

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

OFFICER-INVOLVED SHOOTING – 002-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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North Hollywood	1/5/15		
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Officer(s) Involved in Use of Force	Length of Service
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Officer N	16 years, 5 months
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Reason for Police Contact

Officers responded to a radio call of a “kidnap subject there now.” Officers arrived and formed a perimeter around a house. The Subject was later found hiding in the residence. During attempts to have the Subject come out and surrender, he opened fire on the officers, resulting in an OIS.

Subject	Deceased ()	Wounded ()	Non-Hit (X)
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Subject: Male, 40 years old.

Board of Police Commissioners’ Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent 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 17, 2015.

Incident Summary

Communications Division (CD) received a 911 call from Victim A. Victim A spoke with the emergency operator and reported he had been held hostage at a vacant residence. Victim A explained he escaped after the Subject had fallen asleep. Victim A also informed the operator that the Subject was armed with a gun and using narcotics. CD broadcast information to all available Patrol units.

Sergeants A and B, as well as Officers A, B, C, D, E, F, G responded to the call and assisted with the kidnap investigation. Officers met with Victim A. Victim A stated that earlier in the morning, he and the Subject were going to a strip club, but when he entered the Subject's vehicle, the Subject pointed a gun at him. Eventually, the Subject took him to a vacant residence. Once inside, the Subject accused Victim A of taking his wristwatch and ordered him at gunpoint into a shower in one of the bathrooms. The Subject placed a floor safe in front of the shower door and threatened to shoot Victim A if he heard the safe move, threatened to shoot any police officers who responded and stated he would terrorize Victim A's family if he escaped. Victim A also informed the officers that the Subject drove a white pickup truck.

Note: The Subject recorded a portion of this conversation with Victim A on a LG tablet which was subsequently recovered in the residence. The video depicted the Subject pointing a pistol at Victim A, who cowered in the shower while the Subject verbally threatened him.

Sergeant A directed officers to form a containment perimeter around the residence and requested an Air Unit. Air Support Division Officers H and I came overhead and assisted with the perimeter.

As the Air Unit was orbiting the residence, Officer I observed the Subject at the back of the residence and walking toward the east side of the property. As Pilot H made a secondary orbit to locate the Subject, he disappeared from view. Officer I communicated his observations to the officers on the containment and directed them to the east side of the residence to check the carport and garage. Officer I, using the Air Unit's Public Address (PA) System, made two announcements calling the Subject by name to exit the premise, with negative results.

Sergeant A requested Officer I to contact Metropolitan Division Special Weapons and Tactics (SWAT) to respond for an armed barricaded subject. Officer I initiated the notifications for Metropolitan Division, K9 and the Los Angeles Fire Department (LAFD) and rescue ambulance (RA) to respond.

Officer I requested a unit to respond to monitor the Subject's vehicle, which was found on a nearby street. Sergeant B responded to Officer I's request.

Lieutenant A arrived on scene and assumed the role of Incident Commander (IC) and established a Command Post (CP). SWAT Lieutenant B advised they would be

responding to the barricaded subject and later arrived on scene. As the incident was unfolding, Lieutenant B was updated telephonically by Sergeant A.

Captain A arrived on scene and assumed the role of IC from Lieutenant A at the CP. Captain A was briefed of the incident and the on-going operation by Lieutenant A and was joined at the CP by arriving personnel: SWAT Lieutenant B, Sergeant A, SWAT Sergeant C and Commander A. Commander A assumed the role as IC from Captain A.

Sergeant C was assigned as the on-scene tactical supervisor for command and control and deployed to the residence in an armored vehicle. The following SWAT officers also responded to the residence: Sergeant D; Officers J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, BB, CC, DD, EE and FF, in addition to LAFD Firefighter/Paramedics A and B. Some of the SWAT officers relieved the patrol officers from their containment positions around the residence and the remaining SWAT officers were deployed in and around the two armored vehicles that were positioned in front of the residence. Air Support Division Officers GG and HH came overhead and relieved the Air Unit.

Officers A and B were relieved of their containment positions from the rear of the residence by the SWAT officers. Both Officers A and B proceeded outside of the perimeter, and met with Sergeant B, who was monitoring the Subject's vehicle. Officers A and B did not respond back to the CP. Neither officer broadcast that they had moved to Sergeant B's position.

Sergeant B advised Officers A and B that he was approached by Witness A, who told him the residence next to his was vacant. The front gate was usually closed but it was now open. Upon receiving the information, Officers A and B advised Sergeant B the officers would conduct a perimeter check of the property to see if there was evidence that the Subject had been in the area, while Sergeant B continued to monitor the Subject's vehicle. Sergeant B did not notify the CP as they were out of the primary search area, and he believed the Subject was in the abandoned house being contained by SWAT officers.

Officer B was the point officer armed with a rifle. Officer A was the cover officer and walked behind Officer B. Officer A unholstered his pistol. As Officers A and B checked the outer perimeter of the residence, they observed a detached shed on one side of the property. The shed was located in the ravine adjacent to the residence and was accessed by stairs from the upper level walkway. A door on the north side of the shed was closed. Officers A and B proceeded down the steps toward the shed and placed themselves to the right of the door. The officers stood briefly and did not hear any sounds from within the shed. Officer B did not know what was inside the room; he moved to visually look inside the single room shed. Officer B, with his right hand, turned the door knob and pushed the door inward approximately 12 to 18 inches. Officer B stood at the corner of the door frame without exposing himself, but was able to see a dark blue pant leg and foot with a black shoe to the right of the doorway.

Officer B alerted Officer A, "Hey, there's someone in here." Officer B gave the following commands, "Let me see your hands." Officer B moved slowly toward his left to obtain a

clear view inside the shed as he began to raise his rifle in a south direction. Officer B, standing outside the shed, looked inside toward his right and observed a male, later identified as the Subject, looking at him and holding a pistol with both hands pointed in his direction. The Subject was in a crouched position in the northwest corner of the shed with his back against the wall. The Subject's feet were on the floor with either his elbows or forearms on his knees, and Officer B could see the Subject's face from the nose up. The Subject did not speak to Officer B. Officer B, recognizing the threat, however not in position to engage the Subject, moved away from the door and the line of fire and told his partner to back up. Officer B stated to his partner, "He's got the gun. It's pointed at the door." Officer A immediately grabbed Officer B by the back of his belt. Officer B, with his rifle covering the front door of the shed, guided by Officer A, walked backward to an elevated position on the walkway on the north side of residence where they looked down at the door and shed. Officer A broadcast, "Airship, be advised [...] Suspect is going to be hiding in an underground, looks like a porch area. We are going to be right underneath your flight path."

While Sergeant B was on the street, close to Officers A and B, he heard Officer A's broadcast and then heard Officer A call out to him. Sergeant B responded to Officers A and B's location. Officer A advised Sergeant B that the Subject was located inside the shed and was armed with a handgun. Sergeant B, observing the shed, instructed Officers A and B to contain the shed from their position and also directed the airship to their location. Upon hearing the radio broadcasts, Lieutenant B directed Sergeant C and available SWAT officers to the other location, while other SWAT officers remained at the first residence.

Sergeant C met with Sergeant B and Officers A and B. The officers advised Sergeant C of their encounter with the Subject, who was contained inside the shed. After the brief discussion, Sergeant B and Officers A and B secured their weapons and were relieved of their positions by SWAT officers.

SWAT officers first cleared the residence first and then deployed to various containment positions around the shed, which was in a ravine with dense foliage, trees and steep dirt trails dissecting the terrain. Sergeant C and Officers M, O, R, and DD deployed along the residence walkway, northwest of the shed which gave an elevated position of advantage. The location provided them a view of the shed's door. Sergeant D, along with Officers J, N, P, CC and EE, deployed behind various trees and shrubs in the lower northeast section of the ravine. Their position provided them with a view of the shed door and the approximate 5 foot by 6 foot east-facing window of the shed. Officers Z and AA and K9 Officer Y with his canine deployed behind various trees in the lower southeast section of the ravine. Their position provided them a view of the shed's east facing window. Officers S and BB and K9 Officer V with his canine deployed in the southwest section of the residence, which provided an elevated position of advantage and cover came from the five-foot berm of dirt adjacent the raised deck. The officers' position provided them a view of the shed's approximately 2 foot by 3 foot south facing window. Officers K and Q deployed on the backyard patio, which provided an elevated position of advantage. Their position provided the officers a view of the shed's rooftop.

Los Angeles Fire Department Paramedics A and B, along with Officer FF, maintained their position with the armored vehicle parked on the street and were not part of the tactical operation.

Sergeant C, in communication with Lieutenant B and the SWAT officers, confirmed the containment positions around the shed were in place and the approval to implement chemical agents were an option if the Subject did not comply.

Sergeant C then proceeded with the next phase of the tactical operation. Sergeant C spoke to the Subject using a bullhorn, "This is Sergeant C with the Los Angeles Police Department. I work Special Weapons and Tactics. The SWAT unit is here. We have this shed surrounded and the house surrounded. We know you're inside there. There's a helicopter above. We're not going to leave. You need to come out and submit to arrest."

Sergeant C continued and informed the Subject that lethal force would be used if the officers believed or felt they were threatened by his actions. Sergeant C gave a warning advising the Subject that less-lethal options would be utilized if his actions provoked a response by the officers which might cause injury. Sergeant C also issued a K9 Warning to the Subject regarding a dog being deployed to subdue him if he did not submit to arrest. Sergeant C continued and stated, "We're not going to go away. Come on out. Submit to arrest. We're not going to harm you. We just want to make sure you're -- you're safe and fine. Come on out. I'm going to give you some time to do that." Approximately two minutes passed and Sergeant C related the following. "I'm going to give you ten seconds but you got to come out because if you don't come out we're going to put some tear gas in there." Sergeant C advised the Subject of the effects of the two types of tear gas to be deployed. Approximately five seconds after Sergeant C stopped speaking, he heard three gunshots fired from within the shed. Sergeant C believed the gunfire was directed outward from the window.

Officers J and N, from their positions northeast of the shed, believed they heard two gunshots. Officers J and N observed the east facing glass window shatter outward. Officer J broadcast to Officers Z and AA, "Just FYI, its preliminary, looks like the rounds were in that [...] corner of that window which may indicate they're going your way."

After the gunfire, Sergeant C made the following announcement, "That's not the response that I was looking for. I wanted you to come out. We're not going to harm you. Please come on out." Sergeant C, communicating with Lieutenant B, advised him shots had been fired by the Subject and requested to use chemical agents. Lieutenant B advised Sergeant C that the plan to use a chemical agent was approved by Commander A.

According to Officer N, he was on the ground in a seated position behind a tree when he heard two gunshots coming from the shed. Officer N remained in this position when he observed a silhouette in the window holding a gun. He then heard another gunshot and observed the glass shattering toward him and his fellow officers. Officer N believed the Subject was firing in his direction and fearing for his life and the lives of the other

officers, Officer N elevated his rifle slightly, placed the stock of the rifle on his right shoulder and used his left hand to support the rifle. Officer N, looked through the optical sights, moved the rifle selector switch from safe to semiautomatic mode, and fired three consecutive rounds in a southwest direction at the center mass of the silhouette in the window from an approximate distance of 84 feet. Officer N believed the Subject fired a second round in his direction as he discharged his three rounds. Officer N assessed and no longer observed the silhouette in the window. He lowered his rifle and placed the selector switch back to safe mode.

Officer J, who was seated to the right of Officer N, broadcast, "Shots fired by the suspect, returned by [Officer N] on this side. Rounds were directed our way." A broadcast was made advising, "Alright units, just let me know when you're masked up. We're gonna continue with the volley of gas." Sergeant C, with the approval to use a chemical agent, continued with the next phase of the tactical operation. Officer M broadcast, "Alright, units on containment, gas is going to be delivered, three rounds." Officer M directed chemical agents to be deployed from the north side of the property. Officer O was armed with a gas launcher and fired three consecutive canisters with OC and CS at the shed door. According to Officer O, the three ferret canisters impacted the shed door but only one of the ferret canisters penetrated the door.

Officer M directed additional chemical agents to be deployed from the south side of the property. Officer BB, from a standing position, armed less-lethal multi-launcher, fired four consecutive canisters with OC and CS at the window on the south side of the shed. According to Officer BB, the four ferret canisters impacted a chain link fence, which was between him and the shed's window, and did not penetrate into the interior of the shed.

Sergeant C and Officer M, aware the OC and CS canisters fired by Officer BB did not penetrate the shed, and formulated a tactical plan to introduce a chemical agent into the shed from a different position and waited for additional munitions.

Officer J observed the shed door open and the Subject exited the shed with his hands up. Officer J ordered the Subject to lift his shirt and turn around slowly. The Subject complied and Officer J directed the Subject to place his hands on his head and walk backward down the slope and to place himself face down on the ground with his hands on top of his head. Officers P and CC, the designated arrest team, approached and placed plastic flex-cuffs on the Subject's wrists behind his back without incident. Officer P conducted a pat down search of the Subject and recovered a box cutter from the Subject's right side pocket. Officer J broadcast that the Subject was in custody.

During a subsequent search of the shed, the Subject's pistol was located on the shed floor. The pistol was loaded with six live rounds, one in the chamber and five in the magazine. Also located inside the shed were various narcotic items.

Sergeant C managed the officer-involved shooting (OIS) scene. He identified and separated the percipient and involved officers.

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 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 made the following findings.

A. Tactics

The BOPC found Sergeant B, as well as Officers A and B's tactics to warrant Administrative Disapproval. The BOPC found Sergeants C, D, and Officers M, N, O and BB's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

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

1. Barricaded Suspect

Officers A and B walked from the backyard of the first residence, through the canyon behind the houses without notifying any of the SWAT supervision or the CP of their intentions. The officers' decision not to notify SWAT personnel or the CP of their plan to traverse through the canyon placed the officers at an unnecessary tactical disadvantage in the event they had an encounter with the Subject in the heavily foliated terrain. The area had not been searched by LAPD personnel and offered numerous hiding places.

The BOPC determined that Officers A and B's independent actions of going through the canyon without notifying any of the SWAT personnel was a

substantial deviation without justification from approved Department tactical training.

2. Building searches

Officer B continued to round the corner to the entrance to the shed after observing a subject hiding inside. In this case, Officer B observed a subject attempting to conceal himself inside of the shed and immediately began giving orders to the subject to show his hands. After receiving no response, Officer B continued to go around the door to the shed and exposed himself to an armed subject who was pointing a gun right at him.

The BOPC determined that Officer B's decision to continue his search rather than redeploying to a position of cover, created unnecessary risk to his safety and was a substantial deviation without justification from approved Department tactical training.

3. Command and Control

Sergeant B responded and assumed the role of monitoring the Subject's vehicle because of the lack of resources available at the time the vehicle had been located by the air unit. While monitoring the vehicle, Sergeant B received information from a citizen about a vacant house where the subject could be staying. Although Sergeant B notified the air unit that the residence was vacant, he should have requested the appropriate resources to be relieved of his post when SWAT personnel arrived at the scene. Although the initial lack of resources prompted Sergeant B to respond to monitor the Subject's vehicle, it is the BOPC's expectation that a supervisor relinquish a position when resources are available to allow the supervisor to take a supervisory role.

Officers A and B responded and were advised of the possibility that the Subject could be staying inside the vacant residence. Sergeant B then allowed the officers to conduct an exterior search of the residence without the assistance of additional resources, ballistic helmets, or making a notification to SWAT personnel in charge of the tactical situation.

The BOPC found that Sergeant B's decision not to coordinate with the CP and allow the officers to conduct a search without the assistance of additional resources was a substantial deviation without justification from Department tactical training and warrants a finding of Administrative Disapproval.

- 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 occurred.

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. Each tactical incident inherently results in considerations for improvement.

In conducting an objective assessment of this case, the BOPC found that the tactics utilized by Sergeant B and Officers A and B substantially and unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

Additionally, the BOPC found Sergeants C, D, along with Officers M, N, O, and BB's tactics were consistent with approved Department tactical training and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that occurred, with the objective of improving overall organization and individual performance.

In conclusion, the BOPC found Sergeant B, Officers A and B's tactics to warrant an Administrative Disapproval. The BOPC found Sergeants C, D, and Officers M, N, O and BB's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- Officer A drew his service pistol as he conducted a search at the second location for a possible armed Subject inside the residence. Officer B assumed the point position on the search team and exhibited his police rifle.

During the search, Officer B observed the Subject armed with a gun and broadcast his observations to the officers in the area, resulting in the response of additional resources. Officer N responded and exhibited his rifle.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, and N while 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 and N's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- Officer N heard two shots coming from within the shed and observed that two rounds had been fired by the Subject through the window of the shed in the direction of Officers Y, Z and AA. As he was assessing the situation, Officer N heard an additional shot and believed that the Subject was firing at him. Fearing for his life and the life of his fellow officers, Officer N fired three rounds through the window at the Subject to stop his actions.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer N would reasonably believe that the Subject's actions of shooting in the direction of Officer N and his fellow officers, presented an imminent threat of death or serious bodily injury and the use of lethal force would be objectively reasonable to address this threat.

In conclusion, the BOPC found Officer N's lethal use of force to be in policy.