

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

OFFICER-INVOLVED SHOOTING – 002-13

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Southwest	01/18/13		

Officer(s) Involved in Use of Force	Length of Service
Officer A	5 years, 4 months
Officer B	8 years, 1 month

Reason for Police Contact

The Subject was behaving in a threatening manner inside a market, so witnesses called 911. Officers arrived, and a categorical use of force occurred.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
Subject: Male, 52 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.

Incident Summary

A male, later identified as the Subject, entered a food market, accompanied by his six-year-old son, Witness A. The Subject walked up to an enclosed, secured money gram office located inside the market and tapped on the window. He told Witness B, who was inside the office, that he wanted to buy a money order. Witness B advised the Subject the office was closed and would open later that day.

The Subject left the window and began to pace around the store. A few minutes later, the Subject returned to the money gram window and again asked Witness B if he could purchase a money order. Witness B again advised the Subject that the office was closed and again the Subject walked away and paced around the store. The Subject repeated this action several more times. Witnesses relayed that as the Subject walked around the store and around customers and employees, he displayed a knife in his right hand. Witness C, the store manager, approached the Subject and asked if he could help. The Subject stated that he believed someone was following him and asked for store security. Witness C and additional witnesses, including Witness A, stated they did not observe anyone following the Subject at any time during the incident.

As the Subject continued to wander around the entrance area of the store, witnesses stated that his behavior became more erratic and aggressive. At one point, witnesses stated that the Subject spun in a circle with the knife open in his right hand. Witnesses described the action as if the Subject was attempting to defend himself from someone.

The Subject walked behind several customers, who were waiting to pay for items, with the knife in his hand. As the Subject passed behind Witness D, she felt what she believed was the knife blade, rub along her back. As he walked behind one of the male customers, the Subject lowered his shoulder and pushed the customer.

Note: This customer left the store immediately after making his purchase and was not present at the time of the officer-involved shooting (OIS). He was never identified and consequently, was not interviewed.

Based upon his increasingly bizarre and aggressive behavior while in possession of the knife, several witnesses called the police. Communications Division (CD) initiated a broadcast, "[A]ny units, 415 Man with a Knife inside [a] food market. The su[bj]ect is described as a male [...], 40 years, dark complexion, no clothing description at this time; he's carrying a knife inside the location."

CD assigned a patrol unit to the radio call. Officers A and B, enroute to a priority radio call, advised CD to cancel the patrol unit and assign them the call. Officers A and B responded with emergency lights and sirens to the location. Officers A and B were in a marked black and white police vehicle. Officer A read the additional comments of the call to Officer B, which included the Subject's clothing description. The officers discussed tactics, including contact and cover and specifically, contacting a subject armed with a knife. The officers agreed that Officer B would be the contact officer and

Officer A would carry the Thomas A. Swift Electronic Rifle (TASER) and be the cover officer.

CD broadcast additional information that the Subject was inside the location near the money gram office.

The officers arrived at the location and Officer A advised CD accordingly. Officer B parked the police vehicle in the market's parking lot. As the officers exited the police vehicle, they were approached by an unidentified male who advised that the Subject was inside the store to the left of the entrance and that he was armed with a knife. Officer A retrieved the TASER and his side-handle baton. He placed the TASER in his right rear pants pocket.

As the officers entered the location, they observed several witnesses looking fearfully to the left of the store entrance. The officers looked in that direction and observed the Subject, who matched the description that had been broadcast, standing adjacent to a checkout stand. The officers believed that he was the subject with the knife and asked to speak with him. The Subject's hands were outside of his pockets when the officers began to give him commands. Officer B observed an object in the Subject's right hand he believed was a knife. The Subject immediately placed both hands in his sweatshirt pockets. The officers directed him to remove his hands from his pockets and to turn around. Initially, the Subject complied with the officers' commands; he removed his hands from his pockets, but stated he didn't know what was going on.

Officer B moved to the Subject's right side, and Officer A took a position at the Subject's left side. As Officer B reached for the Subject's right hand, the Subject began to move that hand toward a pocket of his sweatshirt. Officer B immediately grabbed the Subject's right hand and placed it behind his back. Officer B then grabbed the Subject's left hand and placed it behind his back so that the Subject's palms were facing together. Officer B walked the Subject toward the money gram office window.

As the Subject was moving forward, he pulled his hands away from Officer B, and Officer B heard Officer A advise the Subject to stop resisting or he would use the TASER. The Subject refused to comply and continued to move his hands forward. Officer B was unable to hold both of the Subject's hands. Officer B believed that the Subject had a knife in his sweatshirt's right front pocket, so Officer B held onto the Subject's right hand and released his left. The Subject turned toward Officer B, and attempted to push Officer B away. Officer B stated he heard the TASER activate, but was not sure what, if any, effect it had on the Subject.

Officer A observed the Subject pull away and turn in Officer B's direction. Officer A ordered the Subject to stop resisting. When the Subject did not comply, Officer A told the Subject that if he continued fighting, he would be tased.

The Subject continued to fight and pushed the officers over to a wine rack. Officer B grabbed the Subject's waist and right leg in an attempt to take him to the ground.

Officer B was unsuccessful because the Subject was supported by the wine rack behind them.

Officer A held the TASER with his right hand and continued to hold the Subject's left hand with his left hand. Officer A stated the Subject continued to fight, attempting elbow strikes and kicks at the officers as they moved toward the wine rack. Officer A placed the TASER directly onto the right rear of the Subject's lower back and activated it in an attempt to force the Subject to stop fighting. The TASER activation had no effect on the Subject.

As the officers were fighting with the Subject, Officer A observed an object in the Subject's right hand. It was a small gray, possibly metallic object moving quickly back and forth. The object was consistent with the shape and size of a knife, and the Subject was holding the object in a manner consistent with the way a person would hold a knife. The Subject began to wield it in a stabbing motion and turned toward Officer B. Officer A indicated that the Subject was doing more than just resisting in trying to fight with the officers. Officer B was aware that the Subject had the knife on him, but he did not mention that he observed the knife in the Subject's hand.

The Subject continued to fight the officers and eventually, the officers and the Subject fell to the ground. Officer B attempted to place the Subject's right arm behind his back a second time in an attempt to gain control of him. Officer A continued to hold the TASER in his right hand and hold the Subject's other arm with his left hand. The Subject continued to hit the officers using elbow strikes and kicks. Officer A observed the Subject's sweatshirt rise above his waist, exposing the Subject's back. Officer A placed the TASER against the right side of the Subject's back and activated it a third time in an attempt to stop the Subject's actions.

While continuing to fight with the Subject, Officer B reached down, activated his radio and broadcast a back-up request.

As the fight continued, Officer A observed the Subject reach down, grab the grip of his pistol and pull up. Officer A believed that the Subject was attempting to remove his pistol from his holster and if he was successful, Officer A believed the Subject would kill him or his partner. Officer A threw his TASER on the floor away from the Subject, placed his right hand over the Subject's left hand and his pistol and pushed down in an attempt to keep the Subject from removing the pistol. Officer A immediately alerted Officer B that the Subject was attempting to remove his pistol from his holster.

Note: Several witnesses all stated that during the altercation, they observed the Subject attempt to take Officer A's pistol from his holster. Witness E stated he saw the Subject's hand on the grip of Officer A's pistol just prior to the OIS. Witness D stated she saw the Subject's hand on Officer A's holster just prior to the OIS.

The Subject continued his attempt to remove Officer A's pistol, pulling violently and moving it back and forth. Officer A stated he could feel the pistol being removed from his holster and alerted Officer B to the Subject's actions a second time. Officer A ordered the Subject to stop fighting. After Officer A made the announcement a second time, he heard one gunshot.

Officer B heard Officer A alert him that the Subject was attempting to take his pistol. Officer B looked down and observed the back of the Subject's hand over Officer A's pistol, but wasn't sure if the Subject had grabbed Officer A's pistol, holster or equipment belt. Officer B observed Officer A attempting to deflect the Subject's hand away from his pistol.

Officer B believed the Subject intended to remove Officer A's pistol and shoot the officers. In response to this threat, Officer B kept his left hand on the Subject's right hand and unholstered his pistol with his right hand. Officer B placed the muzzle directly on the Subject's left side and pulled the trigger. Officer B's pistol failed to fire and Officer B realized that because the muzzle was placed directly against the Subject's body, it caused the pistol to malfunction and therefore, not fire.

Officer B continued to hold the Subject's arm with his left hand and pulled his pistol away from the Subject's body, immediately pulling the trigger and firing one round at the Subject's torso from a distance of approximately one foot. After the first shot, Officer B assessed to make sure that he and his partner were not struck by the gunfire and observed the Subject continuing to fight. Officer B continued to hold onto the Subject with his left hand, and held his pistol in his right hand. Officer B fired a second round from his pistol at the Subject's torso from a distance of approximately one foot. At the same time, Officer B observed Officer A break free from the Subject's grasp and fire one round at Subject. Officer B believed his partner's life was still in danger.

During the struggle, Officer A knew that the Subject was attempting to remove the pistol from his holster. Officer A was unable to see the Subject's right hand, but knew that Officer B was fighting for control of the Subject. Officer A indicated Officer B told him, "He's got his hand on the knife," which was why he initially tried to Tase the Subject and take him down to the ground. Once the Subject continued to resist and had his hand on Officer A's gun and another hand on his knife, Officer A reasonably believed that his actions were going to lead to serious bodily injury and/or possibly death for he or his partner.

Officer A was finally able to gain control of his pistol. Based upon the Subject's actions and Officer B's statement about the knife, Officer A unholstered his pistol, held it in his right hand and while keeping his left hand on the Subject, fired one round from his pistol at the Subject's lower body. Officer A was afraid the Subject was going to stab his partner and was afraid he was going to kill one or both the officers.

Officer A believed the object was a knife because it was consistent with the shape and the size of a knife. He saw something sticking out of his hand, and it looked metallic

and grayish, like a dull color. Officer A observed the Subject holding the object in a stabbing motion as he turned towards his partner in a fighting stance.

The Subject continued to fight with the officers. Officer A believed that the Subject still had the knife in his hand and was going to stab his partner. Officer A attempted to fire his pistol a second time. Though he pressed the trigger several times, Officer A's pistol did not fire. Officer A looked down and observed his pistol's magazine on the ground.

Officer B broadcast that shots were fired. The Subject stopped fighting, and Officer B holstered his weapon. Officer A retrieved his magazine, placed it in his pistol, chambered a round and holstered his weapon. The Subject was handcuffed without further incident.

Officer B advised CD that the incident had been resolved and that the Subject was in custody. Officer B then requested a Rescue Ambulance (RA) for a male with three possible gunshot wounds to the lower body.

Officers A and B conducted a pat down search of the Subject's clothing and retrieved various items. Officer B reached into the Subject's right front sweatshirt pocket and retrieved a folding knife with an approximate 2-inch blade. The knife was in the open position with the blade exposed. Officer B closed the blade and held the knife until Lieutenant A arrived. At the direction of Lieutenant A, Officer B subsequently placed the knife on the passenger side front floor board of Lieutenant A's police vehicle.

Force Investigation Division personnel reviewed all documents and circumstances surrounding the separation, monitoring and the admonition not to discuss the incident to officers prior to being interviewed by FID investigators. All protocols were followed.

The firefighters/paramedics responded inside the store and discovered the Subject on the floor. Upon examination, they noted that the Subject had sustained two gunshot wounds to his upper body. Paramedics provided emergency medical treatment to the Subject and transported him to a local hospital. Subject was treated and immediately taken into surgery. During surgery, two projectiles were discovered near the spine area but were not removed. The Subject was listed in critical but stable condition.

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 Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

The BOPC found Officers A and B's use of non-lethal force to be in policy.

D. Less-Lethal Use of Force

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

E. Lethal Use of Force

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

Basis for Findings

A. Tactics

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

1. Requesting Back-up / Help

From the onset, Officers A and B were notified that the Subject was possibly mentally ill and armed with a knife. Based on that information, the officers should have requested additional units, in conjunction with their tactical planning.

Additionally, although the Subject's actions became increasingly hostile over time, it was not until the Subject attacked the officers and a violent physical altercation ensued before a request for a back-up was broadcast by Officer B. Despite the fact that a back-up request was appropriate at that time, given the substantial threat of serious bodily injury to the officers, a help request would have been preferable in this situation. The BOPC evaluated the officers' actions regarding effective radio communication and found the topic is worthy of discussion with the officers. Officers A and B are reminded that requesting the appropriate level of resources allows surrounding units to become aware of

specifics regarding the incident and their location. The BOPC took into consideration that there were civilians in the store at the time that Officers A and B took immediate action to control the dangerous Subject.

Therefore, based on the totality of the circumstances, the officers' actions did not substantially deviate from approved Department tactical training. In conclusion, the BOPC directed that this topic be discussed during the Tactical Debrief.

2. Approaching an Armed Subject /Edged Weapons

Officers A and B entered the market with the knowledge that the Subject was armed and possibly suffering from a mental illness. Officer B initially observed what he believed was a knife in the Subject's right hand. Officers A and B made physical contact with the Subject and attempted to handcuff him. It would have been tactically prudent for the officers to request back-up, take cover, and give the Subject verbal commands. Using the equation of *Distance + Cover = Time*, may have afforded the officers more tactical options, thus possibly avoiding a physical altercation with the Subject that ultimately led to an OIS.

A tactical review board determined that Officers A and B may have benefitted from taking available cover and ordering the Subject into a handcuffed position. It was understood that the officers needed to take the Subject, who was presumably armed with a knife and acting erratic, immediately into custody within a crowded market. Therefore, the board found that Officers A and B did not substantially deviate from approved Department tactical training. Nonetheless, Officers A and B could benefit from a review of how to deal with subjects armed with edged weapons in the event that a similar situation arises in the future. Consequently, the BOPC directed that this topic be discussed at the Tactical Debrief.

- The BOPC additionally considered the following:

1. Tactical Reload

Officer A's magazine came out of his service pistol during the OIS. Subsequent to the OIS, Officer A grabbed his magazine from the floor and reloaded it into his service pistol. The BOPC believed Officer A would benefit from a discussion regarding tactical reloads utilizing the spare magazine pouch.

2. TASER Deployment

The tactical review board determined that Officer A may have had additional tactical options available to him if he kept the TASER cartridge in his TASER device.

3. Close Contact Shooting

Officer B experienced a firearm malfunction during his first close contact shooting attempt. The malfunction was due to the pistol being pressed against the body of the Subject. The tactical review board concluded that Officer B would benefit from a discussion regarding close contact shooting positions.

4. Holster TASER

Before entering the market, Officer A placed the TASER in his right rear pants pocket. Although, there is no Department mandate that states a TASER shall be placed in a holster, it would be preferable that officers have a TASER holster attached to their belts to give them additional and safety options for maintaining control of the TASER device, if feasible.

5. Dealing with Subjects with Mental Illness

Officers A and B had knowledge that the Subject was displaying signs of mental illness in the market. Consideration may have been given for officers to recognize the signs of mental illness and consider other tactical steps when dealing with subjects with mental illness.

6. Preservation of Evidence

At the conclusion of the OIS, Officer B recovered a two inch folding knife from the Subject's front right sweatshirt pocket in the open position. Officer B closed the knife and maintained control of it. Lieutenant A ordered Officer B to place the knife on the floor board of his police vehicle. The Commanding Officer of the Area had FID conduct divisional training on the topic of preservation of evidence. As such, the BOPC deemed no further action necessary.

7. Protocols Subsequent to a Categorical Use of Force (CUOF)

Subsequent to the OIS, Lieutenant A had patrol officers take written statements from 14 eyewitnesses at scene. The proper Department protocol states that FID personnel should be the only entity who conducts detailed interviews of all witnesses to a CUOF. The Area Commanding Officer conducted training with Lieutenant A on the protocol subsequent to a CUOF.

The BOPC directed that the above mentioned topics, unless otherwise directed, 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.

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, including their individual actions that took place during this incident.

The BOPC directed that Officers A and B attend a Tactical Debrief and that the below specific identified topics are covered.

B. Drawing/Exhibiting

- Officers A and B responded to a radio call of a mentally ill man with a knife inside the market. The officers contacted the Subject and attempted to take him into custody. The Subject did not comply with the officers' commands, and a physical altercation ensued. During the altercation the Subject attempted to remove Officer A's service pistol from his holster. Officer A yelled to his partner that the Subject was attempting to take his service pistol. In response, both Officers A and B drew their service pistols.

Officer B recalled having the belief that the tactical situation could escalate to deadly force. He also believed his partner was in trouble, so he put the gun to the side of his left ribs and pressed the trigger.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, while faced with similar circumstances would reasonably believe there was a substantial risk that could have escalated justifying the deadly force used by the officers. In conclusion, the BOPC found Officers A and B's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

- Officer B held the Subject's hands behind his back in an attempt to handcuff him. The Subject pulled his hands away and began resisting the officers. Officer A ordered the Subject to stop resisting and to place his hands behind his back. The Subject did not comply and continued fighting with the officers. Officer A utilized the TASER and applied a direct stun to the Subject with no effect. Officers A and B applied a team takedown to the Subject in order to gain his compliance and control him. Officer B took control of the Subject's right leg, as Officer A grabbed the Subject's left side and forced him to the ground. During the team takedown by the officers on the Subject, all three collided into a wine-rack, causing them to fall to the ground. Officers A and B attempted to use physical force to control the Subject with no effect.

Officer B recalled that the Subject started to resist, trying to push away. And he

grabbed onto the Subject's waist. He tried to grab his right leg and was trying to take him down.

Officer A recalled having to force the Subject's hands behind his back. His partner had to force his hands. He was not just resisting but coming away from him. The officers took the Subject to the ground.

After a thorough review of the incident and involved officers' statements, the BOPC determined that officers with similar training and experience, as Officers A and B would reasonably believe the application of non-lethal Force would be reasonable to overcome the Subject's resistance in an effort to take him into custody. In conclusion, the BOPC found that Officers A and B's use of non-lethal force to be objectively reasonable and in policy.

D. Less-Lethal Use of Force

- **Officer A** – (TASER, two direct stun activations)

The Subject pulled away from Officers A and B, preventing him from being handcuffed. Officer A issued the Subject a verbal warning, advising the Subject of the impending TASER usage, if he continued to resist them. Officer A removed the TASER cartridge and activated the TASER as a warning to the Subject. The Subject continued to ignore Officer A's commands, as he kicked and threw elbow strikes at the officers. Officer A applied the TASER device to the Subject's lower back and activated the direct stun which had no effect. The Subject continued to fight with the officers, who performed a team takedown on the Subject. The Subject continued to fight with the officers on the ground, when Officer A applied a second direct stun TASER activation to the right side of the Subject's back with no effect.

Department policy dictates that the decision to use force must be judged through the perspective of a reasonable officer with similar training and experience, in a similar circumstance. The BOPC determined that an officer with similar training and experience would reasonably believe that the less-lethal use of force used to stop the Subject's aggressive actions was reasonable and would have acted in a similar manner. The BOPC found that Officer A's use of less-lethal force was in policy.

E. Lethal Use of Force

- **Officer A** (pistol, one round)

As Officers A and B fought with the Subject, Officer A observed the Subject wielding a small knife in a stabbing motion toward the officers. Officer A then observed the Subject reach down toward his pistol, placing his hand on Officer A's pistol and then attempted to remove the pistol from its holster. Officer A alerted Officer B that the Subject was trying to take his pistol. Although Officer B fired two rounds at the Subject, he continued to fight the officers. Officer A, realizing that the Subject still

had a knife and was actively trying to take his pistol, broke free from the Subject's grasp and fired one round at the Subject's upper body. The Subject continued attacking the officers, causing Officer A to attempt a second shot against the Subject. Officer A pressed the trigger and his pistol failed to fire. Officer A realized the magazine was removed from his pistol, causing the malfunction. Officer A picked up the magazine from the ground and placed it back into his magazine well.

Officer A indicated he had seen that the Subject had reached back and took hold of his gun. He immediately announced to his partner that the Subject had his gun, dropped the TASER, and put his hand on the weapon to cap it. The Subject fought in a violent fashion and pulled back and forth with his hand on his gun. Officer A could feel the Subject pulling the gun out and pulling the gun up and back, at which point, Officer A was able to get his gun out and fired one round into the Subject's back.

Officer A also knew the Subject had his hand on the knife, which was why he initially tried to Tase the Subject and take him down to the ground. The officers were planning to effect the arrest, but once the Subject continued to resist and had his hands on a gun and a knife simultaneously, Officer A reasonably believed that the Subject's actions were going to lead to serious bodily injury and/or possibly death.

Based on the totality of the circumstances, an officer with similar training and experience as Officers A and B would reasonably believe that the Subject's continuous attempts to remove Officer A's pistol from the holster, while armed with a knife presented an imminent threat of death or serious bodily injury and that the use of lethal force would be reasonable.

- **Officer B** (pistol, two rounds)

Despite issuing numerous verbal commands, utilizing non-lethal use of force, and delivering two TASER activations, the Subject continued to fight with Officers A and B. At one point, the Subject reached for Officer A's service pistol and was actively trying to remove it from its holster. Officer A screamed out to his partner that the Subject had his gun. Officer A screamed it out a second time. Fearing that the Subject would remove Officer A's service pistol and use it against them, Officer B placed his service pistol against the Subject's midsection and pressed the trigger. Officer B's service pistol did not fire. Realizing that his service pistol suffered a malfunction, Officer B reacquired his firing position by creating distance between his service pistol's muzzle and the Subject's body. Officer B then fired one round into the Subject's midsection. The Subject continued to fight and attempted to remove Officer A's pistol from his holster. Still fearing for Officer A's life, Officer B fired a second round from a close contact position.

In conclusion, the BOPC found that Officers A and B's lethal use of force to be in policy.