

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

OFFICER-INVOLVED SHOOTING – 072-17

Division **Date** **Duty-On (X) Off ()** **Uniform-Yes (X) No ()**

Newton 11/9/17

Officer(s) Involved in Use of Force **Length of Service**

Officer D 18 years, 6 months

Reason for Police Contact

Officers went in pursuit of a stolen truck. During the pursuit, the Subject stopped and intentionally rammed an occupied police vehicle, resulting in an officer-involved shooting (OIS).

Subject **Deceased ()** **Wounded ()** **Non-Hit (X)**

Subject: female, 35 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 September 18, 2018.

Incident Summary

On November 9, 2017, uniformed Officers A and B were assigned as a crime suppression detail.

The officers were monitoring a specific area for stolen vehicles when they identified two stolen, unattended motor vehicles, a car and a truck. After a short while, a female suspect got into the stolen car and drove it a short distance before Officers A and B stopped and detained her.

Officers A and B requested a back-up unit. Officer C responded to the officers' location. Officer C notified Communication Division (CD) that he was at scene with Officers A and B. Officer C was informed by Officers A and B that the unattended truck, which was parked approximately 50 feet away from them, was reported stolen.

A short while later, Officer C was alerted by Officer A that the stolen truck was moving and that the Subject was driving. Officer C followed the vehicle, broadcast a back-up unit request, and advised that he had arrived at the scene behind the vehicle.

The Subject drove for a short distance and then stopped and exited the truck on her own. Officer C stopped, exited his vehicle, and began to give commands for the Subject to come toward him. The Subject did not comply. She was uncooperative, reentered the truck, and closed the driver's side door. Officer C reentered his patrol vehicle, maintained visual contact, and waited for his back-up unit to arrive.

Minutes later, Officers D, E, F, G and Sergeant A arrived in response to Officer C's back-up request. The officers notified CD that they were at the scene with Officer C.

Air Support Division also responded to the back-up request.

When the back-up officers arrived, Officer C advised them that the Subject was inside the truck and had refused to exit. Sergeant A directed Officer G to order the Subject to step out of the vehicle. When the Subject refused, Officer E used his vehicle's public address (PA) system and advised her that she was inside a stolen truck and that she needed to exit. The Subject did not comply and remained inside the truck.

Sergeant A verified there was no evidence of the Subject being armed and directed the officers to make two additional announcements on the PA. Sergeant A further advised that if those attempts proved fruitless, an arrest team would approach and remove her from the vehicle.

After the announcements were given, and the Subject did not comply, Sergeant A assembled an arrest team and designated Officer E as the cover officer and Officers F and G as the arresting officers. Sergeant A advised the officers he was equipped with a Taser. Officer D remained on the driver's side of the truck as the designated beanbag shotgun officer. The arrest team approached the stolen truck on the passenger side.

Sergeant A attempted to open the passenger door, but it was locked. He repeatedly ordered the Subject to exit the vehicle, but she refused and stated that she was in fear of her life. Sergeant A warned the Subject that he was going to break the window if she did not comply, but she still refused. Officers E and F went to the driver's side and attempted to open the door, but it was also locked. At this point, Sergeant A removed his ASP baton and warned the Subject he was going to break the window. With his ASP in the closed position, he used the bottom end of the baton to strike the passenger window three times. The window did not break. According to Sergeant A, his intent was to quickly break the window, unlock the door, and have the officers remove the Subject from the vehicle.

After Sergeant A's unsuccessful attempt to shatter the window of the stolen truck, the Subject immediately started the engine and fled the scene in the stolen truck. The officers entered their respective vehicles and began to pursue the Subject.

Officers F and G became the primary unit in the pursuit and this was broadcast to CD. Officers D and E were the secondary unit. The officers activated their overhead lights and siren during the pursuit, and Air Support broadcast the pursuit from the Air Unit.

During the pursuit, Air Support Division (ASD) broadcast that they were available for tracking the suspect. Tracking was subsequently initiated as ASD continued to broadcast the Subject's direction of travel. Sergeant A broadcast he was the Incident Commander (IC) of the pursuit and directed units to continue in tracking mode.

As the pursuit continued, the Subject became involved in two separate hit and run traffic collisions. ASD broadcast they could no longer continue tracking, at which point Officers F and G re-engaged in the pursuit as the primary unit.

The pursuit continued and at one point the Subject reversed the stolen truck into Officers F and G's vehicle. This was the Subject's third hit and run traffic collision. Officers F and G were not injured.

Immediately after the traffic collision, Air Support broadcast that the Subject had struck a police vehicle and was now wanted for Assault with a Deadly Weapon (ADW) on a police officer. As Officers F and G were out of the pursuit, Officers D and E became the primary unit in the pursuit.

After the traffic collision, the Subject continued driving, as Officers H and I joined the pursuit as the secondary unit.

The Subject drove into an open-air market through one of the entrances. The market was open for business with numerous people walking about and operating trucks within the interior of the lot. Numerous witnesses interviewed stated the Subject drove into the market at an unsafe speed and could have harmed someone.

The Subject was forced to stop the truck at one end of the market due to a T-Intersection in the parking lot. Additionally, there were vehicles that blocked her path, preventing her from making a left or right turn toward the exits. As such, the Subject made a series of forward and reverse maneuvers for the purpose of completing a U-turn. Officer D momentarily stopped behind the Subject and then backed up to prevent her from reversing into his vehicle. Officer D then exited his police car and took a position of cover behind the driver's side ballistic door panel.

According to Officer D, he attempted to conduct a felony stop. Using the door as cover, he unholstered his pistol and, with his finger along the frame, pointed his handgun at the truck. Officer D's BWV depicted him yelling at the Subject, to get out of the vehicle. The Subject did not comply with his orders.

Simultaneously, Officer E also exited the vehicle, unholstered his handgun and held his pistol in a two-handed grip with his finger along the frame. He then moved away from the passenger door because he did not want to get trapped behind the door if the Subject were to collide into the officers' vehicle.

The Subject ignored the officers' commands and had almost completed her U-turn. Officer D yelled at E to get back in their car. They holstered their handguns and reentered their vehicle. Believing that the Subject was going to ram their vehicle, Officer D attempted to move it. However, he was only able to back up a few feet because Officers H and I's police vehicle was directly behind them.

According to Officer E, he believed that the Subject was not going to stop. He further believed that if she was not stopped, the Subject could possibly kill someone by striking them with the truck. Officer E planned to stop the Subject by firing a beanbag shotgun round to shatter the passenger side window, unlocking the door, and removing her from the truck. Officer E stood behind the door for cover and shouldered the beanbag shotgun. Officer E estimated the moving, stolen truck was traveling at approximately two to three miles per hour. Officer E fired one round in a southwesterly direction and shattered the passenger window.

When Officer E fired the beanbag shotgun, the Subject accelerated the stolen truck, turned the steering wheel to the right toward Officers H and I's vehicle, and rammed into them.

According to Officer H, he observed the Subject look directly at him with her hands on the steering wheel as she accelerated toward their vehicle. Officer H believed the Subject was going to try to kill him and Officer I. As the Subject approached, Officer H unholstered his handgun and opened his door. At that point, Officer H realized he would not have a clear shot and that the windshield of the truck would have rendered the round ineffective.

Realizing that the Subject had collided with Officers H and I's vehicle, Officer D exited his vehicle and ran in a southwesterly direction towards the stolen truck. Officer D

observed as the Subject drove in reverse and believed the Subject was preparing to ram the officers again. Officer D further believed that the Subject had already injured the officers and that the incident had escalated to one in which deadly force was now warranted. Officer D unholstered his handgun and fired one round in a southwesterly direction from an approximate distance of 10 feet. The Subject was not struck by the gunshot and drove away. Officer D broadcast that shots had been fired and gave the Subject's direction of travel.

ASD notified CD that an officer needed help at the market and requested a Rescue Ambulance (RA).

The Subject drove out of the market, made a right turn, and then reentered the market via the next entrance. The Subject stopped approximately 25 feet away from the entryway, exited the truck, and fled on foot through the market. The Subject entered a produce business and ASD broadcast the Subject's location. Officers J and K responded to the back-up request and were directed by numerous citizens to the Subject's location. Officers J and K located the Subject, unholstered their handguns, and gave her commands to get on the ground.

Officer I quickly approached the Subject, and grabbed her right forearm with his right hand and her left forearm with his left hand. Officers H and I then handcuffed the Subject with her arms behind her back.

Sergeant A arrived as Officer H and I were completing the handcuffing of the Subject and assumed control of the incident.

Officers J and K walked the Subject out toward their vehicle, where the Subject was placed in the right rear seat and placed in a seatbelt. The Subject then slammed her head into a rear window and plastic partition which separated the front passenger compartment from the rear seat compartment.

In an attempt to prevent her from injuring herself, Officers J and K placed a Hobble Restraint Device (HRD) on the Subject's legs, just below her knees. The Subject was then sat in the rear seat with the extended portion of the HRD secured to the right rear door jam.

The Subject continued slamming her head onto the partition and rear windows. As a result, the Subject was removed from the vehicle and placed on the ground on her stomach.

Los Angeles Fire Department (LAFD) responded to treat the Subject for a laceration to her right arm and swelling to her left eye. The Subject was placed into the Rescue Ambulance, accompanied by Officer K in the ambulance, and transported to a local hospital for treatment of her 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, Officers C, D, F, G, H, I's tactics to warrant a Tactical Debrief. The BOPC found Sergeant A and Officer E's tactics to warrant a finding of Administrative Disapproval,

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Officers D's lethal use of force to be out of 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 Subject 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

- During the review of the incident, the following Debriefing Points were noted:

1. Tactical Planning (Substantial Deviation – Sergeant A)

Sergeant A formulated a tactical plan to approach the stolen vehicle and take the Subject into custody without considering the Subject's ability to drive off, or allowing himself to remain in a position, to supervise the officers' actions.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this case, although Sergeant A formed an arrest team consisting of lethal and less-lethal force options, Sergeant A designated himself as the less-lethal cover officer, and tasked himself with opening the door and then attempting to break the window. The BOPC would have preferred for Sergeant A to request additional personnel so that he could maintain a position of supervisory oversight.

Additionally, Sergeant A's plan did not take into consideration that the vehicle's doors may be locked, or that the Subject may drive away. The BOPC would have preferred for Sergeant A to have taken more time during this incident to formulate a tactical plan that addressed these possibilities prior to approaching the Subject's vehicle.

Based on the totality of the circumstances, the BOPC determined that Sergeant A's actions were a substantial deviation, without justification, from approved Department tactical training.

2. Vehicle Stop Tactics

Officers D and I positioned their vehicle in close proximity to the Subject's vehicle, when they entered the market.

In this case, Officer D believed that there was an exit, and that the Subject was going to continue the vehicle pursuit through the produce market. However, once inside, the Subject stopped, and due to the limited space for the officers to operate their vehicles, they were unable to reposition to maintain a greater distance between themselves and the Subject's vehicle.

Based on the totality of the circumstances, the BOPC determined, that the officers' actions were reasonable.

3. Beanbag Shotgun – Tactical Discharge (Substantial Deviation – Officer E)

Officer E discharged his beanbag shotgun to break the Subject's passenger side window.

In this case, Officer E's decision to use the beanbag shotgun to break the Subject's passenger side window was not prudent due to the following: the Subject was operating a large motor vehicle in a confined space with multiple pedestrians and officers in the area; accurately hitting a moving target is difficult even in optimal circumstances; there was a risk of secondary impacts to the driver of the vehicle, as well as the risk that beanbag sock rounds may rupture when striking intermediate barriers such as glass and metal posing a risk of injury or distraction to the driver of the vehicle further endangering the safety of the citizens in the produce market.

Based on the totality of the circumstances, the BOPC determined that Officer E's actions were a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:

1. Beanbag Shotgun Manipulations

The investigation revealed that Officer D, during the initial vehicle stop, inadvertently ejected a live beanbag sock round into his hand while manipulating the action of his loaded beanbag shotgun during the initial vehicle stop. Additionally, Officer D placed the beanbag shotgun on the dashboard of his police vehicle when he entered the vehicle to pursue the Subject. After the Subject drove into the market, Officer E deployed the beanbag shotgun. Prior to utilizing the beanbag shotgun, he cycled the action, causing a live beanbag sock round to eject onto the ground. After discharging the beanbag shotgun, he did not cycle the action to ensure the beanbag shotgun was maintained in a loaded condition. The officers were to be reminded of the importance of proper beanbag shotgun manipulations.

2. Holding Beanbag Shotgun in Left Hand and Service Pistol in Right Hand

Body Worn Video captured that Officer E held his beanbag shotgun in his left hand while holding his service pistol in his right hand. Officer E was reminded of the tactical disadvantage of carrying a service pistol in one hand and an additional piece of equipment in the other hand.

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

B. Drawing/Exhibiting

- According to Officer C, he drew his service pistol while arriving at the location of a known felony Subject.

According to Officer D, the Subject did not comply with his commands, conducted a multi-point turn, and began to drive back toward the entrance of the produce market. As she was driving away, she used her vehicle to collide with a police vehicle that was parked behind Officer D's vehicle. Officer D drew his service pistol. Additionally, a review of Officer D's BWV revealed that he drew his service pistol while clearing the stolen vehicle at the termination of the pursuit.

According to Officer E, he and Officer D responded to a backup unit request for a stolen vehicle. Upon arrival, he exited his vehicle, and drew his service pistol. Additionally, he observed that after the Subject drove into the market, she stopped. Officer D stopped the officers' vehicle behind her. Officer E exited the vehicle and drew his service pistol. Additionally, at the termination of the pursuit, Officer E drew his service pistol to clear the stolen vehicle.

According to Officer F, he responded to a backup unit request for a stolen vehicle. Upon arrival, he began coordinating with additional units, establishing roles for a high-risk stop. He drew his service pistol based on his knowledge that people who drive stolen vehicles often have weapons. Additionally, a review of Officer F's BWV revealed that he drew his service pistol while clearing the stolen vehicle at the termination of the pursuit.

According to Officer G, he responded to a backup unit request for a stolen vehicle. Upon arrival, he drew his service pistol because the Subject was in a stolen vehicle and, thus, possibly had a weapon.

According to Officer H, he drew his service pistol after the Subject drove her vehicle into Officer H's police vehicle.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers C, D, E, F, G, and H, 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 C, D, E, F, G, and H's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- **Officer D** – (pistol, one round)

According to Officer D, he observed the Subject use her vehicle to ram Officer H's vehicle. It appeared to Officer D that the Subject was attempting to injure or kill Officer H, and he fired one round at the Subject to protect Officer H's life.

Based on the totality of the circumstances, which included the Subject vehicle's position and the immediacy of the threat posed to Officer H, as determined by the investigation, evidence, and statements, the BOPC determined that an officer with similar training and experience as Officer D, would not reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury, making the use of lethal force objectively unreasonable.

Therefore, the BOPC found Officer D's lethal use of force to be out of policy.