

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

OFFICER-INVOLVED SHOOTING – 011-13

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Outside City	02/07/13		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	16 years, 3 months
Officer B	2 years, 11 months

Reason for Police Contact

Officers followed the Subject, who was wanted for a double homicide in Irvine, California. The Subject ambushed the officers, which resulted in an OIS.

Subject(s)	Deceased () Wounded () Non-Hit (X)
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Subject: Male, 33 years of age.	
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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 February 04, 2013.

Incident Summary

The Subject was a former Los Angeles Police Department (LAPD) Police Officer, who was wanted for a double homicide that occurred in Irvine, California. The Subject had posted a manifesto on his Facebook social media page that detailed his grievances against the LAPD and identified several Department personnel as potential targets for retaliation. In response, a threat assessment was immediately conducted by the LAPD. Several protection details were formed as a result, staffed with officers, including Officers A and B.

Officers A and B attended a briefing and were deployed to a protection detail in the Riverside County area, near Corona, CA, to relieve officers already there. Officers C and D were deployed with them and drove in a separate police vehicle.

During the briefing, the officers were advised that the Subject was last seen driving a dark blue Nissan Titan pick-up truck. They were also advised that the Subject was a former LAPD police officer, had been a military reservist and possibly had access to a variety of weapons, including AR-15 and AK-47 type rifles. A flyer with his photo was passed around. The officers were also advised that they would be out of radio range and would need to use their cell phones to communicate. The officers were instructed to contact the local law enforcement agency (Riverside County Sheriff's Office) and advise them that the officers were in their jurisdiction. At the conclusion of the briefing, the four officers proceeded to drive to the location but took different routes.

As Officers A and B reached the general area, they pulled into a service station parking lot, intending to make a purchase. As they did, they were contacted by Witness A. Witness A informed them that he had observed an individual who matched the Subject's description drive away in a dark gray pick-up truck, just moments before the officers arrived. Officer A asked Witness A which direction the truck had gone and Witness A indicated east.

Witness A told the officers he had seen a digital image of the Subject from a news release, on his cellular telephone and had also seen images of the Subject's truck on his laptop computer.

Officer A viewed Witness A's laptop computer and observed archived images of the Subject's truck, including the license plate number. Witness A indicated, however, that the Subject's truck currently had a different license plate number that began with an "8." Although the license plate was different, Witness A was certain the truck he observed was the same one reportedly being driven by the Subject.

Officer A called Officer C on his cellular telephone and told him to respond to the service station, as the Subject had just been sighted in the area. Officer C advised Officer A that he and Officer D were en route. As Officer A completed the telephone call, Officer B observed a pick-up truck drive past them, west bound. Officer B drew

Witness A's attention to the truck and asked him if it was the same one he had seen earlier. Witness A confirmed it was.

Officers A and B ran to their police vehicle. As Officer A was running, he dropped his cellular telephone to the pavement, causing the rear cover to separate and the battery to fall out. Officer A retrieved the cellular telephone and rear cover, but left the battery on the pavement because he did not want to lose sight of the truck and believed he would be able to retrieve the battery later.

The officers entered their vehicle and attempted to catch up to the truck as it entered the northbound on-ramp to the I-15 Interstate freeway. The ramp was inclined and angled and Officer A warned Officer B to be ready for a possible ambush at the top of the ramp. When the officers reached the top of the ramp, the truck was not in sight, so they continued northbound on to the freeway.

The officers then observed the truck and began following it, maintaining a distance of approximately 40 to 60 feet behind it. At that distance the officers were unable to clearly observe the rear license plate, so Officer A drove closer.

The officers observed that the license plate was consistent with Witness A's description. Officer A also noticed the truck appeared to be charcoal gray in color, same as described by Witness A, rather than a blue color, as described in their briefing.

Officer B attempted to query the license plate number via his police radio, but received no response. Officer B then queried the plate via the police vehicle computer, which returned registered to two residents of another city. This caused Officer B to believe he may have incorrectly queried the plate. In order to confirm the plate number, both officers utilized their respective side-mounted spotlights to illuminate the rear license plate for a clearer view.

The officers continued following the truck, but were still unsure if it was the Subject's vehicle. The officers remained approximately 50 to 60 feet behind as the truck continued north on the freeway. The officers were considering a tactical plan when the truck suddenly exited the freeway, in the city of Corona, CA. The officers continued illuminating the truck with their vehicle spotlights but used no other emergency lighting.

The truck exited at a normal speed and swerved slightly, before making a slow right turn at the end of the off-ramp. Officer A observed the truck slowing approximately 15 to 20 feet east of the off-ramp, and told Officer B he believed the truck was going to stop, even though no emergency lighting had been activated. Officer A made a wide right turn at the end of the off-ramp to tactically obtain a clear line of sight and create distance between the vehicles. The truck pulled toward the south curb and then came to a complete stop.

Officer B unholstered his service pistol as their vehicle slowed behind the truck because he perceived the suspect's actions were suspicious and believed the incident could

result in the use of deadly force. Officer A stopped their vehicle behind the truck. As Officer A was placing the transmission into park and aiming his spotlight at the driver's side of the truck, a male they immediately recognized as the Subject quickly exited the driver's side door holding a rifle. The Subject stood by the driver's door, facing their direction and fired approximately two to three rounds that penetrated the front windshield of the police vehicle. Both officers ducked down in their seats for cover, as glass fragments struck them in the face. Simultaneously, Officer B opened the passenger door and crouched behind the door of the police vehicle.

The Subject fired approximately 15 to 20 additional shots in rapid succession that struck their vehicle. As the Subject fired, Officer A remained crouched in the driver's seat with his head down. Officer A raised his pistol over the dashboard and fired multiple shots through the windshield in the Subject's direction. Officer A then peered over the dashboard to see where the Subject was in relation to their position because he feared the Subject would advance on their position and/or flank them. He observed that the Subject remained at his position next to the driver's side door of his truck, while continuing to fire shots at their vehicle. Officer A fired the remaining rounds in his pistol at the Subject, for a total of nine rounds. As Officer A fired his last round, the pistol went to slide lock, and the Subject turned to enter his truck.

Meanwhile, when Officer B heard the Subject stop shooting, he stood up and observed the Subject entering his vehicle. Officer B used the outside edge of the passenger door for cover and fired six rounds at the Subject as the Subject entered his vehicle and drove away east on the street. During the exchange of gunfire, Officer A was wounded in the head and the police vehicle was immobilized. The Subject then fled in his truck.

Officer A felt blood dripping from his head and told Officer B he was wounded. Officer B examined the wound and observed it was a graze wound. Officer A believed that the Subject might return to the scene to ensure the officers were dead and told Officer B they needed to redeploy to better cover for their safety. The officers assessed their surroundings and redeployed to cover behind a concrete barrier that divided the on and off ramps of the I-15 freeway. Both Officers A and B attempted to broadcast a help call on their police radios, but no response from Communications Division was received.

During this time, the officers observed civilian vehicles approach and drive past their location. The officers flagged down a driver, identified themselves as LAPD officers who had just been in an officer-involved shooting (OIS), and asked her to call the 911 emergency line. Shortly thereafter, additional vehicles approached and stopped at their location. The drivers also called 911.

Officer B then used his own cellular phone and called the 911 emergency line telling the operator they had been involved in an OIS, and that Officer A was wounded and needed an ambulance. An additional motorist, who also called the 911, handed Officer A his cellular telephone so he could speak directly to the California Highway Patrol (CHP) dispatcher. Officer A gave the dispatcher their location and provided suspect information

Officer A then called the Operation Central Bureau command post to make notification that he and Officer B had been involved in an OIS with the Subject.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers' benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

The BOPC found Officer A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Officer A and B'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:

- The evaluation of the decision to take enforcement action requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Each incident must be looked at objectively and the areas of concern must be evaluated based on the totality of the circumstances.

Officers A and B were met with extraordinary circumstances during their confrontation with a known murder suspect, who clearly expressed a detailed manifesto declaring his deadly intentions against members of the Department and specific persons. Moreover, at the time of the OIS, the officers were not able to

communicate with any other law enforcement personnel or agency to request additional resources (see Communications). In this circumstance, Officers A and B were confronted by the Subject who was armed with superior firepower. Officers A and B engaged the Subject in a prolonged incident with rapid gunfire aimed directly at them. With the presence of mind to protect their lives, as well as the lives of others, Officers A and B returned fire in a combined tactical effort to stop the Subject's actions. Above all, Officers A and B successfully thwarted the Subject's lethal actions without the aid of additional resources.

In the BOPC's comprehensive review of this case, it concurred with the assessment of the UOFRB that it was reasonable for Officers A and B to have responded as they did in this situation.

Therefore, the BOPC will direct that Officers A and B attend a Tactical Debrief.

- The BOPC additionally considered the following:

Ammunition Count

In this instance Officer B's additional magazines were not loaded to capacity.

Response to Assigned Protection Location

In this instance Officers A and B, as well as Officers C and D were assigned to the same location. The officers took different routes, causing them to become separated and ultimately unable to effectively communicate with one another. Though the officers were not given specific direction to follow one another (en-trail) to the protection detail location, the BOPC would have preferred that they had done so.

Communications

Communications during this incident was crucial. The BOPC noted that had effective communications been properly established and utilized by the officers assigned to the various protection details, this one included, the risk to those assigned officers would have certainly been minimized.

Personnel from Emergency Operations Division (EOD) are involved in a project to specifically address this radio communications concern, and this project was in motion well prior to this OIS. Facts that have become known as a result of this incident will greatly enhance the Department's future tactical performance regarding communications and EOD will continue its efforts toward progress with this matter. However, should a similar incident arise, the BOPC's expectation is that supervisory and command staff personnel make every effort to ensure officers are provided with functional and effective communications during all assigned tasks.

Regarding the tactics of all personnel, the BOPC agrees that there are identified areas for improvement; however, the tactics utilized did not substantially and unjustifiably deviate from approved Department tactical training.

B. Drawing/Exhibiting

In this instance as Officers A and B followed the Subject in their police vehicle, the Subject exited the freeway and pulled over to the south curb, coming to a complete stop. Believing the situation could rise to a lethal use of force situation, Officer B drew his service pistol.

As Officer A was placing the police vehicle into park, the Subject quickly exited the driver's side of his truck with a rifle in his hand. While being illuminated by the police vehicle spotlights, the Subject stood by the driver's door, facing west in the officers' direction and fired approximately two to three rounds that penetrated the front windshield of the police vehicle. Both officers ducked down in their seats for cover, as glass fragments struck them in the face.

Realizing the situation had escalated to the point where lethal force was justified, Officer A drew his service pistol.

Based on the totality of the circumstances, the BOPC determined that officers with similar training and experience as Officers A and B, and 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.

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

C. Lethal Use of Force

As Officers A and B sought cover within the police vehicle passenger compartment, both believed the Subject was going to execute them. Officer A pointed his service pistol with a right-handed grip on top of the dashboard and fired several rounds through the front windshield in the Subject's direction to stop his actions.

Shooting at a Moving Vehicle/Fleeing Felon

Department Policy dictates that firearms may be discharged at a moving vehicle in instances wherein the person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle. Additionally, law enforcement officers are authorized to use deadly force to prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, Officer B was involved in a prolonged armed confrontation with the Subject. Furthermore, a strong likelihood

existed that the Subject would continue his deadly behavior and commit further acts of violence.

Based on the Subject's deadly assault as he fired numerous rounds from a high-powered rifle at Officers A and B, their decision to discharge their respective service pistols to protect themselves and the lives of others was objectively reasonable and heroic. Officers A and B's training and experience, coupled with their will to survive aided them to walk away from this deadly encounter with minimal injuries.

In conclusion, an officer with similar training and experience as Officers A and B would reasonably believe that the Subject intended to kill them and continue to flee and likely pose a threat to the community, therefore, their lethal use of force was justified and reasonable.

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

Additional

The BOPC directed the Chief of Police to complete an analysis of command decision-making in this case and to present the results to the BOPC Use of Force sub-committee and the OIG.