

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

OFFICER-INVOLVED SHOOTING – 022-15

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Officer A	3 years
Officer B	3 years

Reason for Police Contact

Officers responded to a radio call of a male with mental illness who had thrown a knife at Witness A and was destroying property. Upon arrival and making contact with Witness A, the Subject appeared at a window, pointed what the officers perceived to be a handgun, and an OIS ensued.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
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Subject: Male, 38 years old.

Board of Police Commissioners' Review

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

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

The following incident was adjudicated by the BOPC on February 9, 2016.

Incident Summary

Communications Division (CD) broadcast a radio call of a male suffering from schizophrenia at a location. CD advised that the Subject had shot the Person Reporting (PR) with a pellet gun and threw a knife at the PR.

Uniformed Police Officers A and B heard the broadcast and advised CD they would respond to the call. Officer B was driving the police vehicle. Due to the incident's evolving circumstances, the 911 operator remained on the phone with Witness A and continued getting updated information. CD broadcast additional information indicating that the pellet gun would be inside the bedroom and that the Subject was no longer armed with the knife. Further, the PR would also step out and would be waiting on the porch.

Due to the Subject's violent actions, his mental issues, the weapons he was using, and the multiple updates they were receiving, the officers believed the incident had the potential to escalate and could potentially require them to use force. The officers discussed the tactics they would employ and agreed on their roles. Officer A would make contact with the reporting person while Officer B would provide cover and be the designated less-than-lethal officer armed with a TASER.

Within seconds after the final CD update, Officer A broadcast on the radio that they had arrived at the location. The officers identified the building by its numbered placard on the wall. Officer B stated that he was mindful of their approach and wanted to avoid parking directly in front of the building. He proceeded to park their vehicle north of the location. Once the officers exited their vehicle, they staggered themselves in position, with Officer B several feet behind Officer A as they began to walk toward the building. As the officers walked toward the location, they observed Witness A waving at them and signaling that he was the 911 caller. When the officers neared the location, Officer B observed a laptop computer and camera in the street and heard unintelligible yelling emanating from inside the building. This indicated to the officers that they were dealing with an unstable, violent, and volatile situation.

As Officer A was about to make contact with Witness A, the Subject, from inside the building, began throwing objects out of his bedroom window, which Officer A had just passed. The window faced toward the parking lot and was at a second story level. While Officer B was trailing behind, he observed an object being thrown and striking a tree that was directly west of the window. Officer A was several feet in front of Officer B near a parked vehicle.

Within moments, the Subject appeared in the window, yelling. He then raised a blue steel handgun and aimed it at the officers. Officer B immediately unholstered his pistol, held it with both hands, and aimed it at the Subject while simultaneously yelling at him to, "Put that down right now!" When the Subject didn't comply, Officer B, fearing for his life, fired six consecutive shots at him from an approximate distance of 36 feet.

Note: Officer B was asked if the Subject had fired any rounds. He stated, "I know there was a shot [...] before I shot. I didn't know if it was either my partner or him."

Officer A saw the Subject pointing what he perceived to be a rifle at him. He immediately unholstered his pistol, held it with both hands, aimed and fired seven consecutive rounds at the Subject, from an approximate distance of 31 feet. The Subject quickly moved away from the window and out of the officers' view. Unaware if the Subject was struck, and knowing that he had high ground, both officers sought cover. Officer B positioned himself next to a tree, used it as cover, and alerted his partner that he was going to reload. Officer B then conducted a tactical reload by inserting a fully loaded magazine into his pistol and placing the partially full magazine from his pistol into his rear pants pocket. Officer A sought cover by crouching next to the rear passenger side tire of a vehicle. He then conducted a speed reload by inserting another magazine from his pouch into his pistol.

When the Subject moved into the bedroom, out of the officers' field of view, Officer B broadcast an "Officer Needs Help" call. Both officers ordered the Subject to exit the residence unarmed and with his hands up. After approximately one minute, the Subject exited the residence through the front door and appeared uninjured. As Officer A observed him exit the front door, he continued to give the Subject commands to surrender. Officer B, who was further north of the front door, could not see the Subject. He alerted his partner that he was moving behind him in order to get a better view. Once Officer B repositioned himself, he observed that the Subject had his hands up and was unarmed. The Subject was simultaneously yelling at the officers, "Just shoot me, shoot me!"

In an attempt to stop the Subject from reentering the building and arming himself, Officer B decided to tase him. Officer B positioned himself next to a tree that was located west of the front door and approximately 20 feet west of the Subject. Officer B yelled out "TASER" to alert his partner of what he was about to do. The Subject was standing on the top of the stairs when Officer B aimed and fired the TASER. The Subject was able to avoid the TASER darts by quickly moving back into the building.

Sergeant A was at the station when he heard the initial radio call and the subsequent updates. Once it was upgraded to an officer "help" call, he responded to the scene. While en route, he learned from the radio transmissions that the officers were involved in an OIS and that the Subject was barricaded inside the residence and requested two additional supervisors to also respond.

When Sergeant A arrived he established a temporary Command Post (CP). Sergeant A stated he had numerous tactical concerns that he needed to immediately address, including checking on the welfare of the officers, determining whether there were any hostages or injured persons, and whether there was adequate containment to hold the Subject in place.

As personnel responded to the officer help call, they were directed to various perimeter positions by the Air Unit.

Officers A and B continued to monitor the Subject's location until additional officers relieved them of their position. Officers A and B then escorted Witness A to the temporary CP.

Sergeant A met with Officers A and B and ensured they were not injured. Sergeant A stated that, due to the ongoing tactical situation, he did not immediately obtain a Public Safety Statement (PSS) from the officers.

The new CP was staffed by Sergeants B and C. Sergeant C directed Officer A to remain with him and he obtained a Public Safety Statement from Officer A. Officer B was monitored by Sergeant D, who obtained a Public Safety Statement from Officer B.

With the Subject refusing to surrender and exit the building, SWAT personnel were requested and responded to the incident. While waiting for SWAT officers to arrive, Sergeant A assembled a team of officers to begin evacuations. He instructed them to systematically evacuate nearby residents and note their addresses. During the evacuations, the Subject was constantly yelling and moving around the building. He smashed a sliding glass patio door located on the southern side of the unit and was destroying property inside the location.

At one point the Subject opened the garage door, revealing a parked vehicle. Sergeant A was concerned the Subject may try to escape. He ordered officers to block the exit by positioning a police vehicle across the opening.

Once the first SWAT officers arrived, Sergeant A provided them with the details of the incident. He informed them that the Subject was armed, barricaded inside the building, and that the victim, Witness A, was at the command post. He also advised them that patrol officers were in the process of evacuating the residents. Gradually, SWAT officers replaced the patrol officers' perimeter positions and eventually Sergeant A relinquished tactical control of the incident to SWAT. As the incident progressed, the residents directly above the Subject's building, who were sheltering in place, reported smelling smoke. Concerned that the Subject was setting fires inside the building, Sergeant A was instructed by the CP to assemble a team to provide protection to Los Angeles Fire Department (LAFD) personnel should they need to respond to a fire. Sergeant A met with the LAFD liaison and formed a team of several officers, along with an arrest team, to stand by and prepared to respond.

Meanwhile, SWAT Crisis Negotiation Team officers attempted to contact the Subject by telephone, with no success. SWAT Sergeant E, along with additional SWAT personnel, then approached the front of the building using an armored vehicle for cover and attempted to communicate with the Subject utilizing a bullhorn. As nightfall approached, the street lamps in the area turned on. The lighting created a visual hindrance for the SWAT personnel and they requested, through the CP, that the street lamps be disabled.

The approval for the request was granted by the incident commander. Prior to disabling the street lights, the CP broadcast that SWAT officers were going to fire a less-than-lethal round to disable a light. Officer C used a shotgun equipped with a less-than-lethal rubber projectile and disabled the light after firing three rounds at it. Shortly after Officer C fired the three rounds, the Subject exited the building through the garage and surrendered. He was taken into custody by SWAT personnel without further incident.

The Subject was then transported to the CP, evaluated by LAFD paramedics and found to be uninjured and not requiring any medical treatment. The Subject was then transported to the police station, where he was subsequently interviewed by detectives. During his interview, the Subject admitted to having the pellet gun by the window and shooting it.

Los Angeles Board of Police Commissioners' Findings

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

A. Tactics

The BOPC found Sergeant A, 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 Officers A and 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. Tactical Planning / Approach

Officers A and B approached and met with the PR in front of his building after observing the Subject throw an unknown object out of the window. Operational success is based on the ability of the officers to effectively plan and approach each incident in a safe manner, keeping officer safety in mind at all time. Officers when faced with an ongoing tactical situation must remain alert to improve their overall safety, by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, the officers were flagged down by the PR in front of his residence as they were approaching the building. The officers had already predetermined their roles prior to their approach and as a result, Officer A made initial contact with the PR in the parking lot in front of the residence while Officer B maintained a visual on the window and assumed the role of cover officer. The BOPC would have preferred that the officers called the PR over to them and spoke with him in a more tactically advantageous position that would have afforded them more cover and time to react.

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

2. Optimal TASER Range

Officer B deployed the TASER from an estimated distance of approximately 20 feet.

Operational success is based on the ability to effectively utilize the correct type of force option, when faced with a tactical situation where conditions are met in order to improve overall safety and ensure a successful resolution.

Although Officer B believed that he deployed the TASER from an approximate distance of ten feet, the investigation revealed he actually deployed the TASER at twice that distance, only one foot short of the TASER's maximum range capacity of 21 feet and well outside the recommended optimal deployment range of 7-15 feet.

These topics will be discussed during the tactical debrief.

- 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 discuss the incident and the individual actions that took place during this incident.

In conclusion, the BOPC found Sergeant A and Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- Officer B observed the Subject standing at the window with what he perceived to be a handgun and drew his service pistol. Officer A observed the Subject standing at the window with a rifle and 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, 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 observed the Subject reappear at the window and point a handgun at them. Believing he was about to be shot and in defense of his life, Officer B fired six rounds at the Subject to stop his actions.

Officer A heard Officer B yelling, looked up at the window to see what was going on and observed the Subject in the window with a rifle. Believing the Subject was about to shoot him, Officer A drew his gun and fired seven rounds at the Subject.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as that of Officers A and B would reasonably believe that the Subject's actions presented an imminent threat of death or serious bodily injury, and that the use of lethal force would be objectively reasonable to address this threat.

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