

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

OFFICER-INVOLVED SHOOTING – 001-13

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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77 th Street	01/01/13		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	5 years, 9 months
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Reason for Police Contact

Officers heard and responded to shots fired in the area and observed the Subject armed with a rifle, which the officers observed him fire once into the air. The Subject ran from the officers and, as he did so, pointed the rifle at officers, resulting in an officer-involved shooting.

Subject(s)	Deceased () Wounded () Non-Hit (X)
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Subject: Male, 18 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 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 November 26, 2013.

Incident Summary

On December 31, 2012, Sergeants A and B, along with Officers A, B, C, D, E, F, G, and H, assembled at the police station for a pre-arranged meeting. Sergeants A and B informed the unit that their mission for the evening was to patrol the east side of the division and focus on gunfire suppression due to New Year's Eve celebrations.

Officer A, while driving, heard a loud bang, which he believed was consistent with a rifle being fired.

Meanwhile, Officers G and H were just north of the area when Officer G heard three loud successive gunshots that he believed were coming from the immediate area just west of their location.

According to Officer G, he and Officer H continued south and then turned west. Officer G heard another single gunshot that he determined was coming from the south side of the street somewhere within the confines of four residences.

Officer G broadcast this information over the radio, and the remaining officers began responding to the vicinity.

Officer G recalled that he and Officer H parked in the alley behind the fourth residence, which was completely dark and was bordered by a chain link fence. The officers determined that there was no activity in that yard, so they focused on the three residences east of their location.

The officers exited their vehicle and began walking eastbound. They heard what sounded like people talking, some music, and then another single gunshot, which they determined was coming from the third residential property. The officers set up containment at the southwest corner of the property and continued to broadcast updates to the responding units.

Officers A and B stopped, parked, and met up with Officers E and F. A tactical plan was formulated in which Officers E and F would take up a position in the alley south of the property, along with Officers G and H, while Officers A and B would approach from the sidewalk.

Officers A and B exited their vehicle and made their way on foot westbound. As they neared the location, which had front and rear residences on the property, they heard what sounded like a party to the rear and believed it might be the location from where the gunshots had originated.

Officers C and D arrived at the location and met with Officers A and B. Officers C and D were briefed regarding all facts known to Officers A and D at that point, and the four officers conducted a brief tactical discussion. It was decided that Officers A and B

would be the primary contact officers and Officers C and D would act as cover and the arrest team. The officers proceeded westbound and stopped just east of the driveway.

The officers heard what they described as the sound of a round being chambered into a firearm. After confirming officers were set in the rear alley, Officer B advised Officer G they were going to attempt to make contact with the persons at the location. Officers A, B, C, and D walked southbound down the driveway to investigate further. Believing they might encounter an armed subject, the officers unholstered their weapons.

Meanwhile, Officers E and F, upon entering the rear alley, noticed Officers G and H to the west of their position. They parked their vehicle at the mouth of the alley, exited their vehicle, and walked approximately 40 feet west when Officer E heard what he believed to be the sound of a round being chambered into a shotgun. Officer F unholstered his weapon and both officers made their way back to their vehicle. Upon reaching their vehicle, Officer F holstered his weapon, retrieved his police rifle from the trunk, chambered a round, and slung the rifle over his shoulder. Officer E retrieved his shotgun from the trunk, chambered a round, and held it in a port arms position.

Officers G and H also unholstered their weapons.

As Officers A, B, C, and D made their way down the driveway, they encountered a vehicle parked approximately 37 feet south of the north sidewalk, which they utilized as cover. Officers A and B took the lead, with Officer A walking along the east (driver's) side of the vehicle and Officer B walking along the west (passenger) side.

Upon reaching the trunk area of the parked vehicle, Officer A observed the Subject standing next to a portable barbecue in the middle of the courtyard, approximately 59 feet southwest of his position. According to Officer A, the Subject was holding a black rifle with the muzzle pointing into the air.

Officer A alerted his partners by shouting, "Hey, rifle." Officer A observed the Subject fire his weapon one time into the air and noted the muzzle flash after the shot. He then stated to his partners, "Hey, he shot a rifle." Officer A continued south to the hood of the vehicle, raised his weapon, and ordered the Subject to drop the rifle. Officer A made eye contact with the Subject, and the Subject paused momentarily before running in a southwest direction through the courtyard.

Officer D observed the Subject shoot a rifle in the air and heard either Officer A or C yell, "Drop the gun. Drop the gun."

Officer C observed the Subject standing next to the barbecue, holding a rifle, next to approximately three additional males standing in the vicinity of the barbecue. He heard Officer A yell, "Stop. Put the gun down. Put your hands up in the air."

Officer G, from his position in the rear alley, heard officers giving orders to the effect of "Drop it," or, "Get on the ground."

In an effort to maintain visual contact with the Subject, Officer A pursued him into the courtyard. Officer A held his weapon in a two-handed low-ready position as he ran. Officer A reported that as the Subject ran away, the Subject turned his body to the right, which caused the muzzle of the rifle to point directly at Officer A. Officer A indicated that there was no cover or concealment available, and that he was scared because he perceived the Subject to be armed with a high-powered rifle.

Officer A, while running, fired 11 times in rapid succession at the Subject from an increasing distance of 15 to 17 feet, in a southwest, west and northwest direction.

The Subject squeezed around an opening in the chain link fence that separated the location and the adjacent property.

Once the Subject made it onto the adjacent property, he ran northbound between the houses out of Officer A's line of sight.

Officer C broadcast a request for help.

Officer G, from his position in the alley southwest of the rear building at the location, observed the Subject contort his body so that he came around the fencepost back first, with the front of his body facing east (toward Officer A's direction) and his back facing west. Officer G illuminated the area with the tactical light affixed to his pistol but could only see the Subject's hair and part of his shoulder and hip.

Officer G could not tell if the Subject carried anything in his hands, but noted that the Subject did not utilize his arms to assist him in getting around the fence. Once the Subject made it around the fence, he ran in a northbound direction. Officer G made the observation that as the Subject ran, he never swung his arms in a back to front motion, as one would normally do when sprinting.

Officer G yelled, "He's running northbound. He's running northbound," and could hear officers giving commands. Officer G moved his position further west and lost sight of the Subject.

Officer H, who had been standing next to Officer G, also observed the Subject make his way around the fence onto the adjacent property, but could not tell if he had anything in his hands. He then observed the Subject run into the residence on the adjacent property through an open side door on the east side of the structure. Officer H advised Officer D of the Subject's location.

In the interim, Sergeant B, who had monitored the officers' communications over the radio prior to the OIS, responded to the location. He parked his vehicle and approached the location on foot. He heard eight to 10 rapid gunshots. He did not witness the shooting from his position and could not distinguish if it was an OIS. Sergeant B continued south down the driveway and upon reaching the halfway point, heard

someone exclaim, "He shot my brother," at which point Sergeant B formed the opinion that an OIS had occurred, and he unholstered his weapon.

Officer C handcuffed both subjects and observed a handgun lying on the ground approximately two to four feet west of his position. Officer C directed another officer to guard the weapon. However, Officer E, who also observed the handgun, stood by and safeguarded that weapon until all witnesses were eventually removed from the courtyard.

Upon entering the rear courtyard, Sergeant B observed two subjects prone on the ground just east of the rear garage, and a third subject prone southeast of the garage, whom Sergeant B directed Officer D to handcuff. Sergeant B observed that there was a party inside of the residence at the OIS location and estimated there were approximately 20 persons inside. He further heard the sound of running in the yard just west of his location and observed Officer A standing directly south of the garage. Sergeant B was informed by Officer D that the Subject may have barricaded himself inside the adjacent property.

Officers E and F, from their position in the rear alley, upon hearing a rapid succession of gunfire, ran down the driveway of the OIS location, where they encountered the immediate aftermath of the OIS. Additionally, numerous patrol units began to arrive and assisted with detaining individuals and setting up containment of the location.

Sergeant B coordinated with an air unit to ensure that a perimeter was set. He also coordinated with responding officers to ensure all persons either inside the residence at the OIS location or in the courtyard were moved to a safer area away from the scene due to the possible barricaded subject.

Sergeant B determined that it would be unsafe to post an officer on the handgun, as the handgun was in direct view of the windows on the east side of the adjacent property. He instructed Officer E to remove the handgun from scene. Officer E donned latex gloves before handling the weapon and took care not to manipulate it in any way. He safely carried it away from the scene, preserving it for prints, and he placed it in a black box in the trunk of a police vehicle, where it was later recovered by LAPD investigative support personnel.

After a secure perimeter was set around the adjacent property, Sergeant B instructed the Subject numerous times via a bull horn to peacefully exit the location in order to be taken into custody, but the Subject failed to do so. Additionally, Sergeant B obtained the telephone number of the residence and unsuccessfully tried to make telephonic contact with the Subject. Finally, Witness A arrived at the Command Post (CP) and offered to call the Subject. Witness A successfully contacted the Subject and convinced him to give himself up.

The Subject exited the residence, was taken into custody without incident, and, during a field show-up, positively identified by Officer A as the Subject armed with the rifle.

Sergeant B instructed Officers D, H, G, F, and E and other officers to assist him in conducting a protective sweep of the adjacent property, which was accomplished without incident.

During the search of the OIS location, numerous items of evidence, including pistols, a box of live ammunition and a 30-round assault rifle magazine containing live rounds, were discovered and eventually recovered by LAPD investigative support personnel.

Note: The investigation revealed that a magazine, consistent with .223/5.56 caliber, with a 30 round capacity, was recovered from on top of the washing machine in the rear building of the OIS location. Live .223 caliber cartridges recovered from inside the magazine bore the same manufacturer's head stamp as both the live cartridge and expended cartridge recovered from the backyard of the OIS location.

Officers were unable to locate the rifle used by the Subject.

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). 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 made the following findings.

A. Tactics

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

B. Drawing/Exhibiting

The BOPC found Officers A, B, C, and D's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

- In its analysis of this incident, the BOPC considered the following:

1. Code Six/Tactical Communication and Planning

Officers A, B, G, and H were working in the area and heard numerous gunshots nearby. Officers A, B, G, and H did not notify CD of their location and status (Code Six). All officers involved in the incident had a tactical plan to contain any individuals that might try to flee, however, they did not discuss specifically what course of action they would take if a subject was to flee on foot.

Officers should always consider the balance between making a timely Code Six broadcast and officer safety, affording discretion in determining the appropriate time to make their broadcast. In this instance, the BOPC determined that adequate resources – eight officers and a supervisor – were aware of and in the immediate vicinity to address any tactical concerns that may have arisen. Nonetheless, a broadcast of the officer's location on base frequency would have been tactically advantageous to alert CD and others of their location and status.

In evaluating Officers A, B, G, and H's actions, the BOPC determined that based on the totality of the circumstances, although the officers' actions deviated from approved Department tactical training, their actions were justified due to having adequate resources available. However, Officers A, B, G, and H are to be reminded of the importance of a timely Code Six broadcast and a broadcast of additional pertinent information during incidents such as this.

Additionally, it is critical that specifics of the plan are communicated to all involved regarding containment of any fleeing subjects. The BOPC's expectations are that officers should plan and communicate thoroughly the course of action to take in the event that a subject(s) should flee, however, the BOPC noted that throughout this incident, there was containment on all sides.

2. Utilizing Cover

Officer A utilized a parked vehicle as cover while entering the yard to make contact with the Subject. While behind cover, Officer A observed the Subject to be armed with a rifle. The Subject subsequently fled on foot, and Officer A left his position of cover to maintain sight of him.

Officers are trained to utilize cover during tactical incidents involving armed subjects. The BOPC was critical of Officer A's decision to leave cover in an attempt to maintain sight of the Subject. Accordingly, the BOPC determined that although Officer A's decision to forgo cover deviated from approved Department

training, his actions were justified as a result of his intention to maintain sight of the Subject, while remaining in containment mode. The BOPC also determined that Officer A's actions ensured effective containment, due to his decision to maintain sight of the Subject, even though he left cover to do so, while maintaining a tactical advantage.

In conclusion, Officer A is to be reminded that when confronting an armed subject, the decision to leave cover increases the inherent risk.

3. Pursuing an Armed Subject/Apprehension vs. Containment

Officer A pursued the Subject, who was armed with a rifle, in an attempt to maintain observation and increase the likelihood of containment. Officers are reminded of the importance of maintaining a containment mode when pursuing an armed subject. The BOPC assessed Officer A's decision to pursue the Subject while maintaining eyesight, thus enhancing the possibility of successful containment.

It is the BOPC's expectation that officers take action to stop the actions of an armed subject that had discharged a rifle into a community with reckless disregard. Nonetheless, Officer A is reminded of the importance of maintaining the tactical advantage by utilizing cover and concealment when available. To that end, the BOPC found that Officer A's actions did not substantially deviate from approved Department tactical training.

- The BOPC additionally considered the following:
 1. Running with a Pistol Drawn – Officer A observed the Subject armed with a rifle and pursued the Subject as he ran toward the rear of the yard. Officer A was holding his service pistol in his hands while he ran. Officer A is reminded there is an increased risk for an unintentional discharge when an officer runs with their service pistol drawn.
- 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.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and the individual actions that took place during this incident.

In conclusion, the BOPC found Officers A, B, C, and D's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- Officers A, B, C and D heard shots fired in the area. They exited their police vehicles and started to walk on the sidewalk. Officers A and B heard a loud party to the rear of the location and believed the gunshots originated from there. They were met by Officers C and D and briefed them on the situation. The officers discussed a tactical plan and proceeded toward the location. Prior to entering the driveway and believing the situation may escalate to the use of lethal force, Officers A, B, C, and D drew their service pistols.

As additional officers were responding to the incident, the rear location needed to be cleared. Due to the unfolding tactical situation, Officer A drew his service pistol and was part of the search team.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, C, and D would determine that a subject armed with a rifle would represent a deadly threat. Furthermore, an officer faced with similar circumstances would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Officers A, B, C, and D's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- **Officer A** (pistol, 11 rounds)

Officer A observed the Subject to be armed with a rifle. The Subject subsequently fled on foot, at which time Officer A pursued the Subject in an attempt to observe and contain him. A short distance later, the Subject turned and pointed the muzzle of the rifle at Officer A. Officer A believed that his life was in immediate danger and consequently fired eleven rounds at the Subject to stop his actions.

Regarding Officer A's round placement/impacts, due to dynamic and often traumatic, stressed-filled incidents such as this, officers' recall of what actually occurred during the incident can be distorted, or not recalled at all. The BOPC determined that all evidence discovered during the investigation supports Officer A's account of what occurred.

While no rifle was recovered, the BOPC took into account the following factors which identify the Subject as being armed with the rifle. During a search of the courtyard, a .223 expended casing and one live .223 round, was recovered from the area where the Subject was observed firing a round into the air. After the OIS, a search of one of the residences at the location, where the Subject often resided, a 30-round rifle magazine was recovered from the east bedroom. In addition, a witness, later

identified as Witness B, was a guest at the party and in the residence at the time of the OIS. According to the investigation, Witness B observed the Subject, prior to the officers' arrival, fire a rifle into the air.

Based on the totality of the circumstances, an officer with similar training and experience as Officer A would reasonably believe that the Subject's actions of pointing the muzzle of the rifle toward him presented an imminent threat of death or serious bodily injury and that the use of lethal force would be reasonable.

In conclusion, the BOPC found Officer A's use of lethal force to be objectively reasonable and in policy.