

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

OFFICER-INVOLVED SHOOTING – 023-13

| Division | Date | Duty-On (X) Off () | Uniform-Yes (X) No () |
|-----------------|-------------|----------------------------|-------------------------------|
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| | | | |
|-----------|----------|--|--|
| Southeast | 03/08/13 | | |
|-----------|----------|--|--|

| Officer(s) Involved in Use of Force | Length of Service |
|--|--------------------------|
|--|--------------------------|

| | |
|-----------|-------------------|
| Officer D | 5 years, 2 months |
|-----------|-------------------|

Reason for Police Contact

A barricaded homicide suspect pointed a gun at an officer, resulting in an officer-involved shooting (OIS).

| Subject(s) | Deceased (X) Wounded () Non-Hit () |
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Subject: Male, 33 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 February 18, 2014.

Incident Summary

Victim A dialed 911 and spoke with a Los Angeles Police Department (LAPD) Emergency Board Operator (EBO).

Victim A sounded as if she was crying and stated that she needed immediate assistance. As Victim A then told the EBO that her husband (the Subject) was armed with a handgun. Victim A was hysterical and repeated that her husband had a gun. The EBO asked Victim A if her husband was in the house, and Victim A replied that he was outside, was on drugs, and she feared he was going to kill someone.

Note: A nearby camera mounted on a pole captured the Subject walk from his residence out to the middle of the street. At the same time, Victim A was still on the line with the EBO, and what sounded like a gunshot could be heard in the background. Victim A let out a scream, and in the background, two additional faint gunshots could be heard.

The camera captured the Subject walk from his residence up to the driver's side of a red pickup truck in the process of making a three-point turn. The red pickup truck was being driven by Victim B. The Subject shot Victim B in the head two times, killing him instantly. The Subject then calmly walked back to his residence.

The EBO then dispatched the call as a "415 man with a gun" in the street. The comments of the radio call stated that the Victim said the subject had a gun and a male voice could be heard in the background.

A short time later, a second EBO broadcast to the responding units that a possible shooting had just occurred in the same area. Additional information was that two shots were heard, there was a red truck in front of the location, and a female was heard screaming.

Police Officers A and B responded. Upon their arrival, they notified Communications Division (CD). The officers saw a red truck stopped in the middle of the street. Officers A and B observed the truck with the windows rolled up but were unable to see into the cab of the truck due to condensation and rain. The truck's engine was revving and there was smoke billowing from beneath the truck. The officers exited their vehicle, unholstered their service pistols and waited for back-up units to arrive.

Numerous officers responded, including Officers C and D and Sergeants A, B, C and D.

Upon the arrival of Officer D and his partner, Officer D deployed his rifle, retrieving it from the trunk of their vehicle. He inserted a magazine and chambered a round. He then approached the other officers. Officers formulated a tactical plan to approach the vehicle. The engine of the red truck was revving as if someone was pushing down on the gas pedal. Officers identified themselves and asked the

driver to come out of the vehicle, with no reply. Several officers approached the truck, including Officers A and D. Officer D was the designated "point" officer, with his rifle. Officer A had his pistol unholstered and held it in a low-ready position. Another officer was designated to use his baton to break the passenger side window of the truck. After the passenger side window was broken, the officers immediately saw that the driver was shot in the head and appeared to be dead. One of the officers reached in and turned off the engine to the truck. Officer A holstered his weapon and requested a Rescue Ambulance (RA) to respond.

Due to the multiple calls generated for the incident, Officer D believed the shooting occurred from within an adjacent housing project. Officers C, D, and E, along with several other officers walked into the housing project in search of the possible Subject and/or the person reporting (PR). They located one PR who told the officers the shots sounded as though they came from the street.

At this point, Officer E recalled the location of the initial radio call, which was across the street. He and his partner, Officer F, went across the street to investigate.

As Officers E and F approached the residence, they could hear a woman screaming inside. Officer E knocked on the door closest to the street (Door No. 1) while his partner covered him.

When Officer E knocked on the door he heard a man and woman arguing. Officer F heard a male's voice from inside the residence say, "Get away from the door, get away from the door!"

Officer E heard the female say, "No, don't do it!" No one answered the door after repeated requests. Officer E then walked to a door on the west side of the residence, (Door No. 2). At that time, he heard movement near a window he thought to be a kitchen window. Someone inside the residence opened the drapes and turned on a light. Officer E could see the Subject wearing a black shirt. The Subject looked directly at Officer E and said, "You're going to have to shoot me through the window." Officer E had his weapon drawn and pointed at the Subject. Officer E demanded to see his hands. The Subject refused and moved away from the window.

At approximately this time, Sergeants B and C arrived, along with Los Angeles Fire Department (LAFD) personnel. Sergeants B and C walked with LAFD personnel to the red truck. Sergeant B observed that officers had already secured the vehicle and there was a victim of a gunshot wound inside. Shortly after his arrival, he heard an officer issuing commands to the Subject. Sergeant B utilized parked vehicles on the side of the street as cover, as he made his way to the residence next to the Subject's residence, where he met Sergeant C.

Officer E redeployed back to where his partner was near the east door, (Door No. 1). At that time, Officer E heard the female inside start screaming saying, "No, he's got a gun." Officer E then yelled to officers in the street, to alert them he had possibly located the Subject. Officers in the area responded to Officer E's request for assistance.

Officer E redeployed to the next-door residence and utilized the front exterior wall of the location for cover. With his service weapon drawn, he covered the west door, (Door No. 2). Officer E then heard one or two gunshots from inside the residence.

Meanwhile, Officer D observed Officer E with his service pistol unholstered and immediately made his way to his location to provide cover with his rifle. As Officer D got closer to Officer E, he heard a female voice yelling, "He's got a gun, he's going to kill me, I have a baby." Officer D then heard two to three gunshots coming from within the residence. Officer D formed the opinion that there was an active shooter at the location and told Officer E that they needed a "hook and ram" to make entry.

According to Witness A, he was inside the residence next to the Subject's and observed some of the events from a window. Witness A recalled that officers ordered the Subject to come out of his residence and then heard Victim A screaming. Witness A said he heard the Subject refuse to come out and then the Subject fired a gunshot through his wall into Witness A's residence

Officer E then moved to the residence next to the Subject's residence and utilized the front exterior wall as cover. According to Officer E, Officer D had his rifle and was standing to his left. Officer E was covering the front door (Door No. 1) while Officer D covered the window and the west door (Door No. 2).

Officer D heard three additional gunshots and believed there were possible hostages or victims inside the residence. While covering the window, he saw a shadow move. Officer D then heard two gunshots from inside the residence. Simultaneously, an interior light turned on. Officer D, utilizing the flashlight attached to his rifle, directed his attention toward the light coming from the window. Officer D saw what he believed was the left side of a male, exposing his left shoulder area, his left arm and left hand. Officer D then saw the barrel of what he believed was a handgun.

Officer D believed that the Subject was holding the handgun and was shooting in his direction, although he never saw muzzle flash from the weapon.

According to Officer D, he feared for his and Officer C's life. Officer D yelled, "Gun" and fired what he believed was three to four shots from his rifle at the Subject. The Subject disappeared from the window, and Officer D was unsure if the Subject had been struck.

The officers continued to hear sporadic gunfire coming from inside the Subject's residence. Officers eventually were able to enter the residence, where they found the Subject deceased and Victim A suffering from serious wounds. Victim A was transported to the hospital where she later died. Three children were rescued from the home during the incident.

Note: Although the OIS was not visually captured on any video recordings, audio of portions of the event were captured on some of the recordings from four police vehicles whose digital in-car video systems (DICVS) had been activated. The audio recordings from three vehicles were of an inferior quality, with a number of gaps and/or unintelligible conversation and noises. In comparison, the audio recording from the fourth vehicle was of noticeably higher quality, with very few gaps and more discernable conversation and noise identification. The terrain and environmental conditions for all of the vehicles were similar.

Relating to this issue, in October 2013, the Police Commission's Inspector General (IG) began an inquiry into reports that numerous antennas had been removed from DICVS systems in police vehicles in South Bureau. It was determined that by removing the antennas, the reception distance of the affected DICVS voice recorders worn by the officers could be reduced. During the inquiry, a list of affected vehicles was provided to the IG by the Department, indicating that DICVS equipment in approximately 33 police vehicles assigned to Southeast Area had been tampered with, having one or both antennas removed. Although there was insufficient evidence to definitively establish the length of time the antennas had been missing, it is believed that at least some of the antennas had been removed prior to this OIS. Of the vehicles later listed as having one or both antennas missing, the three vehicles which had their DICVS activated during the OIS yet were of poor quality were on the list. The quality of the audio recordings captured during this event was lower than that of the fourth vehicle involved in this incident, which was later found to have both of its DICVS antennas intact. As of September 2013, all of the missing antennas had been replaced and new protocols had been implemented by the Bureau to address the issue of officers tampering with the DICVS equipment.

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 Sergeants A, B and C's and Officers D and E's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Sergeants A, B and C's and Officers D and E's drawing and exhibition of a firearm to be in policy.

C. Lethal Use of Force

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

Basis for Findings

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

A. Tactics

1. Immediate Action Rapid Deployment (IARD)

Sergeant A advised his Lieutenant that the Subject was shooting through the walls of the house and toward the officers. Due to the screams from Victim A, the Lieutenant advised Sergeant A of a possible IARD in order to rescue Victim A and the children from the residence. Sergeant A was also advised that Los Angeles Police Department, Special Weapon and Tactics (SWAT) were en route.

Sergeant A discussed the incident with Sergeant B. The actions of the Subject continuing to shoot randomly throughout the residence and the need to take immediate action and enter the residence to stop the Subject's actions and effect a rescue of Victim A, would significantly jeopardize the safety and lives of the officers. Sergeant A demonstrated his leadership and recognized the diminished safety of the officers and decided that IARD was not tactically feasible. The BOPC determined that Sergeant A's decision not to send a rapid deployment team inside the residence was reasonable, given that doing so would have greatly increased the likelihood of officers being injured or killed by the Subject's gunfire.

2. Utilizing Cover

Officer D was partially exposed while attempting to maintain a vantage point of the Subject's location while involved in a possible active shooter incident.

Officers are given discretion while attempting to maintain a balance between adequate cover and obtaining the optimal vantage point to observe the Subject or his location.

In this circumstance, Officer D believed that if he took a closer position on the corner of the residence, he would not have been able to maintain sight of the threat area, thus jeopardizing the safety of the officers at scene as well as the victims within the residence.

After the OIS, the Subject continued to shoot from within the residence. Officer D heard additional gunshots and for his safety, decided to tactically re-deploy and seek adequate cover. Subsequently, Officer D, along with Officer E, moved to a position of cover across the street and utilized a parked vehicle for cover.

In conclusion, the BOPC found that Officer D's actions did not unjustifiably and substantially deviate from approved Department tactical training. Although, Officer D was in a position that afforded partial cover, his actions were essential to maintain optimal observation of the residence and suspect. Nonetheless, Officer D is reminded of the importance cover can provide while dealing with an armed subject.

- The BOPC additionally considered the following:

1. Tactical Communications

While dealing with a rapidly unfolding tactical incident, a broadcast of the shooting by any involved personnel would have been beneficial. Additionally, a review of the video footage showed communication directly between the officers, however, a radio broadcast of updated pertinent information would also have been beneficial to surroundings units.

2. Preservation of Evidence

Officer F observed the Subject lying on the bathroom floor with the gun lying adjacent to him. Officer F recovered the gun and placed it on a shelf above the toilet. In this instance, it was tactically sound for Officer F to remove the handgun from the immediate vicinity thus preventing the Subject from reacquiring it. However, Officer F was reminded that evidence at the scene of a critical incident will be examined by Force Investigation Division personnel and Scientific Investigation Division and protection of this evidence is crucial.

3. Command and Control

As a result of the radio call, Sergeants A, B, C and D responded to the location as the officers were clearing the truck and checking the immediate area for the Subject. Subsequently, the Subject was located within his residence.

Containment was established and the officers determined that the Subject was armed while his wife (Victim A) and children were inside the location. Sergeant A formulated a tactical plan when he heard officers yelling to the occupants of the residence and heard screams emanating from inside. Sergeant A subsequently heard consecutive gunshots and as a result coordinated the evacuation of a residence that was nearby.

At the same time, Sergeant C was positioned near the truck when the OIS occurred and immediately took cover. Sergeant C assumed command and control and established the outer perimeter while communicating with Sergeants A and B. Additionally, Sergeant C also coordinated with Sergeant D to establish a Command Post (CP) for the incident.

Sergeant A telephonically advised his lieutenant regarding a possible Rapid Deployment entry. Consequently, Sergeant A established an entry team in the event that an entry was warranted. Additionally, the Lieutenant informed Sergeant A that SWAT was en route to the location. Lastly, Sergeant A discussed tactical options with Sergeant B and determined that a Rapid Deployment was no longer warranted. Sergeant A based his decision on a series of factors that balanced the need to make entry versus the danger to the officers and the victims within the residence. This information, combined with the fact that the Subject had stopped firing his weapon, solidified his decision. Nonetheless, Sergeant A assured that a Rapid Deployment Team was available and ready in the event that the situation escalated.

The BOPC conducted a thorough and comprehensive evaluation of Sergeants A, B, C and D's actions as they pertain to Command and Control. In this circumstance, the Sergeants were tasked with the complexities of responding to, and coordinating resources, while dealing with an armed subject with multiple hostages. To compound the issue, the location was fortified. Sergeants A, B, C and D worked collectively to ensure the safety of the involved officers while balancing the decision to enter the location. The sergeants worked together to establish a perimeter, contain the location, establish communication and a CP. Additionally, the sergeants notified the Watch Commander, thus ensuring the response of SWAT personnel.

4. Communications Broadcast

The investigation revealed a Police Service Representative (PSR) answered the 911 call and broadcast, "415 man with a gun," but a review of the radio call

determined possible gunshots were heard in the background along with a conversation between Victim A and the Subject in which he stated he shot someone. It would have been preferred that the call be upgraded to a *Shooting in Progress, or Shooting Just Occurred*. The investigation revealed that the PSR also broadcast information regarding the children in the house but did not inform responding officers that Victim A believed the Subject was going to shoot their children. Communications Division identified areas for improvements with the involved personnel and provided the appropriate training.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and the individual actions that took place during this incident.

In conclusion, the BOPC found Sergeants A, B, and C's and Officers D and E's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

- In this instance Officers D and E responded to a radio call of a 415 man with a gun. Upon arrival, believing the situation may escalate to the point where deadly force may become necessary, Officer D exhibited his police rifle and Officer E drew and exhibited his service pistol, while both officers attempted to clear the truck.

Officer E then responded to the original location of the radio call, and heard arguing between a man and woman. Subsequently, the Subject began shooting through the walls of the residence. Consequently, Sergeants A, B and C drew their service pistols.

The BOPC determined that an officer with similar training and experience as Sergeants A, B and C and Officers D and E 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.

C. Lethal Use of Force

- **Officer D (rifle, four rounds)**

Officer D responded to a radio call regarding a man with a gun. Subsequently, Officer D deployed on a residence that contained the Subject. While utilizing his

police rifle to cover the residence, Officer D heard Victim A yelling and crying, as she indicated that the Subject had a gun and was going to kill the children. Officer D subsequently heard gunshots from inside the residence. Moments later, Officer D observed movement through the window and heard an additional two shots from within the residence. While looking through the window, Officer D observed the Subject appear to point a handgun in his and Officer C's direction. Officer D fired four rounds at the Subject to stop his actions.

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