

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

OFFICER-INVOLVED SHOOTING – 007-12

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
N. Hollywood	01/22/12		

Officer(s) Involved in Use of Force	Length of Service
Officer C	11 years, 7 months

Reason for Police Contact

Victim A called 9-1-1 to report that her mentally ill brother, the Subject, had threatened her and burned her with a cigarette. Upon the officers' arrival, a confrontation occurred between the Subject and the officers, which resulted in an officer-involved shooting.

Subject	Deceased (X)	Wounded ()	Non-Hit ()
Subject: Male, 23 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 suspect 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 December 18, 2012.

Incident Summary

Communications Division (CD) broadcast a report of a male with mental illness at a residence having committed an assault.

Uniformed Police Officers A and B advised CD they were responding to the radio call. As Officers A and B arrived at the location, Officer A read the comments of the radio call out loud, as Officer B observed a female run out toward the front yard waving her arms in an attempt to flag the officers down. The female was subsequently identified as Victim A.

Victim A advised Officers A and B that the Subject had a mental illness, but had never been officially diagnosed.

Officers A and B observed Victim A to have a swollen left eye and a cigarette burn to the left side of her face. When the officers inquired how she sustained the injuries, Victim A indicated the Subject was responsible. Victim A relayed that an argument had occurred involving the Subject and Victim B. During the argument, the Subject started punching Victim A and slapping Victim B. When Victim A called the police, she informed them that the Subject was having a mental breakdown and that she wanted him escorted to a psychiatric facility. Victim A also indicated that the Subject had exhibited physical violence toward her once in the past.

Uniformed Police Officers C and D arrived at scene and advised CD accordingly. Officers A and B briefed Officers C and D regarding the circumstances of the radio call. Victim A advised the officers that Victim B remained inside their residence.

Upon establishing a tactical plan, the officers asked Victim A if there were any guns or weapons inside the residence. Victim A did not know and also informed the officers that approximately five years prior to this incident, the Subject physically attacked officers on an unrelated incident.

Officer D believed the officers needed to enter into the residence to take the Subject into custody, because he was not known to comply with police and the officers believed he would not exit if the officers called him out. Furthermore, Officer A indicated that a decision was made to enter the residence because the Subject had committed a crime.

The officers' tactical plan consisted of Officer B in the point/contact position, armed with a TASER, followed by Officers A, C and D. Officer C was also armed with a TASER and was paired with Officer D as the designated arrest team. The officers did not request a supervisor prior to making entry into the residence.

Victim A provided consent for the officers to enter the residence and led them through the front door. She directed them to the Subject's bedroom which was located along the interior corridor. After pointing out the Subject's bedroom, Officer A directed Victim A to go to her room for her own safety.

Officer B opened the door to the Subject's bedroom, turned on the light and observed the Subject lying in bed, smoking a cigarette while watching television. The Subject had several bed sheets covering his upper body. Officer A observed the Subject sitting on his bed with a cigarette in his hand. Officers C and D could not see inside the bedroom from their vantage point. Officer B told the Subject they needed to speak with him and the Subject responded with profanity and told the officers to leave.

The Subject made numerous furtive shuffling movements under his bed sheets causing Officer B to order him to place his hands up where they could be seen. Officer B pointed his TASER at the Subject and activated his laser sights, while simultaneously warning him if he refused to show his hands, he would be tased. The Subject remained non-compliant and continued to look under his bed sheets. While still using profanity, the Subject reached over with his right hand and opened the top drawer of a small wooden nightstand and removed an unknown dark object. The Subject concealed the dark object under his gray sweat shirt.

As the Subject reached into his nightstand, Officer B heard Victim A verbalize the thought that Officer B might have a gun there. Officer B believed the Subject pointed an unknown dark object at the officers, which he perceived to be a gun, after removing it from the nightstand.

Officer B's view was obstructed by the door jamb, which afforded him little cover, and he was concerned about being accidentally shot from behind by friendly fire from one of his partner officers. Officer B advised the officers, "He's got a gun," then quickly secured his TASER in his pocket while unholstering his service pistol and holding it in a two-handed low-ready position.

As Officer B backed away from the bedroom door, he observed the Subject make a "jumping motion," as he attempted to get out of bed. Officer B backed out of the residence and redeployed outside behind the passenger front door of a gray vehicle, then transitioned behind the driver's side engine block of a white vehicle. When Officer B redeployed, he did not know where Victim A was located. Officer B also indicated that he redeployed behind the second vehicle because when he observed the Subject exit the residence, he felt he would have been too close to Officers C and D, and in a potential crossfire situation.

After being alerted by Officer B, Officer A redeployed outside the residence and unholstered his service pistol. Officer A moved into a crouched position of cover behind the front passenger wheel of the gray vehicle. Officer A observed the Subject rapidly walk out toward the front yard of the residence. Officer B broadcast a radio transmission that was initially inaudible followed by, "Need a back-up, man with a gun."

Officer D also backed out of the residence and unholstered his service pistol based on Officer B's actions and statement. Officer D believed that the Subject was armed with some type of weapon that would cause a deadly force type of situation. This belief was based on Officer B's body language, his urgency to redeploy and the fact that he

already had a TASER out. Officer D redeployed backward away from the front door, around the garage and behind the rear passenger side door of the gray vehicle, adjacent to Officer A.

Officer C immediately unholstered his service pistol in the hallway, and was the last officer to exit the residence. As Officer C backed out of the residence, he attempted to persuade Victim A to come along with him; however, she hesitated and walked out of Officer C's view.

Once outside the residence, Officer C continued to walk backward across the front yard as he held his pistol in a two-handed low-ready position. Officer C believed the Subject was armed and considered him a barricaded subject because he was inside the house in a position of advantage. Officer C continued to walk backward across the street to the trunk of his black and white police vehicle. Officer C believed he advised the other officers he was returning to his vehicle to retrieve his police rifle.

As the officers tactically retreated out of the residence, the Subject exited the front door of the residence and pursued the officers in the front yard, yelling at the officers, "Get out of here." It was at this point that Officer D first observed a gun in the Subject's right hand. Officer D quickly redeployed behind the driver's side door of the white vehicle, when the Subject entered the front yard. Officer B also redeployed to the driver's side of the white vehicle because he felt he was in a crossfire situation if he remained behind the gray vehicle.

After opening his trunk, Officer C removed his police rifle and inserted a 20 round magazine (which was loaded with 18 live cartridges) into the rifle. Officer C chambered a round, and heard Officer D shout, "He's coming outside, he's got a gun." Officer C closed the trunk of his police vehicle and initially took cover behind a vehicle parked on the street.

From his second position, Officer C realized he could not observe the front door of the residence due to a cinder block pillar which separated the property lines. Officer C heard an unknown officer say, "He has a gun, drop the gun," and Officer C attempted to acquire a view the front door, but he did not observe the Subject. Unknown to Officer C at this time, the Subject was now in the front yard. Officer C momentarily left his position of cover as he began to move around the cinder block pillar and fan outward toward the middle of the street, while maintaining a view of the front door.

At that point Officer D utilized his pistol's flashlight to illuminate the Subject's position. Officer C then observed the Subject, who stood facing away and adjacent to the rear driver's side of the grey vehicle. The Subject was holding a handgun in his right hand, which was positioned downward along the right side of his body with the weapon's muzzle pointed directly toward the ground.

Note: According to the officers, at the time of the incident it was still very dark and difficult to see outside. The front porch lights of the residence were not on and there was little ambient light from street lamps.

Officer C activated his rifle light and illuminated the Subject from behind. This apparently caused the Subject to turn around and face him. Officer C noted the Subject still held the handgun in his right hand as he slowly began to turn around and walk toward him. Officer C repeatedly ordered the Subject to, "Stop and drop the gun." The Subject did not say anything, but refused to comply and continued to walk toward Officer C's location. In fear for his life, Officer C raised his rifle and with a right shoulder pistol grip position, fired one round from his police rifle at the center mass of the Subject.

At the time Officer C first illuminated the Subject, he was standing approximately 20 feet away. The Subject closed the distance to approximately 15 feet before Officer C fired his first round. The Subject did not raise or point the pistol in Officer C's direction at the time Officer C fired his initial gunshot. Officer C believed the Subject would be able to shoot him before he had time to react. Officer C was not aware of any crossfire situation involving the other officers and his background consisted of the garage and both vehicles parked in the driveway. Officer C did not initially observe any officers standing behind those vehicles at the time he fired. Officer C further indicated that he was "shocked" the Subject was approaching him with a gun and felt that the Subject's intent was to shoot him with the gun, so he felt like he had no choice but to defend himself.

Officer C was not certain if the first round struck the Subject because the Subject did not exhibit any noticeable effect of being shot. After the first shot, the Subject did not drop the gun he was holding in his right hand and continued to "robotically" walk in his direction.

Officer C fired a second round at the Subject from his police rifle from a distance of approximately 14 feet away. After firing the second round, the Subject raised the gun in his right hand upward in a 45 degree angle, while simultaneously rotating in a counter clockwise direction back toward Officers A, B, and D's last known position. Officer C still felt the need to fire because he continued to be concerned about being shot by the Subject. Fearing for the officers' collective safety, Officer C fired a third round from his police rifle from a distance of approximately 14 feet.

After Officer C fired both additional gunshots, the Subject stumbled backward toward his residence and fell to the ground landing on his left side. He then curled up in a fetal position. Officer C repeatedly ordered the Subject to put his hands out; however, the Subject failed to respond.

Although Victims A and B did not observe the OIS, they heard the officers say, "put your hands up." They then heard approximately three to four gunshots.

Officer D utilized his handheld ASTRO radio and broadcast to CD that shots had been fired and that the officers needed help. Additional officers subsequently arrived on the scene.

The additional responding officers assembled an arrest team and unholstered their service pistols, holding their pistols in a two-handed low-ready position upon their approach. The arrest team approached the Subject from the rear to maintain their tactical advantage. Upon reaching the Subject's position, Officers E and F re-holstered their pistols and observed the Subject's left arm was underneath his body. As Officer E grabbed his right arm, which was over his stomach, Officer F secured his left arm and together they rolled the Subject over onto his stomach and handcuffed both wrists behind his back. Officers E and D also observed the Subject's pistol lying in the grass parkway adjacent to the sidewalk.

Officer B then issued a radio broadcast for a Rescue Ambulance (RA). After taking the Subject into custody, Officer E instructed the RA to stand-by, south of their location, until the residence was cleared of any potential additional subjects.

Sergeant A was the first uniformed supervisor on scene. Fearing additional subjects or victims were inside the residence, Sergeant A took command of the tactical situation, and designated one officer to issue commands to the occupants inside the residence to exit.

Victim A exited the front of the residence and was handcuffed and taken into temporary custody without incident. She advised the officers that Victim B had passed out and was unconscious on the floor inside the residence. After approximately 30 seconds, Victim B exited the front door of the residence on her own accord and was handcuffed and also taken into temporary custody.

Note: Officer D indicated that both Victims A and B were detained and taken into custody without incident, but he did not recall whether the two women were handcuffed. Officer A also indicated that he did not handcuff Victim A or observe her being handcuffed at any time.

According to Victim A, when she exited the residence, the officers handcuffed her. Victim A believed her handcuffs were too tight and informed an officer accordingly, but the handcuffs were not released for approximately 15 minutes.

The residence was subsequently cleared, and it was determined there was no one else inside. Fire Department personnel subsequently arrived at the scene, staging the Rescue Ambulance one block south of the residence and waited until they received a signal from police officers that it was safe to approach.

Sergeant B arrived on scene and briefly spoke with Officer A, inquiring as to who was involved in the OIS. Officer A advised Sergeant B that Officer C fired several rounds.

When it was safe for the RA to approach the scene, Fire Department personnel entered the inner perimeter and noted the Subject had sustained several gunshot wounds to his upper torso area. In addition, he was pulseless and did not exhibit any sign of life. After failing to respond to several life saving measures, the Subject was pronounced dead from his injuries.

Upon clearing the residence, Sergeant B contacted Officer C, immediately separated him from the other officers, and acquired a Public Safety Statement (PSS). After learning Officer C had fired several rounds, Sergeant B instructed additional personnel to search the general vicinity for unattended victims. A subsequent search revealed there were no additional victims.

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 unanimously made the following findings.

A. Tactics

The BOPC found Officers A, B, C and D's tactics to warrant administrative disapproval.

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 C's lethal use of force to be in policy.

Basis for Findings

A. Tactics

1. Tactical Planning

In this instance, the tactical plan had Officer B serve as the point/contact officer while armed with a TASER, followed by Officers A, C and D. The available evidence suggests that none of the officers considered that the tactical scenario could escalate to a point where the use of lethal force may become necessary. Consequently, the tactical plan was deficient in that it did not include a lethal force option, which placed them at a tactical disadvantage.

The tactical plan placed Officer B at a severe tactical disadvantage and was insufficient in that none of the officers were in a position to effectively address a deadly threat should it materialize. As the senior officer of the primary unit, Officer A had the primary responsibility to form and enact the tactical plan. However, that does not absolve the other officers from correcting the fundamental flaws of the tactical plan and ensuring the plan is sound and consistent with their tactical training.

In conclusion, the BOPC found that Officers A, B, C and D's tactical plan substantially and unjustifiably deviated from approved Department tactical training.

2. Victim Allowed to Enter Residence

The officers were aware that the Subject was reported to be delusional and suffered from mental illness; had burned a victim on the face with a cigarette; and had previously attacked officers. After giving consideration to these factors, the BOPC found that the decision to allow Victim A to enter the residence was not a prudent one.

The Subject had already assaulted the victim and her mere presence had the potential to cause him to react once again in a violent manner. The circumstances were indicative of the potential for the situation to escalate, wherein her presence in the home, as occurred in this case, magnified the tactical concerns when the Subject armed himself with a handgun.

Although the BOPC recognized that Victim A was directed to enter her bedroom for her well-being and that the officers believed that the presence of four uniformed police officers was sufficient to confront and maintain control of the incident, the decision to allow her to enter the residence created the potential for significant negative implications. The officers should not have allowed Victim A to enter and rather gathered further information relative to the presence of other

individuals in the residence and obtained a basic description of the layout of the interior of the residence and last known location of the Subject.

The BOPC found that the decision to allow the victim to enter the residence substantially and unjustifiably deviated from approved Department tactical training.

3. Tactical Redeployment

Rather than engage the Subject with lethal force, Officer B advised his fellow officers that he had a gun and then quickly secured his TASER in his left front pants pocket, unholstered his service pistol and began to back out of the residence because he felt there might be crossfire in the small confined space between himself and other officers. Officer B decided to start redeploying to a better tactical position outside the residence. The other officers followed Officer B's lead in redeploying outside.

Officers A, B, C and D had reason to believe that the Subject was a possible mentally unstable individual, who had committed an assault on a family member and whom had armed himself with a gun or with some type of weapon that would cause a deadly force type situation.

As the officers made their initial contact with the Subject, he was contained within his bedroom. As such, he posed little threat to others within the residence. Once the Subject armed himself, the officers' actions of relinquishing control of the bedroom and redeploying outside the residence afforded an armed and potentially mentally unstable individual access to the family members who remained inside. Based on the comments of the radio call and prior contact with Victim A, Officers A, B, C and D knew or should have known that the family members remained inside the residence and were exposed to a potential deadly threat at the time the officers made the decision to redeploy outside.

In conclusion, the BOPC found that the officers' decision to redeploy outside the residence substantially and unjustifiably deviated from approved Department tactical training.

4. Tactical Communication

Officers A, B, C and D entered the Subject's residence with a tactical plan to take him into custody. However, when the Subject armed himself, the officers were forced to alter their original plan. In an effort to gain a greater/safer tactical advantage, the officers redeployed outside the residence. It was evident from the investigation that the officers had little or no communication between themselves as they redeployed outside the suspect's residence.

When asked if a plan was discussed to redeploy out of the house, Officer C stated that it was a spontaneous decision and that there was no communication between the time the officers deployed outside to the time of the OIS. Officer C also did not know the Subject had a gun.

Teamwork is the cornerstone of any tactical operation and in order to work as a team, the involved officers must communicate amongst themselves. In this instance, due to lack of communication, Officers A, B, C and D each formulated their own/separate tactical plan to exit the residence and redeploy in the front yard. As a result, there was no discussion of covering the rear of the residence should the suspect decide to flee out the back door. Furthermore, there was no coordinated response as the Subject exited the front door armed with a handgun. This lack of communication and coordination ultimately resulted in a crossfire situation between Officers A and C, as Officer C deployed his police rifle to stop the deadly threat posed by the Subject.

As the senior officer of the primary unit, Officer A was principally responsible for communicating a tactical plan once outside the residence. However, that does not absolve the other officers from maintaining open lines of communication and acting as a team.

The BOPC was critical of Officers A, B, C and D's lack of tactical planning and communication. The BOPC was also critical of their decision to redeploy outside the subject's residence while potential victims were still inside the location. Therefore, the BOPC determined that Officers A, B, C and D's actions substantially and unjustifiably deviated from approved Department tactical training, and the BOPC found their tactics to warrant administrative disapproval.

B. Drawing/Exhibiting

In this instance, Officer B observed the Subject reach into a drawer and remove a dark object that he believed to be a handgun and immediately notified the other officers the Subject had a gun. Believing that the Subject had just armed himself, Officers A, B, C and D drew their service pistols, as they realized the situation could escalate to a deadly force situation and feared for their own safety as well as the safety of other officers.

Upon redeploying outside the residence, Officer C realized the tactical scenario had become a barricaded subject situation. As a result, Officer C holstered his service pistol and recovered his police rifle from the trunk of his car.

Given the totality of the circumstances, it was reasonable for Officers A, B, C and D to believe that the situation had escalated to a level where the use of lethal force may have become necessary. 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 C acquired a view of the Subject, who stood facing away and adjacent to the rear driver's side quarter panel of a parked vehicle. Officer C observed that the Subject held a handgun in his right hand. The handgun was positioned downward along the right side of his body with the weapon's muzzle pointed directly toward the ground.

Officer C activated his rifle light and illuminated the Subject from behind. The Subject turned around, faced Officer C and slowly began to walk toward him while maintaining possession of the handgun. Officer C repeatedly ordered the Subject to, "Stop and drop the gun." The Subject did not say anything, but he refused to comply and continued to walk toward Officer C. In fear for his life, Officer C raised his rifle and fired two rounds at the Subject.

Officer C felt it got to a point where, at any moment, the Subject could make the decision to shoot at him, and thus felt that he had to act before the Subject made that decision. When he was within approximately 15 feet, Officer C fired one round, which didn't appear to affect the Subject. The Subject continued to approach, and Officer C fired a second round.

After Officer C fired his second round, the Subject raised the handgun in his right hand upward in a 45 degree angle, while simultaneously rotating in a counter clockwise direction back toward Officers A, B and D's last known position. Fearing for the collective safety of Officers A, B and D, Officer C fired a third round from his police rifle. Officer C recalled that after he fired his third round, the Subject appeared to stumble slightly towards the house and then fell to the ground.

Given the totality of the circumstances, an officer with similar training and experience as Officer C would reasonably believe that the subject's actions of retrieving a handgun from a drawer in the officers presence, following the officers outside of the residence and failing to comply with their orders to drop the handgun while continuing to approach, represented an imminent threat of serious bodily injury or death and that the use of lethal force would be justified.

The BOPC found Officer C's use of lethal force to be objectively reasonable and in policy.