

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

**OFFICER-INVOLVED SHOOTING – 049-17**

| <b>Division</b> | <b>Date</b> | <b>Duty-On (X) Off ( )</b> | <b>Uniform-Yes (X) No ( )</b> |
|-----------------|-------------|----------------------------|-------------------------------|
|-----------------|-------------|----------------------------|-------------------------------|

|         |         |  |  |
|---------|---------|--|--|
| Rampart | 6/28/17 |  |  |
|---------|---------|--|--|

| <b>Officer(s) Involved in Use of Force</b> | <b>Length of Service</b> |
|--|--------------------------|
|--|--------------------------|

|           |                     |
|-----------|---------------------|
| Officer A | 18 years, 10 months |
| Officer B | 15 years, 5 months  |
| Officer C | 9 years, 7 months   |
| Officer D | 7 years, 8 months   |
| Officer E | 7 years, 8 months   |
| Officer F | 9 years, 7 months   |
| Officer G | 9 years, 7 months   |
| Officer H | 1 year, 9 months    |
| Officer I | 1 year              |

**Reason for Police Contact**

Officers contacted the Subject in a street. During the contact, the Subject produced a handgun and held it to his own head. Additional officers responded to assist, and the Subject pointed the gun at officers, resulting in an officer-involved shooting (OIS).

| <b>Subject(s)</b> | <b>Deceased (X)</b> | <b>Wounded ( )</b> | <b>Non-Hit ( )</b> |
|-------------------|---------------------|--------------------|--------------------|
|-------------------|---------------------|--------------------|--------------------|

Subject: Male, 33 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 the Department is currently legally prohibited from 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 June 12, 2018.

### **Incident Summary**

Police Officers B and C were assigned to conduct gang enforcement. Officer B had had numerous prior contacts with the Subject.

During the late afternoon hours, Officers B and C were travelling in a known gang area and had placed themselves at the location of this incident (Code-Six) on their Mobile Digital Computer (MDC). Officer B was the driver, and both officers were equipped with BWV.

As Officer B drove, he observed the Subject and Witness A standing on the sidewalk near a large red produce truck. Officer B advised his partner that the Subject and Witness A were in violation of a gang injunction by associating with one another in public. Officer B observed the Subject separate from Witness A and proceed to walk down the sidewalk.

The Subject did not pass the red produce truck, so Officer B put the police vehicle in reverse and observed the Subject ducking behind the truck. Officers B and C exited their vehicle to talk with the Subject and Witness A in connection with the gang injunction violation. As the officers exited their vehicle, Witness A continued to walk on the sidewalk while the Subject walked on the opposite side of sidewalk, where he stopped at a driveway. Both officers activated their BWV.

Officer B approached the Subject from one side of the produce truck as Officer C walked around the other side of the produce truck. Officer C heard his partner issuing commands and told Witness A to go to the side. Officer C then walked on the sidewalk toward the Subject and his partner. Witness A continued to walk and left the area.

Officer B told the Subject to stop and that he wanted to talk to him. The Subject appeared to be angry, agitated, and refused to listen to his commands.

Officer B continued to walk toward the Subject when he noticed the Subject's right hand inside a backpack he was wearing on the front of his body.

Officer B told the Subject to remove his hand from the backpack multiple times, but he refused to comply. Officer B interpreted the Subject's actions and noncompliance as that of a person who was possibly armed with a handgun. In response, Officer B unholstered his service pistol, held it in his right hand, and began to move to cover behind a white vehicle parked along the curb. The Subject then started to tell the officers to shoot him.

As that occurred, Officer C began to walk on the sidewalk toward the Subject. Officer B then requested a back-up unit.

Officer C unholstered his weapon with his right hand, pointed it toward the Subject, and stated, "Put your hand out of your backpack." At one point the Subject replied, "I give you my word, I am not gonna shoot you."

Officer B saw his partner on the sidewalk next to the passenger side of the produce truck and told him to move to cover. Officer C, with his gun drawn and held in a two-handed, close contact position, walked backwards into the street and took a position of cover behind the front drivers' side of the red produce truck as he gave commands for the Subject to take his hand out of the back pack. The Subject refused to comply and focused on Officer C. As Officer C gave commands, Officer B broadcast, "[...], it's gonna be a possible 415 man with a gun!"

The Subject then focused his attention back on Officer B and began to walk on the sidewalk. Officer B paralleled the Subject as he utilized parked cars for cover and repeatedly told the Subject to turn around and stop. At one point the Subject indicated he was going to shoot himself. Officer C left his position from the produce truck and began to walk towards a white vehicle for cover.

The Subject walked approximately 35 feet, stopped and then began to walk toward the red produce truck. According to Officer B, the Subject kept his right hand inside his backpack and was shouting, "Shoot me, I'm gonna walk [...] my sister RIP."

Officer B continued to verbalize with the Subject to give up and turn around but he continued to walk toward the produce truck. As the Subject walked past the white vehicle, Officer C requested a unit with a beanbag shotgun. Officer C remained in the roadway and began to follow the Subject as he approached the red produce truck.

As the Subject reached the red produce truck, partner Officers F and G arrived at the scene, broadcast they were at the location, exited their vehicle, and unholstered their weapons. Both officers activated their BWV as they responded to the backup call.

Officer B saw the other officers and asked if they had a TASER. The Subject then shouted, "Oh you're going to tase me?"

Within a few seconds, partner Officers H and J arrived at the scene and notified CD of their status and location (Code-Six) and exited their vehicle. Both officers had activated their BWV prior to their arrival.

Officer J approached Officer B, told him he had a TASER, and continued to walk toward the red produce truck. Officer J unholstered his TASER with his right hand and began to point it at the Subject when the Subject removed a chrome semiautomatic handgun

from the backpack with his right hand and held it up to the right side of his (the Subject's) head.

Officer J immediately told his partner, "Gun, back up, cover" and then ordered the Subject to drop the gun twice. Officer J holstered his TASER, transitioned to his handgun and took cover with Officer H behind a parked police vehicle.

When Officer B saw the gun, he immediately yelled at the Subject multiple times to drop the gun.

As this was occurring, partner Officers A and I arrived at the scene, notified CD they were Code-Six and exited their vehicle. The officers did not activate their BWV. Officer I was armed with the beanbag shotgun and deployed behind Officer B alongside the white vehicle.

As this was occurring, several additional officers and the Air Unit arrived on scene.

Officer I saw the Subject with the handgun to his head and that he refused to drop the handgun after repeated commands. According to Officer A, the Subject was armed, unsafe to approach, noncompliant, and believed the Subject could potentially run into one of the apartments. Officer A, yelled, "Beanbag up, beanbag ready, beanbag up, beanbag up!" Officer I then fired four rounds from the beanbag shotgun from a standing position in a southeasterly direction from an approximate distance of 30 feet.

According to Officer I, the Subject appeared unaffected by the beanbag rounds as he did not move and remained on the sidewalk armed with the handgun. The Subject then began to walk on the sidewalk with the handgun in his right hand still pointed to the right side of his head. Officer J alerted the other officers that the Subject was walking.

The Subject walked past the red produce truck and continued down the sidewalk. Officers A, B, F, G, H, I, and J followed the Subject but remained in the roadway. Officer J then said, "We can't let him get inside." At this point all of the officers were unholstered.

Officer C, who was close to the red produce truck in the street, saw the Subject walking toward him and began to walk backwards as he pointed his weapon at him. The Subject yelled at the officers to shoot him and said he wasn't going to drop the handgun. The Subject continued to walk, lowered the gun to his right side, and momentarily stopped in front of an apartment building. Officer C ordered the Subject to put the gun down, but he refused to comply. Officers B, G, F, and J told the Subject to put the gun down and at that point the Subject focused his attention on Officer B, who was standing in the street between Officers J and H close to the Subject.

As the officers were following the Subject, Sergeant A arrived at the scene and broadcast he had arrived at the location (Code-Six). Sergeant A arrived approximately 27 seconds before the OIS occurred.

Sergeant A parked his police vehicle close to where the officers were redeploying. Sergeant A observed the officers moving along the sidewalk, utilizing the parked vehicles as cover. Sergeant A positioned himself close to Officer A, observed the Subject holding a handgun to his right temple, and then heard, "Beanbag up."

Approximately seven seconds after Sergeant A arrived, partner Officers D and E arrived at the scene and broadcast they were Code-Six. The officers were equipped with BWV and activated the cameras before they exited their vehicle.

Officer E exited the vehicle and retrieved his Police Rifle (PR) out of the trunk and deployed to the east side of the street. Officer D exited, ran toward a parked police vehicle and unholstered his weapon.

Based upon the BWV footage, the Subject took approximately four steps and appeared to be yelling something at Officer B as he pointed his left hand in his direction. Officer A, yelled, "Beanbag up, beanbag ready, beanbag up!" Officer I, who was now behind the driver's side of a black vehicle and fired two rounds from the beanbag shotgun from a distance of 36 feet.

After Officer I fired the beanbag shotgun, the Subject raised the weapon back to his head and then extended his right arm out and pointed the handgun toward Officers B, J, and H. Officers A, B, C, D, E, F, G, and H fired their weapons at the Subject. The Subject was hit multiple times and fell backwards onto his back on the front lawn area with the gun still in his right hand.

Officer I transitioned to his handgun and then fired at the Subject.

Based upon the BWV, Officer I and F fired their weapons after the Subject had fallen to the ground. The second and third rounds fired by Officer E also appeared to be fired after the Subject was on the ground.

Officer J yelled, "cease fire" multiple times. Sergeant A yelled, "Hold your fire!" The Subject was lying on the grass in a supine position. He was ultimately taken into custody; however, he later died from 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 of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

## **A. Tactics**

The BOPC found Officer C's tactics to warrant a finding of Administrative Disapproval. The BOPC found Officers A, B, D, E, F, G, H, and I's tactics to warrant a Tactical Debrief.

## **B. Drawing/Exhibiting**

The BOPC found Officers A, B, C, D, E, F, G, H, I, and J's drawing and exhibiting of a firearm to be in policy.

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

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

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

The BOPC found Officers E, F, and I's lethal use of force to be out of policy. The BOPC also found Officers A, B, C, D, G, and H's lethal use of force to be in policy.

## **Basis for Findings**

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Use of Force Policy, Los Angeles Police Department Manual.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in Graham v. Connor, 490 U.S. 386 (1989), that:

"The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20

vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject’s actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer’s decision to draw or exhibit a firearm should be based on the tactical situation and the officer’s reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so. (Tactical De-Escalation Techniques, October 2016.)

## **A. Tactics**

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

## **1. Utilization of Cover**

Several officers left the cover of the parked vehicles to track the Subject's movements as he paced back and forth on the sidewalk with a loaded handgun held to his head.

The utilization of cover enables an officer to confront an armed suspect while simultaneously minimizing their exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options.

In this case, the officers were attempting to stay within close proximity to the Subject in an attempt to contain the Subject who continued to walk away from them with a handgun in his hand.

## **2. Crossfire**

In this case, the officers had to continually adjust their deployment as the Subject paced back and forth on the sidewalk. As officers adjusted their deployment locations, additional personnel at the scene were required to adjust their muzzle direction or their position due to the potential of a crossfire.

- The BOPC also considered the following:

### **1. Simultaneous Commands (Non-Conflicting)**

The investigation revealed that several officers gave simultaneous commands to the Subject during the incident.

### **2. Rifle Manipulations**

The investigation revealed that when Officer E came up on target with his police rifle and intended to fire, he did not move the selector switch to the fire position.

These topics were to be discussed at the Tactical Debrief.

- 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.

By a 3-1 vote, the BOPC found Officer C's tactics to warrant Administrative Disapproval. In addition, the BOPC unanimously found Officers A, B, D, E, F, G, H, and I's tactics to warrant a Tactical Debrief.

## **B. Drawing/Exhibiting**

- According to Officer A, he observed the Subject on the sidewalk holding a handgun to his head. Officer A then assumed cover behind a vehicle that was parked on the side of the street and drew his service pistol.

According to Officer B, he observed the Subject, a known gang member, conceal his hand inside a backpack and refused to remove it when Officer B directed the Subject to do so. Fearing that the Subject was armed, Officer B drew his service pistol.

According to Officer C, he observed the Subject, a known gang member, concealing his hand inside a backpack and refusing to remove it when directed by his partner. He also continued to hear the Subject state, "You're gonna have to shoot me." Due to the Subject's actions, he believed that the Subject could be armed and drew his service pistol.

According to Officer D, as he exited his vehicle, he observed a citizen running across the street as he simultaneously observed the Subject with a chrome or silver gun held to his head with his right hand. Fearing for his own safety as well as for the safety of the community, Officer D drew his service pistol.

According to Officer E, as the officers approached in their police vehicle, he observed the Subject walking with a handgun held to his head. Officer E's partner then stopped the vehicle. He then exited and retrieved his police rifle from the trunk.

According to Officer F, based on the backup request for a man with a gun, he believed the situation could escalate to the use of deadly force and drew his service pistol upon exiting his vehicle.

According to Officer G, immediately upon his arrival, he observed the Subject walking back and forth on the sidewalk holding a handgun to his head and directed the Subject to drop the gun as Officer H drew his service pistol.

According to Officer H, he observed the Subject pacing back and forth with his hands in his pocket and then pull out a handgun. Fearing for his safety and the safety of his partner, Officer H drew his service pistol.

According to Officer I, after he fired his final beanbag round, the Subject moved the handgun away from his head and pointed it at Officer I, and the other officers at the scene. Fearing he would be shot, Officer I drew his service pistol.

According to Officer J, upon his arrival he observed Officers B and C with their service pistols drawn making contact with the Subject who was concealing his hand inside a black backpack. Officer J then observed the Subject pull out a gun and drew his service pistol.

Based on the totality of the circumstances, the BOPC determined that officers with similar training and experience as Officers A through J, while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers A, B, C, D, E, F, G, H, I, and J's drawing and exhibiting of a firearm to be in policy.

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

- **Officer I** – (beanbag shotgun, six sock rounds)

#### First Sequence:

According to Officer I, he observed the Subject standing with a handgun to his head, staring at the officers. Fearing he would utilize the handgun on either himself, or someone else, Officer I deployed the beanbag shotgun.

#### Second Sequence:

According to Officer I, the Subject continued to pose a threat with the handgun, refusing to put it down. Officer I then loaded the remaining two beanbag sock rounds into the beanbag shotgun. When the Subject stopped in front of the apartment complex with the handgun, he sought cover and fired the remaining two rounds from the beanbag shotgun at the Subject.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer I, while faced with similar circumstances, would reasonably believe the application of a less-lethal force option to stop the Subject's actions was objectively reasonable.

Therefore, the BOPC found Officer I's less-lethal use of force to be objectively reasonable and in policy.

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

- **Officer B** – (pistol, five rounds)

According to Officer B, he observed the Subject lower the handgun and then point it in his direction. To protect himself and the officers that were around him, he fired five rounds from his service pistol at the Subject to stop the lethal threat.

- **Officer C** – (pistol, six rounds)

According to Officer C, he observed the Subject point a handgun towards other officers who were close to his location. In defense of their lives, he fired six rounds from his service pistol at the Subject to stop the threat.

- **Officer G** – (pistol, seven rounds)

According to Officer G, he observed the Subject extend his arm out and point the handgun toward the officers positioned close to him. In defense of their lives, he fired seven rounds from his service pistol at the Subject to stop the threat.

- **Officer F** – (pistol, three rounds)

According to Officer F, he observed the Subject point the handgun toward him and the other officers. In fear for his life, and the lives of the other officers, Officer F fired three rounds from his service pistol at the Subject to stop the threat.

- **Officer H** – (pistol, ten rounds)

According to Officer H, he observed the Subject point the handgun toward him and Officer J, heard a shot being fired, and believed the Subject fired at the officers. Fearing for his life, he fired ten rounds from his service pistol at the Subject to stop the threat.

- **Officer I** – (pistol, two rounds)

According to Officer I, after he fired his final beanbag shotgun round, he observed the Subject point the handgun toward him and the other officers. Believing the Subject was going to shoot at them, he grounded the beanbag shotgun, drew his service pistol, and fired two rounds at the Subject to stop the threat.

- **Officer A** – (pistol, two rounds)

According to Officer A, he observed the Subject point the handgun towards him and Officer I and believed the Subject fired one round at them. Fearing for their lives, Officer A fired two rounds from his service pistol at the Subject to stop the threat.

- **Officer D** – (pistol, six rounds)

According to Officer D, he observed the Subject move the handgun away from his head and then point it toward the officers north of him. Fearing for their lives, he fired six rounds from his service pistol at the Subject to stop the threat.

- **Officer E** – (rifle, three rounds)

According to Officer E, he observed the Subject turn and then point the handgun toward the officers. Fearing for their lives, Officer E fired three rounds from his police rifle at the Subject to stop the threat.

Based on the totality of the circumstances, the BOPC determined that officers with similar training and experience as Officers A, B, C, D, G, and H would reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury and that the Use of Lethal Force would be objectively reasonable.

Therefore, the BOPC found Officers A, B, C, D, G, and H's lethal use of force to be objectively reasonable.

Additionally, the BOPC determined that an officer with similar training and experience as Officers E, F, and I, while faced with similar circumstances, would not have perceived the Subject's actions presented an imminent threat of death or serious bodily injury at the time these officers fired their weapons.

Therefore, the BOPC found Officers E, F, and I's lethal use of force to be out of policy.