

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

OFFICER-INVOLVED SHOOTING – 025-13

Division	Date	Duty-On (X) Off ()	Uniform-Yes () No (X)
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Topanga	03/15/13		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	13 years, 2 months
Officer B	13 years, 8 months
Officer C	7 years, 4 months
Officer F	6 years, 8 months

Reason for Police Contact

In the course of executing a warrant against a known subject for narcotics violations, officers utilized force against the subject, and a categorical use of force occurred.

Subject	Deceased ()	Wounded ()	Non-Hit (X)
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Subject: Male, 45 years of age.

Board of Police Commissioners' Review

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

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

The following incident was adjudicated by the BOPC on January 21, 2014.

Incident Summary

Detective A received information regarding a subject selling methamphetamine in the San Fernando Valley and initiated an investigation.

Based on the information and evidence acquired during his investigation, Detective A obtained a search warrant for the Subject's residence. Detective A held a briefing at the police station with other members from his unit to discuss the specifics of how the warrant was to be executed. During the briefing, Detective A detailed several tactical scenarios the officers were prepared to use in order to serve the warrant and arrest the Subject.

The team of officers responded to the area of the Subject's residence and Detective A advised Officers B and C to detain the Subject if he was seen exiting his property on foot.

The officers observed the Subject exit the side gate of the property on foot and walk to the sidewalk directly in front of his residence. Officer B communicated his observations to Detective A via radio, who in turn advised him and his partner to approach and detain the Subject. Officer B pulled away from the east curb and drove north. After crossing over to the west side of the street, the officers stopped their vehicle adjacent to the Subject and verbally identified themselves as police officers as they began to exit. The Subject reacted by running south on the west sidewalk and proceeded to remove an unknown object from his right front pants pocket and place it into his mouth. The officers gave chase and ordered the Subject several times to stop, but he ignored their commands.

Note: No broadcast of the foot pursuit was made given the rapid nature of the unfolding circumstances.

Officer B quickly caught up with the Subject on the front lawn of the residence just south of the target location and tackled him from behind. The Subject fell to his stomach, with Officer B landing on the suspect's back. The Subject struggled to get away and turned onto his back, however, Officer B was able to immediately roll him back over onto his stomach. Officer C straddled the Subject's upper thighs, and together with his partner, attempted to pull the subject's arms from underneath his body. At one point during the struggle, the Subject tried to push himself off the ground in an effort to get to his feet but was prevented from doing so by the combined body weight of the officers. Despite Officer B's repeated commands for the Subject to stop resisting, the subject stiffened his arms underneath him and resisted being taken into custody. In an effort to subdue the Subject and take him into custody, Officer B repositioned himself next to the Subject's right side and delivered three to four knee strikes to his upper right torso area.

Meanwhile, as Officer A and Detective A traveled west on the street, they observed the Subject fleeing from the officers. In an attempt block the subject's path of escape, Officer A drove his vehicle onto the west sidewalk handicapped access ramp and

stopped approximately 28 feet south of the Subject. By the time Officer A exited his vehicle, the Subject had already been tackled and was wrestling with Officers B and C. Officer A ran toward the Subject and positioned himself on the Subject's left side. Officer A attempted to pull the Subject's left arm out from underneath his body while ordering the subject several times to stop resisting. Based on the subject's refusal to comply and body position, Officer A believed the Subject was possibly attempting to conceal a weapon or other contraband, and consequently used his right knee to strike him three to four times on his upper left torso. The officers were eventually able to pull the Subject's arms behind his back and he was handcuffed by Officer C.¹

Note: When asked whether he observed any use of force, Detective A recalled there being several distraction strikes. Detective A observed Officers A and B using their hands to punch the Subject in the upper body.

In a subsequent interview with FID, Detective A clarified that it could have been perceived as punches whether or not they actually were.

Uniformed Officers D and E were waiting in their marked police vehicle three blocks away at the time the use of force occurred. Once the Subject was taken into custody, Detective A directed them via radio to the scene. The Subject was eventually placed in the back seat of their vehicle by Officer C and was briefly questioned by Detective A.

Note: It was not determined what, if anything, the Subject placed in his mouth.

While that occurred, Detective B and Officer F, along with uniformed Officers G and H, arrived at the scene. Due to the use of force occurring within sight of the Subject's residence, Detective A believed their ability to approach his residence undetected was compromised. Therefore, rather than transport the Subject from the scene and debrief him at the pre-designated staging location, Detective A made the decision to immediately serve the search warrant.

At Detective A's direction, the officers, wearing their ballistic helmets and Kevlar tactical vests, assembled in a linear formation on the sidewalk just south of the Subject's residence. They then made their way toward the target location in single file, led by Officer F, who was armed with a Department-issued shotgun he wore on a two point sling and held in a low-ready position. Once at the front door of the residence, Detective B, who was at the rear of the formation, announced the officers' presence by yelling three to four times, "Police officers, search warrant, open the door." Officer F also gave a similar announcement. Simultaneously, Officer A swung open the unlocked security screen door and knocked two to three times on the front door.

¹ Detective A was present when the Subject was taken into custody, however, he was not involved in the use of force. During the altercation, Detective A verbalized with the subject, instructing him multiple times to stop resisting.

While looking through the Venetian blinds, Detective A observed the silhouette of a person (later identified as the homeowner, Witness A) moving inside. Because of the arrest that had just occurred within sight of the Subject's residence, Detective A believed there was an exigency in getting inside to prevent this individual from arming himself and/or destroying evidence. After yelling out that they had been compromised, Detective A directed Officer A, who was equipped with a battering ram, to hit the door in an attempt to force it open.

Note: According to Witness A, he was lying down on his living room couch watching television when he heard the officers approaching his front door. Witness A indicated they said, "Police something... We got a search warrant or something like that."

Note: Detective A was initially assigned the statutory requirement of "knock and notice," but chose to forgo that task because of the exigency he perceived in making entry. He was not aware that Officer A had already knocked on the front door prior to his (A's) direction to utilize the ram.

Officer A began striking the door with the battering ram, which eventually splintered and shattered after approximately three to four impacts. Upon breaching the door, Officer A held open the spring loaded screen door while Officers B and F stepped over the threshold. After leaving the battering ram on the porch, Officer A followed the officers inside. As the designated cover officer, Officer F was the first to enter and held his shotgun in a low-ready position with the safety disengaged and his trigger finger along the frame.

Note: Department firearms training standards dictate that when deploying a shotgun, the safety shall remain engaged (on) until the operator's sights are aligned on the target and they intend to fire. According to Officer F, he intentionally disengaged the safety on his shotgun while walking toward the front door of the residence. Officer F justified his actions by indicating that as the point man, he would have a tactical advantage searching the residence with his safety off in the event he encountered a subject.

After moving approximately two steps forward into the entryway, Officer F observed the left side profile of Witness A as he emerged from the living room and peered around the corner in his direction. Officer F noted that Witness A was holding a black object, which he believed was a handgun, in a left-handed four-finger grip. According to Officer F, Witness A's left forearm was bent 90 degrees and was positioned slightly higher than waist level. Witness A was in the process of twisting at the waist, as if he were intending to turn left and face him.

Note: Witness A indicated he was not holding anything when the officers entered his residence, and claimed that both of his hands were raised at head level. Additionally, Witness A stated that he was completely facing his front door at the time Officer F entered. Witness A also stated he

discussed the incident with his neighbors, including Witness B, prior to investigators from FID arriving at scene. During her interview, Witness C corroborated Witness A's statement and reiterated that his hands were raised and empty when the officers entered the residence.

Based on Witness A's actions, Officer F believed he was preparing to shoot him. In defense of his life, the officer raised the barrel of his shotgun, while simultaneously transitioning his right index finger from the receiver of the weapon to the trigger. Without utilizing the sights of his shotgun, Officer F fired one round at Witness A's upper torso from a distance of approximately nine feet. The shotgun pellets missed Witness A and impacted a flat screen television and sliding glass door near the southwest corner of the living room. According to Officer F, immediately following the discharge of his shotgun, Witness A stood motionless and exclaimed, "Oh shit, you just shot me!" Officer F then ordered Witness A to get down on the floor. As Witness A complied, he dropped the object he was holding. It was at that point Officer F realized the item was not a weapon, but a handheld wireless controller for a PlayStation (PS) video game console.

As Witness A lay prone, Detective B entered the residence to handcuff him, while other officers, including Officer F, began searching the residence for additional subjects. Once it was determined that no other occupants were inside, Detective B initiated a broadcast over the radio, requesting five additional supervisors respond to the scene and assume monitoring responsibilities for the involved and percipient officers.

Note: The percipient officers who previously unholstered their weapons holstered once Witness A's residence was cleared.

Sergeant A arrived at scene and was briefed by Detective B as to what occurred. Officer F had already been separated and was standing on the sidewalk outside the residence. Sergeant A obtained a Public Safety Statement (PSS) from Officer F and learned that he had fired one round at Witness A in a westerly direction, which did not strike or injure him.

Note: Detective C reviewed the documents and circumstances surrounding the separation and monitoring of the involved and percipient officers, and determined that all protocols were followed.

The officers subsequently determined that Witness A was not involved in illegal narcotic activity, and they released him at scene approximately one hour later. Although methamphetamine was ultimately recovered from a detached garage on the premises, it was determined that Witness A rented this structure to the Subject as an apartment and was unaware of his (the Subject's) criminal activities. The Subject was arrested and subsequently transported to Van Nuys jail and booked for possession for sales of a controlled substance.

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 and Exhibiting of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

The BOPC found Officer F's tactics to warrant Administrative Disapproval. The BOPC found Officers A, B and C's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officer F's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC found Officers, A, B and C's use of non-lethal force to be in policy.

D. Lethal Use of Force

The BOPC found Officers F'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. Operating the Shotgun with Safety Disengaged (Off)

Officer F intentionally disengaged the safety on his shotgun prior to approaching the warrant service location. Additionally, Officer F conducted the warrant service with the shotgun safety disengaged.

Officer F indicated that as he made entry into the residence, his safety was off in case there was a threat, such that he could engage the subject immediately or given that there were possible additional subjects in there based on the totality of the circumstances.

Officers are given a great deal of discretion regarding various tactical options while conducting the service of a search warrant. Nonetheless, Department policy and training dictates that the shotgun safety remain engaged with the officer's finger on the safety until the officer acquires a target, acquires the proper sight alignment, and is prepared to shoot. Moreover, this policy is intended to give officers the greatest tactical advantage in the safest possible manner. The practice of disengaging the safety prematurely may lead to an unintentional discharge of the shotgun which can seriously injure or kill an officer or citizen.

In conclusion, by operating the shotgun during a tactical incident with the safety disengaged, Officer F's actions represented a substantial and unjustified deviation from approved Department tactical training.

- The BOPC additionally considered the following:
 1. Rescue Ambulance (RA) Request for Narcotics Ingestion

Officer C observed the Subject ingest a substance he perceived to be narcotics as he pursued him on foot. Based on Officer C's training and experience, he believed that the Subject had ingested narcotics. Officer C informed Detective B that the Subject had possibly ingested narcotics but did not request an RA for the Subject. However, Officer C continuously monitored the Subject for signs of a drug overdose. Officers should generally request an RA for a subject when they reasonably believe the subject ingested a narcotic.

2. Preservation of Evidence

Officer B chased the Subject and observed the Subject remove an unknown object from his shorts pocket and put it in his mouth. At the conclusion of the non-categorical use of force with the Subject, Officer B observed a ripped plastic baggy on the ground that he believed was discarded by the Subject. Officer B recovered the item and gave the item to Detective A. Subsequently, the evidence was not booked into Property Division.

- The BOPC conducted an assessment of the tactics employed by Officer F and concurred with the Chief's recommendation that his actions unjustifiably and substantially deviated from approved Department tactical training and warranted administrative disapproval.

As for Officers A, B and C, the BOPC determined that their actions did not substantially deviate from approved Department tactical training and that a Tactical

Debrief was the appropriate mechanism for the above officers to discuss the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future.

B. Drawing/Exhibiting

- Officer F was involved in a pre-planned warrant service at a designated location. Upon arrival, Officers A, B and C were involved in a brief foot pursuit and non-categorical use of force. Consequently, the operation was deemed compromised and the assigned officers donned their equipment to serve the aforementioned warrant. Prior to entering the residence, Officer F, fearing that the situation could rise to the level of deadly force, exhibited his service shotgun in a low-ready position.

Officer F recalled that based on what was communicated from Detective A, he grabbed all his equipment including his shotgun, loaded it, chambered a round, and went ahead and grabbed a position on the actual residence while they were working with the subject.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer F, while faced with similar circumstances would reasonably believe there was a substantial risk that a warrant service involving narcotic sales may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officer F's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

- **Officer A** – Firm Grip, Physical Force and 3-4 Knee Strikes.
- **Officer B** – Takedown, Bodyweight, Firm Grip, Physical Force and 3-4 Knee Strikes.
- **Officer C** – Bodyweight, Firm Grip and Physical Force.

Officers B and C were directed to detain the Subject due to his involvement with the sales of methamphetamine. Officers B and C, donned in marked tactical vests and ballistic helmets, approached the Subject in their unmarked vehicle and identified themselves as police officers. As Officers B and C exited their vehicle, the Subject ran southbound on the west sidewalk. While running, the Subject removed an unknown object from his right front pant pocket and placed it into his mouth.

Officers B and C closed the distance to the Subject on foot for a short distance during which time Officer B overtook the Subject and utilized physical force to prevent the Subject from escaping. Consequently, Officer B and the Subject fell to the ground.

The Subject attempted to stand, at which time Officer B utilized bodyweight to maintain control of him. Officer C quickly arrived and utilized bodyweight on the Subject's upper thighs to control his movements.

The Subject continued to resist Officers B and C's efforts to handcuff him, and attempted to place his hands under his torso. Consequently, Officers B and C utilized firm grip and physical force to remove the Subject's hands from underneath his torso.

During the struggle on the ground, Officer B gave numerous verbal commands to the Subject to stop resisting. In order to gain compliance and affect an arrest, Officer B administered three to four knee strikes to the Subject's upper right torso area.

Note: Detective A was monitoring the front door of the search warrant location and the non-categorical use of force at the same time. Detective A indicated in his statement that he observed Officers A and B administer punches to the Subject in order to compel his compliance. Force Investigation Division re-interviewed Detective A who then stated that Officers A and B were actually using a firm grip to attempt to gain control of the Subject's hands, while simultaneously administering knee strikes.

Shortly thereafter, Officer A arrived and observed Officers B and C struggling to control the Subject while on the ground. Officer A positioned himself on the Subject's left side and utilized firm grip and physical force in an attempt to remove the Subject's left hand from underneath his body. Officer A, fearing that the Subject was concealing a weapon, delivered three to four knee strikes to the Subject's upper left torso.

After a thorough review of the incident, including the involved officers' statements, the BOPC determined that officers with similar training and experience as Officers A, B and C would reasonably believe the application of non-lethal use of force would be reasonable to overcome the Subject's resistance in an effort to take him into custody.

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

C. Lethal Use of Force

- **Officer F** (shotgun, one round)

During the service of a narcotics search warrant Officer F was armed with a Benelli shotgun and was designated as the point officer upon entry. Officer F entered the residence with the shotgun's safety disengaged and maintained the shotgun in a low ready position. Officer F observed the left side profile of Witness A, as Officer F entered the hallway. Witness A peered around the corner of the wall, with his arms

bent at the elbow in a boxing stance. At the same time, Officer F observed Witness A holding a black object in a four finger grip in his left hand. Officer F, believing the black object was a handgun, observed Witness A twist at the waist toward him and believed that he was preparing to shoot. In defense of his life, Officer F pointed his shotgun at Witness A, without utilizing his sights and fired one round.

The BOPC assessed this incident in detail and evaluated all the evidence, including the conflicting evidence, regarding the following:

Shot Placement

Immediately prior to the OIS, Officer F had positioned the shotgun in a low-ready position. Officer F observed Witness A and raised the shotgun to acquire a sight picture. Officer F was asked if he acquired a sight picture or if he point shot. Officer F indicated he pointed and shot because everything happened very quickly.

Officer F's Statements

Officer F recalled that Witness A made a movement as if he was going to turn to face the officers, so he feared that Witness A was going to shoot. He was positioning himself to let off a round, and Officer F fired one round. Officer F reiterated feeling as though Witness A was holding a gun, because he saw something black being held in his left hand, and as he twisted, Officer F left off a round and I maintained his position.

Immediately following the OIS, Officer F issued commands to Witness A to "get on the ground." Consequently, Witness A complied, and Officer F did not perceive a threat any longer.

When asked about the reason Witness A was not directed to drop the object Officer F perceived to be a handgun Officer F stated indicated not being able to because the incident unfolded so rapidly. Given that Witness A was clearly taking orders and not resisting, Officer F knew this was not what he would expect from someone who was going to continue being a threat towards him.

Evidence Recovered

Detective A followed Officer F and the warrant entry team into the location. Officer F was subsequently involved in an OIS and the location was secured. Detective A entered the area where Witness A was lying prone on the floor. Upon entering the area, Detective A observed the Play- Station controller adjacent to Witness A's hands.

The FID investigation indicated that the PlayStation controller was located on the living room floor near the entryway, approximately two feet from where Officer F estimated Witness A to be standing at the time of the OIS. The PlayStation

controller was subsequently photographed by Scientific Investigation Division (SID) but was not booked into evidence.

Conflicting Statements

Witness A indicated that he was lying on his couch when he heard the officers approach. Witness A immediately stood up and was standing in the hallway when he observed an officer (Officer F), armed with a shotgun, enter the location. Witness A advised he was standing in the hallway facing Officer F with his hands in the air. Subsequently, an OIS occurred, and Witness A was detained without further incident.

Witness B stated that she resides directly across from Witness A. Witness B was inside her residence and looked outside her bathroom window and observed Witness A standing inside his residence with his hands up immediately prior to the OIS. Furthermore, Witness B indicated that Witness A was not holding anything in his hands at the time of the OIS. The FID investigation determined that Witness A's residence was visible from Witness B's bathroom, and the distance measured from the bathroom window to the front door was 102 feet. Lastly, the FID investigation revealed that Witness A stated he discussed the incident with his neighbors, including Witness B, prior to FID arriving at scene.

The BOPC conducted a comprehensive evaluation of the evidence relative to the lethal use of force administered by Officer F. Consequently, the BOPC determined that the evidence supports the account given by Officer F, that Witness A was holding a black object that Officer F believed to be a handgun at the time of the OIS.

Additionally, the BOPC evaluated the fact that Officer F did not acquire a sight picture prior to firing his shotgun at Witness A. The BOPC believed the evidence supported that Officer F's sight placement was off target due to the fact that he did not acquire proper sight alignment and sight picture. Furthermore, there is no indication that Officer F provided any false statements relative to his actions immediately prior to or during the OIS.

Therefore, based on the totality of the circumstances, an officer with similar training and experience as Officer F would have reasonably believed that Witness A's movements with an object that he perceived to be a handgun presented an imminent threat of death or serious bodily injury and that lethal use of force would be reasonable.

In conclusion, the BOPC found Officer F's lethal use of force to be objectively reasonable and in policy.