

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

**OFFICER-INVOLVED SHOOTING – 018-13**

**Division          Date                          Duty-On (X) Off ( )    Uniform-Yes (X) No ( )**

---

N. Hollywood    02/24/13

**Officer(s) Involved in Use of Force          Length of Service**

---

Officer A    15 years, 9 months

**Reason for Police Contact**

Officers responded to a call for service regarding a man with a gun. An officer-involved shooting resulted after a short pursuit.

**Subject(s)    Deceased (X) Wounded ( ) Non-Hit ( )**

---

Subject: Male, 25 years of age.

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on January 28, 2014.

## **Incident Summary**

Witness A dialed 9-1-1 and advised a Los Angeles Police Department (LAPD) Communications Division (CD) emergency operator, "Hi, I'm calling because I was just parking my car on [location omitted] and this guy was laying in the grass. He jump[ed] up, and he had a bag, and he pull[ed] a gun out, and he was going to kill me. I just - I just drove away."

Communications Division initiated an "Assault with a Deadly Weapon, subject there now" radio broadcast. Sergeant A advised CD that he would respond to the call.

Additionally, Officers A and B, who were starting their watch and in the station parking lot, told CD that they would respond to the location.

While enroute to the location, the officers established that Officer A would be the contact officer, and Officer B would assume cover officer responsibilities.

Officer B read the subject's description via the officers' Mobile Digital Computer (MDC) and relayed the information to Officer A.

Sergeant A requested additional information about the subject and, in addition to his clothing and physical description, CD broadcast that the subject was armed with a gun.

Valley Traffic Division uniformed Police Officers C and D contacted CD and advised via the radio that they had arrived in the area and requested a better location due to being unable to identify the correct street. Communications Division advised responding units as to the correct vicinity.

Sergeant A arrived in the area of the identified location. He requested an air unit via the police radio and began his search for the armed subject. While driving northbound, Sergeant A observed Officers C and D driving southbound. Sergeant A searched the immediate area with negative results and proceeded east in his continued search for the subject. Officers C and D continued driving in search of the subject as well.

Air Support Division Police Officers E and F, assigned to the responding Air Unit, advised CD they were enroute to the specified intersection from a different Area and requested the subject's description.

The Police Service Representative (PSR) provided additional information over the police radio, in which she advised the Air Unit of the Subject's description, adding that the Subject was wearing a gray hooded sweater. Communications Division also advised responding units that the Subject was carrying a long bag and threatened the 911 caller with a handgun.

As the officers continued driving, Officer B believed that Officer A shut down the siren, but left the solid red/blue forward facing lights activated. The officers observed a male, later identified as the Subject, 25 years of age, standing in the roadway, who matched the prior description. According to Officer A, the Subject was “cradling” a long bag in his left hand. The Subject’s right arm was positioned across his body near his left chest area, and his right hand was concealed inside the bag. Officer A described the bag as a gray bag used to transport a portable fold up chair. Officer B believed it was a blue bag used to secure tent stakes.

Officer A contacted CD over the police radio and advised as to the officers’ location.

Although Sergeant A and Officers C and D advised CD they had arrived in the area prior to Officers A and B, Officers A and B were the first unit to observe the Subject. Force Investigation Division Investigators determined that at the time Officers A and B made contact with the Subject, Sergeant A was searching east of the area. Officers C and D were searching streets to the south when Officers A and B initially observed the Subject at a different intersection.

Officers C and D negotiated a U-turn and observed Officers A and B making contact with the Subject. Officers C and D stopped their vehicle in the number two lane of traffic, facing in a northerly direction approximately 225 feet southeast of the Subject’s location. Officer D exited the vehicle and stood next to the passenger door. According to Officer C, he exited the driver’s side and walked to the rear of his police vehicle. Officer C believed he saw the Subject holding a backpack in his hands.

Officer A stopped the police vehicle in the southbound number one lane of traffic. According to Officers A and B, the Subject was standing in the street, between the southbound left turn lane and the northbound number one traffic lane, facing in a southerly direction.

CD advised responding units that Victim A was at a local convenience store. In response to the broadcast, Sergeant A acknowledged and advised CD he was going to meet with the victim.

**Note:** The investigation subsequently revealed that Sergeant A did not meet with Victim A. Rather, he advised CD he would send a unit and subsequently directed uniformed Police Officers G and H to respond to Victim A’s location. After the OIS occurred, Officers G and H met with Victim A, transported her to the police station and initiated an Investigative Report (IR) for Criminal Threats.

After observing the Subject in the roadway, Officers A and B believed the Subject had a gun in the bag that he was carrying, based on the initial radio call. Believing the situation could rise to the use of deadly force, Officer A unholstered

his .45 caliber Glock semiautomatic service pistol and assumed a seated right hand shooting position. Officer A placed his left foot on the pavement and his right foot on the driver's side floor board of the police vehicle. He used the A-pillar of the vehicle as a barricade and cover. Upon exiting the vehicle, Officer B activated the exterior passenger side spotlight and illuminated the Subject. Simultaneously, he unholstered his 9 millimeter Glock semiautomatic service pistol. Officer B assumed a standing right hand shooting position, using the passenger door as cover.

As the Subject stood in the roadway approximately 10 to 15 feet in front of the police vehicle with his back to the officers, Officer A ordered the Subject, "Let me see your hands." The Subject did not comply. Officer B believed the Subject was approximately 30 feet in front of the police vehicle when he ordered him to, "Put your hands up. Turn around. Turn around put your hands up. Take your hand out of the bag. Stop!" The Subject did not comply.

The Subject then turned to his right and faced the officers, while holding the bag in his left hand. According to Officer A, as the Subject continued to cradle the bag under his left arm, he observed that the Subject had his right hand, including approximately two-inches of his right wrist, concealed inside the bag. In addition, once the Subject faced the officers, he threatened them by stating, "I'm going to f'cking kill you," and simultaneously walked north toward the officers. According to Officer B, he believed the Subject was limping as he walked toward them. Officers A and B gave the Subject repeated commands to, "Stop!" Despite the officers' commands, the Subject continued to walk towards the officers with his right hand concealed in the bag up to the wrist.

Officer D heard the officers give the commands, "Stop right there." "Put it down!" Officer D heard the Subject yell back at the officers, but could not make out what he was saying.

Officer C heard officers order the Subject to, "Stop, put your hands up!"

Officer A ordered the Subject approximately five to six times to, "Stop, let me see your hands!" According to Officer B, he ordered the Subject approximately four to five times to, "Keep your hands up! Take your hand out of the bag!" The Subject did not comply and continued to advance toward the officers and verbally threatened them by stating, "I'm going to fucking kill you!" According to Officer B, he believed the Subject made the threat approximately ten times.

The Subject continued to advance toward the deployed officers in a northwesterly direction across the traffic lanes and ultimately arrived directly in front of the front bumper of their police vehicle. During this time, Officer A observed a flashing light coming from Officers C and D's location.

\*\*\*\*\*In response to Officer D's signal, Officer A stepped out of his police vehicle and repositioned himself. Officer A assumed a standing right hand stance between the A-pillar and the front of the driver's side window frame. Officer A leaned slightly forward while pointing his pistol in a southwesterly direction to avoid any crossfire with Officers C and D.

As Officer A repositioned himself, the Subject continued to advance toward the officers. The Subject's actions caused Officer A to believe he was gaining distance. Officer A didn't know what the Subject had in the bag, but the Subject kept pulling his hand out, but Officer A could not see his hand completely. All he could see was the Subject's wrist, and the only thing he believed was that if the Subject got any closer, his and his partner's lives would be at risk. Officer A felt as though he had to use deadly force because of the Subject's actions, his demeanor and the fact that he wasn't going along with the program as many times as the officers told him to stop.

Officer A continued to order the Subject to, "Stop!" Let me see your hands!" The Subject did not comply. Believing he was not getting across to the Subject, Officer A yelled, "F'cking Stop!" The Subject responded by stating, "I'm going to f'cking kill you."

**Note:** Officer A explained the purpose of using profanity was to get Subject to understand.

In response to the Subject's actions, Officer B assumed a two-hand low ready position with his finger along the pistol frame and pointed his weapon near the Subject's feet. At this point, Officer A advised Officer B, "I'm going to drop him."

**Note:** Officer A stated he believed he had a position of advantage and wanted Officer B to understand he was going to engage the Subject by firing his weapon and that it wasn't someone else.

According to Officer A, the Subject pushed his upper torso rearward and simultaneously began to remove his right hand from the bag. Officer A stated that based on that movement, the way the Subject was acting, and the comments he made, the Subject felt as though he was going to draw a weapon and he was going to fire at the officers.

According to Officer A, the Subject's movement was an attempt to pull a gun out of the bag. Fearing for his life as well as his partner's, Officer A, while in a position of cover behind the driver's side door, angled himself in a southwesterly direction and fired one round at the Subject's center mass. Officer A observed the round strike the Subject.

**Note:** The investigation determined the distance between Officer A and Subject at the time of the OIS was approximately 21 feet.

Also, fearing the Subject's action could result in the use of deadly force, Officer B stated he put his finger on the trigger and was ready to engage the Subject when a sudden gunshot rang out. Officer B believed the Subject had a gun in the bag based on him saying, "I'm going to fucking kill you" and the possibility of him having a gun. In addition, Officer B activated his tactical flashlight. After the OIS, the Subject fell onto his buttocks and ultimately into a supine position on the pavement. Officer A stated that when he approached the Subject, he was still breathing.

Officer D contacted CD via the police radio and broadcast, "Shots fired" at the location. Officer A also activated his ASTRO radio and contacted CD and broadcast, "We got shots fired. Officer needs help."

In response to the shot being fired and fearing for their safety, Officers C and D unholstered their service pistols. Officer C did not observe Officer A fire his pistol. However, Officer D stated, "When I exited my car, I did see the muzzle flash when the officer fired. Their spotlights were facing towards the su[bj]ect..." Officer D was not certain as to which officer fired his weapon. Officer C took cover behind a vehicle located along the west curb, and Officer D proceeded to the north sidewalk of the street. Both officers proceeded and ultimately arrived at Officers A and B's location.

Officer A activated his police radio and requested a Los Angeles City Fire Department (LAFD) Rescue Ambulance (RA) via the police radio. After the OIS, Officers A and B observed the Subject's right hand still in the bag. Both officers continued to order the Subject not to move.

Sergeant A subsequently arrived on scene and stopped his police vehicle in the number two southbound traffic lane, facing north. He positioned his police vehicle near the Subject's body and adjacent to Officers A and B's police vehicle. Fearing for his safety and believing the situation could escalate to the use of deadly force, Sergeant A unholstered his service pistol and took a position of cover behind the engine block of his police vehicle. Moments later, Sergeant A made his way to the rear of Officers A and B's police vehicle and assumed command and control of the incident. Sergeant A advised Officers A and B to continue to monitor the Subject. Sergeant A stated he observed the Subject's right hand inside the gray bag up to about mid-forearm. He believed the bag was canvass and/or plastic.

Uniformed Officers I and J responded to Officers A and B's location. Fearing for their safety, and believing the situation could result in the use of deadly force, both officers unholstered their service pistols.

Uniformed Sergeant B subsequently arrived, advised CD accordingly as to his status and location, and subsequently obtained a Public Safety Statement (PSS)

from Officers A and B. Sergeant B also ensured that separation and monitoring protocols were in place.

The Subject was subsequently handcuffed and taken into custody.

In addition, once the Subject was taken into custody, Officer D stated he donned gloves and checked the Subject's pulse. According to Officer D, the Subject's pulse was very faint, and his breathing was becoming more labored. Officer D noticed the Subject's chest moving and his labored breathing. The Subject was transported to a local area hospital via LAFD RA. The Subject failed to respond to emergency medical treatment and was pronounced dead.

According to Victim A, 39 years of age, she was parking her car on the street and planned to visit her friend, 42 years of age. The Subject walked up to the driver's side of her vehicle and approached her window carrying a bag in his left hand. As Victim A cracked her window to see what he wanted, the Subject threatened her by stating, "Excuse me, I'm going to kill you." Simultaneously, the Subject began to pull a black object out of the bag, which she believed to be a gun. Victim A described the bag as long and narrow with a drawstring-type opening. The interview was digitally recorded, and a copy of the certified transcript is contained in this report.

Witness A, 48 years of age, was in her residence and heard an unknown male screaming, "I'm going to kill you!" Witness A ran out to her balcony and observed the Subject holding an object, which she initially believed was a crowbar, a chair or something red, as he walked toward the officers. The officers screamed, "put your hands up..." followed by a long pause. The Subject responded by stating, "I'm going to kill you!" The officers continued to give the Subject commands to put his hands up, followed by a single gunshot. The Subject recalled seeing the passenger officer and believed he was the shooter, but did not witness the officer fire his pistol. The interview was digitally recorded, and a copy of the certified transcript is contained in this report.

Witness B, 38 years of age, was a passenger traveling north with his wife and their seven year-old son. While seated in the vehicle, Witness B observed a police car stopped in the middle of the roadway with its emergency lights and the spotlight activated. Witness B's wife stopped their vehicle approximately four car lengths south of the police vehicle when Witness B observed the Subject, carrying a long bag which he described as a bag used to transport a portable folding chair, walking across lanes toward the officers. Witness B heard the officers give the Subject commands which consisted of, "Get down. Get on the ground," but the Subject continued to walk toward the officers. At this point, the Subject opened the zipper and reached into the bag. Witness B believed the Subject was searching for something inside the bag. Witness B estimated the Subject was approximately three feet in front of the front bumper of the police vehicle when the gunshot was fired. Witness B only heard the gunshot and did

not observe the officer fire his pistol. The interview was digitally recorded, and a copy of the certified transcript is contained in this report.

According to Witness C, 32 years of age, she was driving northbound with her husband and their seven year-old son. Witness C believed she was approximately 30 feet away when she observed the Subject carrying bags and a police vehicle with lights activated stopped in the middle of the roadway. Witness C stopped their vehicle south of the incident. Witness C heard officers giving the Subject commands, but could not discern what was being said. Witness C observed the Subject walk toward the officers and simultaneously reach inside the bag. Witness C estimated the Subject came within five feet of the bumper of the police vehicle when she heard a single gunshot. Witness C did not witness the officer fire his pistol. Witness C believed Subject had bags in his hands, but was unable to provide a better description. The interview was digitally recorded and a copy of the certified transcript is contained in this report.

Witness D, 10 years of age, was in his apartment complex, approximately 100 feet east from the street, when he heard unknown officers yell, "Put your hands up in the air," followed by a single gunshot. Witness D did not witness the officer fire his pistol. However, Witness D said his father, 56 years of age, his brother, 8 years of age, and his friend, 15 years of age, also heard the incident. Witness D's father provided consent for FID Investigators to interview him. The interview was digitally recorded and a copy of the certified transcript is contained in this report.

Witness E, 29 years of age, was walking to her residence when she observed a patrol car on what appeared to be a traffic stop near a corner of the street. Witness E believed that unit was involved in the OIS, but was not certain.

Witness E also advised FID Investigators she was standing outside her residence, when she heard unknown officers yell, "If you move any closer to us, we're going to kill you!" She looked out into the street and observed the Subject carrying a bag close to his body with his left hand and right hand concealed inside the bag. Witness E described the bag as a black baseball bag. Witness E observed the Subject walk toward the officers. She heard a second command of, "Don't move any closer," followed by a single gunshot. Witness E said the officers gave simultaneous commands in both English and Spanish. Witness E stated she was with her neighbor during the OIS and believed an additional friend was a possible witness. The interview was digitally recorded, and a copy of the certified transcript is contained in this report.

Investigators made several attempts to contact Witness E's friend for an interview, but were met with negative results.

Investigators contacted Witness F, who advised she was outside her residence speaking with Witness E and heard officers command the Subject, "Freeze, Stop



or we'll shoot you!" After hearing the commands, she walked to her front yard and heard a single gunshot. Witness F told investigators she did not observe the officer fire his pistol and that her sister was also a possible witness.

Witness F, 20 years of age, was in her residence and heard police sirens. Witness F walked outside and observed the Subject holding a bag and/or backpack in his hands. She also observed officers with their weapons drawn giving the Subject commands to get on the floor and stop what he was doing. The Subject did not comply with the officers' commands and continued to walk in their direction. Witness F advised she was not in a position to hear, but believed the officers yelled, "I'm going to shoot to kill, drop whatever you have," followed by two to three gunshots.

With respect to her hearing the officers, Witness F indicated that she heard the shooting/driver officer make the statement "I'm going to shoot to kill." When asked by the detective if the officer actually said those words, Witness F replied, "I want to say, yeah. Because I remember I told my sister that I heard that. And that's why I was surprised. Like, I didn't know officers to say that." The interview was digitally recorded and a copy of the certified transcript is contained in this report.

**Note:** The investigation determined that Officer A fired one round during the OIS.

No firearm was recovered at the scene.

## **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 made the following findings.

### **A. Tactics**

The BOPC found Officers A, B, G, and H's tactics to warrant a Tactical Debrief.

### **B. Drawing/Exhibiting**

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

### **C. Lethal Use of Force**

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

## **Basis for Findings**

### **A. Tactics**

- In its analysis of this incident, the BOPC considered the following:

#### 1. Verbal Tactics

Officer A ordered the Subject, "Let me see your hands," but he did not comply. Officer B directed the Subject to "put your hands up. Turn around. Turn around put your hand ups. Take – take your hand out of the bag. Stop!" This caused the Subject to turn around and face the police vehicle; however, he did not put his hands up. Officers A and B then observed the Subject still holding the bag in his left hand, as his right hand was concealed inside the bag. Based on the comments of the radio call and the way the Subject was carrying the bag, Officers A and B believed the Subject was armed with a handgun.

Officer A ordered the Subject, "Let me see your hands." Subject once again did not comply with the officer's orders. However, he repeatedly stated, "I'm going to f'cking kill you," to the officers, as he steadily walked toward their police vehicle. The officers believed the Subject made the previous statements between five to ten times.

In this case, the BOPC would have preferred that Officer B ordered the Subject to drop the bag first before instructing the Subject to turn around, put his hands up and take his hand out of the bag. Instructing the Subject to turn before discarding the bag placed the officers at a tactical disadvantage. Had Officer B's initial commands been followed by the Subject, the removal of his right hand as he faced the officers may have caused the officers to perceive an additional threat.

Nevertheless, based on these circumstances, evidence supports that the Subject did not comply with the officers' commands to stop and voiced his intent to kill the officers.

In evaluating Officers A and B's verbal commands, the BOPC determined that, although the officers' commands were consistent, their advising the Subject to remove his hands while facing the officers, deviated from approved Department tactical training, however, this deviation was not substantial. Furthermore, Officers A and B's actions ensured the safety of the surrounding residential area and on-coming vehicular traffic by drawing the Subject's attention toward themselves versus the community. However, Officers A and B could benefit from a review of this incident in the event that a similar situation should arise in the future. Accordingly, this topic was discussed during the Tactical Debrief.

## 2. Cross Fire

As the Subject approached the police vehicle, Officer A observed a flashlight illuminating from a position south of his location. The flashlight was emitting from a dark area approximately 225 feet away in the roadway, partially concealing a police vehicle.

Based on the flashlight illumination, Officer A repositioned himself in a southwest angle toward the Subject, standing outside the police vehicle, but still behind the driver's side door, to prevent crossfire.

Although it is evident that potential crossfire was initially a factor in this incident, Officers A, B, C and D, did not have sufficient time to reposition their vehicles prior to deploying toward the Subject, who was believed to be armed with a firearm. Furthermore, due to Officer A's situational awareness and Officer B's gunfire control, only one round was fired, which decreased the potential for harm to officers.

The BOPC determined that based on the totality of the circumstances, although the officers' actions deviated from approved Department Tactical Training, their deviation was not substantial, and corrective action was taken immediately upon discovering the tactical deployment concern. Nonetheless, Officers A and B are to be reminded to make every effort to avoid potential crossfire situations, including advising responding units of direction of travel when feasible. These topics of crossfire were discussed during the Tactical Debrief.

- The BOPC additionally considered the following:

1. Profanity/Language

Officer A stated that he ordered the Subject, "Let me see your f'cking hand!" Although the use of profanity can sometimes cloud the meaning of commands, escalate the situation, or be perceived by the public as unprofessional, under these circumstances, where Officer A's specific intent was to convey his message to the Subject in an effort to prevent the use of deadly force, his use of profanity was reasonable. However, in an effort to enhance future tactical performance during similar situations, this topic was discussed during the Tactical Debrief.

2. Tactical Communication

Officer A advised his partner, "I'm going to drop him," as the Subject continued to advance upon them while threatening to kill the officers. Officer A, while communicating this to his partner and not to the Subject directly, is reminded to make every attempt to utilize proper terminology when addressing threats such as the one the Subject posed. In an effort to enhance future tactical performance, this topic was discussed during the Tactical Debrief.

3. Preservation of Evidence

The investigation did not determine who removed the contents from the bag carried by the Subject. Therefore, in an effort to convey the importance of the preservation of evidence at Categorical Use of Force (CUOF) scenes, officers and supervisors are reminded to not handle evidence unnecessarily during critical incidents unless required due to officer safety or to assist with the ongoing tactical incident/investigation. This topic was discussed during the Tactical Debrief.

- The evaluation of tactics requires that consideration be given to the fact officers are forced to make split-second decisions under very dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific. Each tactical incident inherently results in consideration for improvement.

Each incident must be looked at objectively and the areas of concern must be evaluated based on the totality of the circumstances. In this case, the tactics utilized did not substantially deviate from approved Department tactical training.

Consequently, after a thorough review of the incident, the BOPC determined that the identified areas for improvement neither individually nor collectively substantially deviated from approved Department tactical training. Therefore, a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident with the objective of improving overall organizational and individual performance.

The BOPC found that Officers A and B tactics warranted a Tactical Debrief and that the specific identified topics be covered.

## **B. Drawing/Exhibiting**

- Upon arriving at the “ADW subject there now” radio call, Officers A and B observed a male matching the subject’s description (Subject), standing in the roadway. The Subject was cradling a long bag in his left hand with his right arm inserted into the bag, concealing his right hand up to his wrist. Based on the comments of the radio call and their observations of the Subject carrying a bag believed to contain a firearm, both Officers A and B believed the situation may escalate to the point where deadly force may be justified.

In evaluating the actions of the involved officers, the BOPC took into consideration that they were aware of the Subject’s threat to kill the PR with a handgun and also the inherent dangers associated with conducting high risk pedestrian stops on persons believed to be armed with a firearm, drawing their service pistols prepared the officers for a potential deadly force situation.

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.

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

## **C. Lethal Use of Force**

- **Officer A** – (pistol, one round)

Based on the information broadcast during the initial and subsequent radio calls, Officer A believed that the Subject remained armed with a firearm.

Officer A assumed a seated shooting position from the driver's seat of his police vehicle, then transitioned to a standing position behind the driver's door once he was aware of a potential crossfire. Officer B, assumed a standing shooting position using the passenger door as cover.

Officer A repeatedly ordered the Subject, "Let me see your hands," however, the Subject did not comply. Officer B also ordered the Subject to, "Put your hands up. Turn around...Take your hand out of the bag. Stop," although the Subject did not comply.

**Note:** According to Witness E, she heard an officer yell, "Don't keep coming our way or we're going to kill you." However, she also attributed different orders to the officer, "...you're going to get hurt or you're going to die." Witness E believed she heard two shots and believed that the Subject had a rifle in the bag. According to Witness F, an officer said, "I'm going to shoot to kill. Like stop or whatever they say." Witness F believed she heard two to three shots. According to Witness A, he heard a man scream, "I'm going to kill you. I'm going to kill you," and then saw the Subject walking toward the officers holding an object in both hands. Witness A heard the officers order the Subject to put his hands up, however, the Subject did not comply, and then Witness A heard a single gunshot.

The Subject stated, "I'm going to f'cking kill you," repeatedly as he walked northwest toward the officers. Officers A and B repeated the command to "Stop!" to no avail. At one point Officer A yelled, "Let me see your f'cking hands," but the Subject continued advancing as he threatened the officers by stating, "I'm going to f'cking kill you."

The Subject leaned his upper torso rearward and simultaneously began to move his right hand from the bag. Officer A believed that the Subject was attempting to pull a gun out of the bag. Fearing for his life and the life of his partner, Officer A fired one round at the Subject to stop his actions.

During the BOPC's review and analysis of this incident, he took into account that Officer A faced several tactical challenges as indicated below:

- Officer A was working with a Probationary Police Officer that had two months of field duty experience, requiring his split-attention.
- Officer A was multi-tasking, and while driving, he advised CD that they were Code Six in the area to ensure that their proper location was known should the need for assistance arise.
- Officer A was aware of a potential crossfire and took corrective action by changing his position.
- Officer A believed the Subject previously committed an ADW with a gun and was faced with the Subject's continuous advancement toward their police vehicle while he was believed to be concealing a firearm.

- Officer A received several threats by the Subject to kill him and his partner.
- Officer A observed the Subject begin to remove his hand from the bag with what was believed to be a firearm.

Officer A displayed excellent tactical communications when he informed Officer B, "I'm going to drop him." By designating himself as the shooting officer, Officer A effectively advised Officer B of the potential discharge of his service pistol, which likely prevented a possible contagious fire situation. Although the Subject was not actually armed, an officer with similar training and experience as Officer A would reasonably believe that the Subject presented an imminent threat of death or serious bodily injury and that the use of lethal force in order to address this threat would be reasonable.

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