

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

OFFICER-INVOLVED SHOOTING – 006-15

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
77 th Street	1/20/15		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer B	14 years, 11 months

Reason for Police Contact

Officers observed males in the street acting suspiciously. When the officers attempted to conduct a pedestrian stop, the Subject ran, produced a shotgun and an officer-involved shooting (OIS) ensued.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
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Subject: Male, 17 years old. (Injury caused by self-inflicted gunshot.)

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 January 5, 2016.

Incident Summary

Witnesses A and B were walking together on the sidewalk, when they observed a vehicle drop off three males. Two of those males were later identified as the Subject and Witness C. The Subject and Witness C got out of the car and immediately started to walk toward Witnesses A and B. As Witnesses A and B approached the corner of the intersection, Witness C came up from behind and asked Witness A, "Where you from?" Witness A responded by telling Witness C his gang affiliation.

Note: The third individual was unable to be identified during the course of the investigation.

As Witnesses A and B continued to walk west, they noticed that they were being closely followed, within approximately ten feet, by Witness C. Fearful that they were about to be shot by rival gang members, they walked a little faster in order to gain some distance away from them. Witness A noticed that Witness C stayed directly behind him and had his hand wrapped in something, while the Subject and the unidentified male were on the opposite side of the street.

Witness D was exiting his residence when he observed three males walking on the north side of street, while two other males were walking on the south side of the street. The males were staring at each other from across the street as they all walked down the street.

Meanwhile, uniformed Officer A, driver, and uniformed Officer B, passenger, were driving an unmarked white police vehicle patrolling the area. Officers A and B observed Witness D on the north side of the street, walking east. According to Officer B, he illuminated him with his flashlight and Witness D looked in the officers' direction.

Both officers acknowledged to each other that Witness D was trying to point something out to them. As the officers slowly proceeded west, Officer B heard Officer A say, "Hey, I got a guy right here."

Witnesses A and C continued west and were both now walking in the middle of the street when they observed a white unmarked police vehicle driving west toward them. Witness B had walked further ahead of Witnesses A and C. Witness A stated that as the police car approached, he felt they were going to be "saved," stating, "Like probably me and my best friend would have been gone, you feel me? Shot."

Officer A saw Witnesses A and C and their plan was to stop them because they appeared to be looking into cars while walking in the middle of the street. As Officer A drove close enough to conduct the stop, he exited his vehicle and observed the Subject on the south side of the street near a driveway. The Subject was wearing a dark hooded sweatshirt, with the hood over his head, baggy clothing, and his hands were in his front waistband area. Officer A briefly shined his flashlight at the Subject and stated, "Hey, let me see your hands. Police," as the Subject immediately looked back in Officer A's direction and started to walk quickly away.

Officer B felt that the Subject and Witnesses A and C may have been the people whom Witness D had pointed out. Officer B opened his car door and saw Witnesses A and C, north of him on the sidewalk. Officer B described Witnesses A and C as having an “unusual nervous demeanor.” Officer B called out to his partner as Officer A acknowledged, “Yeah I see them.”

Officer A did not want to turn his back on the Subject, so he walked over and started to follow him, west on the sidewalk. Officer A shifted his position to the left of the Subject in order get a look at his waistband area. According to Officer A, their plan, after seeing the pedestrians in the roadway, dressed down as gang members, with the time of the night and the crime activity, was that he was going to detain the Subject and the others.

Officer A called out to the Subject, “Hey, come here. Let me talk to you real quick, let me see your hands.” The Subject had his hands tucked into his sweatshirt, and Officer A could not see them. Officer B was on the north side of the street while Officer A was walking on the south sidewalk, such that they were paralleling each other. Officer B’s intent was to have Witnesses A and C move on the side of the street closer to where Officer A was in order to conduct their investigation.

As Officer B called out to Witnesses A and C, they made eye contact with him and their eyes got big. Witnesses A and C initially ignored Officer B and moved over to and started to walk away west on the north sidewalk. Simultaneously, as both Officers A and B were moving forward, Officer A continued to verbalize with the Subject because the Subject still had his hands concealed and tucked underneath his sweatshirt. Officer A repeated the commands multiple times to the Subject to let him see his hands, which the Subject repeatedly ignored. The Subject looked back at him, looking over his right shoulder and in Officer A’s opinion, the Subject appeared fearful and somewhat nervous. The Subject continued to walk away west on the sidewalk, ignoring Officer A’s commands. At one point, Officer A said that he believed the Subject was going to comply, when the Subject suddenly took off running.

Simultaneously, Officer B made his way onto the grass parkway while he continued to parallel Officer A, using the parked cars as cover, and slowly moved forward, while maintaining a visual on Witnesses A and C. Officer B then heard Officer A’s voice fluctuate and change pitch. According to Officer B, he felt something was wrong because his partner was usually mellow and did not really take it up a notch unless he saw something wrong. Simultaneously, the Subject grabbed his waistband with both hands in a manner that, according to Officer A, was consistent with somebody running with a gun.

As Officer B looked south toward Officer A, he could hear footsteps quicken, as if someone was running. Officer A first yelled out, “Hey, he’s running. He has a gun.”

Officer B drew his pistol. As Officer B ordered Witnesses A and C to the ground, one of them assumed a fetal position and both exposed their hands in front of them. Officer B stated that he felt comfortable and believed that he had control of Witnesses A and C.

A few seconds later, Officer A heard a single gunshot and saw a muzzle flash coming from the Subject's direction. Officer A believed that the Subject was either shooting at him, his partner or he just shot the ground, but was uncertain because the Subject immediately crossed over from the south sidewalk and ran in a northwest direction. Once Officer A observed the Subject with a shotgun, he immediately drew his pistol, then pointed his pistol at the Subject's center body mass.

Simultaneously, Officer B came to a halt near the end of the parkway, at the driveway, when he heard the single gunshot coming from the south sidewalk, where he knew his partner was. Officer B believed the gunshot had come from a shotgun. Knowing that Officer A did not get out of the car with the shotgun, Officer B believed that the Subject had shot at his partner.

Officer B took cover between two palm trees and parked cars. Officer B observed the Subject faced in a northwest direction as he ran north across the street, holding the shotgun in his hands at waist level. Fearing for his safety and that of his partner, Officer B maintained his position of cover behind a parked car and aligned the front sights of his pistol. As the Subject got closer, Officer B could see that the Subject was pointing the barrel in all directions, including toward him. Officer B aimed his pistol at the Subject's upper center body mass, between his waist and shoulders, and fired one round in a southwest direction. For a split second, Officer B believed that he may have struck the Subject because he saw the Subject stumble a little bit, then lost sight of him when he ducked behind a car that was parked directly in front of him. Officer B did not hear Officer A, who was on the south sidewalk, and believed that his partner may have been shot.

Note: The Subject was not struck by Officer B's round.

After firing, Officer B looked over at Witnesses A and C, who were still on the ground; however, they were scrambling to stand up. According to Officer B, he did not believe they were a threat to him, so he shifted his attention back to the Subject. Witnesses A and C eventually stood up and ran away.

The Subject stood back up and ran west on the north sidewalk. As Officer B started to move forward, he observed a flashlight fall to the ground on the south side of the street. Officer B feared his partner had been shot, but then heard Officer A say, "We got him." The Subject was observed by the officers to be limping as he ran, and Officer B believed that he may have wounded him.

Meanwhile, according to Officer A, a large palm tree obstructed his view as he heard another single gunshot. He then observed the Subject drop the shotgun on the street.

As the officers started to run after the Subject, Officer B noticed that the Subject had dropped the shotgun on the street and holstered his pistol. Once Officer A observed the Subject drop the shotgun, he holstered his pistol. The Subject then ran through an alley.

Officer A broadcast an “officer needs help” call. Officer B reached the alley and drew his weapon to clear the alley with Officer A. Once he cleared that portion of the alley, Officer B holstered his pistol. Officer A positioned himself at the mouth of the alley while Officer B remained at the intersection, which was approximately the width of one house apart, and were within eyesight of each other. The Subject continued running east through the alley, and Officer A coordinated a perimeter for responding units. In response to Officer B’s request for help, a unit arrived on scene and immediately monitored the shotgun.

Witness E was alerted by his girlfriend who ran to him hysterically, advising him that someone was pounding on the back door asking for help. Witness E initially looked outside his door and did not observe anyone. Witness E then went to his back gate, which led to the alley. As Witness E approached the back alley, he observed the Subject lying on the ground, screaming for help. The Subject was crying out in pain and told Witness E that he had been shot by some people in a car. Witness E’s intent was to be a good citizen, so he offered to take the Subject to the hospital. After asking the Subject if he had anything on him that could hurt him, and doing a cursory check for any weapons, Witness E assisted the Subject into his vehicle. Once in the vehicle, Witness E further questioned the Subject and was not comfortable taking him to the hospital, because Witness E believed that the Subject was involved in something wrong. Witness E removed the Subject from his vehicle and began to assist him down the alley.

Responding officers were flagged down by an unknown citizen in the alley. The citizen told the officers that the Subject was lying in the alley suffering from a gunshot wound. The officers were mid-alley when they observed Witness E assisting the Subject. The officers handcuffed the Subject and Witness E.

Note: Witness E was eliminated as a possible suspect and subsequently released upon providing a statement.

A Rescue Ambulance (RA) was requested for the Subject. The Subject was later transported to the hospital.

Sergeant A was the first supervisor to arrive on scene. Sergeant A obtained a Public Safety Statement (PSS) from Officer B and directed him not to discuss the incident.

Sergeant A obtained a PSS from Officer A, away from Officer B, and then directed him not to discuss the incident.

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 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. Lethal Use of Force

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

Basis for Findings

A. Tactics

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

1. Broadcasting Location and Status

Officers A and B did not advise Communications Division (CD) of their status when they made the decision to exit their vehicle and conduct a pedestrian stop on the Subject and Witnesses A and C.

The purpose of this broadcast is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel. Pedestrian stops can be dangerous, the identity and actions of a person stopped is often unknown, and as in this case, their actions can be unpredictable.

Officers are required to balance officer safety considerations against the need to make a timely broadcast. That being said, officers must be afforded some discretion in determining the appropriate time to make their broadcast.

Department tactical training allows for officer safety concerns to take precedence over making an immediate broadcast.

In this circumstance, Officers A and B intended to conduct a pedestrian stop, but as Officer A exited the police vehicle, he observed the Subject turn and walk away from him while holding his waistband. Officer A then alerted Officer B that the Subject was running and communicated to Officer B to, "Put it out." Officer A pursued the Subject on foot, at which time Officer A removed his police radio and broadcast that he was in foot pursuit.

In evaluating Officers A and B's actions, the BOPC determined that based on the totality of the circumstances, the delay of their broadcast in this case was not a substantial deviation from approved Department tactical training.

2. Contact and Cover

Officers are trained to utilize the concept of contact and cover in which one officer gives the verbal commands while the other provides cover. Operational success is based on the proper assumption of contact and cover roles during contacts with the public in an effort to maintain the tactical advantage. Engaging suspect(s) in a tactical situation can be fluid, fast paced and can contain multiple threats to overcome.

In this instance, the officers were confronted with a rapidly unfolding tactical scenario when Officers A and B initiated a pedestrian stop on multiple subjects located on opposite sides of the street. Officer A verbalized with the Subject on the south side of the street, while Officer B verbalized with Witnesses A and C on the north side of the street. The officers' plan was for Officer A to direct the Subject from the south sidewalk to the north sidewalk, where Officer B was going to be detaining Witnesses A and C.

The evidence reflects the officers were cognizant of their surroundings and knew that they had multiple suspects on both sides of their vehicle. In this case, it was the subjects' actions that dictated a need for the officers to address the threat on both sides of their police vehicle.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's actions did not substantially deviate from approved Department tactical training.

3. Passing Unsearched Suspects

As Officer B engaged the Subject, he passed Witnesses A and C as they were lying on the apron of the driveway directly to his right.

Although Witnesses A and C had not been searched, Officer B determined that the Subject posed a greater risk to himself, his partner and the community.

Officer B based his decision on the fact that his partner communicated that the Subject was armed with a gun.

Furthermore, Officer B heard a shot go off, and he then observed the Subject running with a shotgun in his right hand. Despite the rapidly unfolding tactical situation in front of him, Officer B was still able get a view of Witnesses A and C's hands. Although Officer B's decision placed him in a distinct tactical disadvantage, Officer B maintained his situational awareness and his actions were reasonable under the circumstances in order to address the armed suspect.

Based on the totality of the circumstances, the BOPC determined that Officer B's actions did not substantially deviate from approved Department tactical training.

4. Securing Evidence

Officers A and B left the shotgun unsecured in the street as they pursued the Subject on foot. Officers need to balance the exigency of the situation and weigh the factors surrounding each incident. The investigation revealed both officers were aware of the location of the shotgun as they discontinued their pursuit of the Subject at the mouth of the alley and elected to set up a perimeter. Officer B was aware of the additional suspect behind them and immediately returned to the northeast corner of the intersection, where he was able to maintain eyes on the shotgun and hold that block.

In this case, Officers A and B's decision to leave the shotgun briefly unsecured was not a substantial deviation without justification from approved Department tactical training.

- 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 that 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 and B's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- Officer A communicated to Officer B that the Subject had a gun. Officer B drew his service pistol.

Officer A heard a gunshot, observed that the Subject had a shotgun in his right hand and immediately drew his service pistol.

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 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 and B's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- Officer B heard a shot go off and observed the Subject running in a northwesterly direction across the street while holding a shotgun in his hands at waist level and pointing the barrel his direction. Officer B fired one round from his service pistol 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 B would reasonably believe that the Subject's actions of pointing a shotgun in his direction, presented an imminent threat of death or serious bodily injury and therefore, the use of lethal force would be objectively reasonable.

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