer A deployed his shotgun, chambered a round and the two officers awaited the arrival of additional personnel.

Officers C and D next arrived on scene and broadcast their status and location. The four officers then conferred and redeployed to the front yard of a residence across the street from the subject's residence. To provide additional cover, Officer D moved his police vehicle and positioned it in the roadway between the officers and the subject's residence. As Officer D exited the vehicle, deployed his shotgun, and then returned to where the other officers were deployed.

Sergeant A arrived on scene and met with Officers A, B, C, and D. Sergeant A assumed control of the tactical situation and, along with an Air Unit, began to coordinate the response of additional officers and established a perimeter. Sergeant A broadcast a request for two Urban Police Rifle (UPR) qualified officers to respond to the location. Acting on the request for two UPR qualified officers, Officers E and F responded to the scene, along with Sergeant B.

Upon arrival at the scene, Sergeant B and Officers E and F met with Sergeant A, who assigned Officer F to a position at the rear of the subject's residence, while Officer E was assigned to cover the front. Once they received their assignments, Officers E and F returned to their respective vehicles and retrieved their UPRs.

Officers A, B, C, and E then deployed to a residence across the street from the subject's residence. Officers A and E took positions behind a tree in the front yard while Officer C made contact with the residents and prepared them to be evacuated.

As Officer A and E covered the front of the residence, the subject opened his front door. Officers A and E simultaneously ordered the subject to exit with his hands in the air. The subject ignored the officers' commands and closed the door. Moments later, the subject opened the door a second time. This time, Officer A stepped away from the tree he used as cover to expose his uniform and thus, identify himself as a police officer. Officer A then ordered the subject to surrender, but the subject responded by shutting the door.

Approximately 20 seconds later, the subject opened the door and exited the residence while holding a shotgun. The subject then ran down his front steps and across his front yard toward Officers A and E, while pointing the shotgun at them.

As the subject advanced toward the officers, Officer A fired one round from his shotgun at the subject.

According to Officer E, as the subject advanced toward the officers, he observed the subject rack the action of the shotgun and believed that the subject had fired one round. Officer E fired one round at the subject from with his UPR. Officer E observed that his first round had no apparent affect on the subject because the subject continued to advance on the officers while still holding his shotgun. Officer E then fired a second round from his UPR at the subject. Following the second shot, the subject dropped his shotgun and collapsed to the street. The subject's shotgun landed in close proximity to his body.

**Note:** According to Sergeant A, he observed the subject running toward the street with a shotgun pointed at Officers A and E and believed that the subject fired one round.

According to Officer D, he observed the subject running toward the street with a shotgun, heard three gunshots and saw the subject fall to the ground. Officer D did not see who fired the three rounds.

According to Officer B, he heard two gunshots but did not see who fired the rounds. After hearing the gunshots, Officer B drew his service pistol.

According to Officer C, he believed he heard three gunshots but did not see who fired the rounds. After hearing the gunshots, Officer C drew his pistol.

Sergeant B broadcast a request for a rescue ambulance (RA) and directed the RA to stage outside of the shooting scene.

Sergeant A observed the subject move. With the shotgun positioned next to the subject, Sergeant A directed all personnel to maintain their positions.

In the meantime, Officer F was en route to his assigned position on the street behind the subject's residence when he heard gunshots. After hearing the gunshots, Officer F decided to return to the subject' residence and assist the officers on scene.

At the shooting scene, Officer F conferred with Sergeant A. The subject continued to make small movements with his arms and Sergeant A advised Officer F that he was the designated "shooter" in the event. The subject attempted to rearm himself with the shotgun. As the subject' movements became more pronounced and he began to reach for the shotgun, Sergeant A and Officer F simultaneously ordered the subject not to touch the shotgun. The subject did not comply with the orders.

According to Officer F, the subject pushed himself into a sitting position and then reached for his shotgun. After the subject picked up the shotgun, Officer F fired one round from his UPR. The subject dropped the shotgun and collapsed onto the street.

Meanwhile, Officer C observed the subject roll over toward his shotgun and come up onto his knees. The subject picked up his shotgun and raised it off the ground. At that point, Officer C fired one round from his pistol at the subject. The subject dropped the shotgun and collapsed onto the street.

At the same time, uniformed Sergeant C arrived at the location. A plan was devised to take the subject into custody. As the arrest team made their approach, Sergeants B and C drew their pistols. With Sergeant C and Officers A and E providing cover, Sergeant B holstered his service pistol and Officer B and he grabbed the subject by his feet and dragged him away from the shotgun. Officer B then handcuffed the subject.

Following the subject being taken into custody, Sergeant B organized a search team consisting of himself and Officers A, B, C, D, and E to clear the subject's residence. As the search team approached the subject's residence, Sergeant B and Officers B, D, and E drew their pistols.

With the tactical situation concluded, the RA was summoned from the staging area at which time Firefighter A assessed the subject's condition. Firefighter A found the subject had no pulse, blood pressure or aspiration. Firefighter A contacted a nearby hospital and spoke with an attending doctor, who pronounced the subject dead.

### **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 Sergeants A, B, and C and Officers A, B, C, D, E, and F's tactics to warrant a Tactical Debrief.

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

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

## **C. Use of Force**

The BOPC found Officers A, C, E, and F's use of force to be in policy.

## **Basis for Findings**

### **A. Tactics**

In adjudicating this incident, the BOPC considered that:

1. Officer A took a position of cover behind a tree in the front yard of a residence located across the street from the subject's residence. When the subject opened the front door of his residence on the first occasion, officers issued verbal commands; however, he ignored the officers' commands and closed the door. The subject again opened the door and Officer A stepped out from the tree to identify himself as a police officer. Although Officer A's intention was to make himself more readily identifiable to the suspect, by moving away from the tree, Officer A left a tactically superior position and exposed himself to greater danger.

Therefore, Officer A is reminded that officer safety should not be jeopardized to identify himself as a police officer. If there is a reason to believe that the suspect is unsure of the presence of police officers, then other means (e.g. the Air Unit's public address system) should be used to advise the suspect of their presence.

2. As the tactical situation unfolded, officers simultaneously gave commands to the subject. When the subject opened the front door of the residence on the first two occasions, Officers A and E ordered the subject to exit with his hands up. Then, after the first sequence of fire, as the subject was moving around on the roadway in close proximity to the shotgun, Officer F and Sergeant A both directed the subject not to reach for the shotgun. Officers are trained to utilize the concept of contact and cover in which one officer gives the verbal commands while the other officers provide cover.

The involved officers are reminded that when multiple officers give commands, it may create confusion in the mind of the suspect.

The BOPC directed that Sergeants A, B, and C, along with Officers A, B, C, D, E, and F attend a Tactical Debrief.

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

The BOPC noted that in this instance, the involved personnel responded to a radio call of a shooting in progress, wherein a subject was reported to be armed with a shotgun. As the officers deployed around the residence and prepared for a confrontation with an armed subject, they drew and exhibited their weapons. In this situation, it was reasonable for the involved personnel to believe that they may have to use lethal force in order to defend themselves or others from the potential actions of the armed suspect.

Therefore, the BOPC found Sergeants B and C, and Officers A, B, C, D, E, and F's drawing and exhibiting to be in policy.

## **C. Use of Force**

The BOPC noted that in this situation, Officer E observed the subject open the front door while holding a shotgun. The subject's act of arming himself and pointing a shotgun at officers would cause a reasonable officer to believe the subject posed a risk of serious bodily injury or death to the officers.

Therefore, it was objectively reasonable for Officer E to believe that the subject's actions placed him and his fellow officers at risk of serious bodily injury or death and to utilize lethal force in defense of their lives. The BOPC found Officer E's use of force to be in policy.

The BOPC further noted that in this situation, Officer A observed the suspect exit the front door while pointing the barrel in a downward position. The subject's act of arming himself and pointing a shotgun at officers would cause a reasonable officer to believe the subject posed a risk of serious bodily injury or death to the officers.

Therefore, it was objectively reasonable for Officer A to believe that the subject's actions placed him at risk of serious bodily injury or death. The BOPC found Officer A's use of force to be in policy.

The BOPC further noted that in this situation, Officer F observed the subject on the ground and placed himself in a position to monitor the subject through his rifle scope. The subject's attempt to re-arm himself with the shotgun would cause a reasonable officer to believe the subject intended to shoot at the officers.

Therefore, it was objectively reasonable for Officer F to believe that the subject's actions placed him and his fellow officers at risk of serious bodily injury or death. The BOPC found Officer F's use of force to be in policy.

The BOPC further noted that in this situation, Officer C observed the subject roll from a supine position to a kneeling position and pick up the shotgun. The subject's attempt to re-arm himself with the shotgun would cause a reasonable officer to believe the suspect intended to shoot at the officers.

Therefore, it was objectively reasonable for Officer C to believe that the subject's actions placed him and his fellow officers at risk of serious bodily injury or death. The BOPC found Officer C's use of force to be in policy.