

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

OFFICER-INVOLVED SHOOTING - 029-13

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
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Northeast	03/19/13		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Officer A	8 years, 4 months
Officer B	5 years, 3 months
Officer C	10 years
Officer D	8 months

Reason for Police Contact

Officers received a radio broadcast regarding a caller who reported that the Subject was armed with a gun and had fired two gunshots. Officers responded to the location where shots had reportedly been fired, encountered the Subject, and an officer-involved shooting occurred.

<u>Suspect</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
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Subject: Male, 47 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 Los Angeles Police Department Command Staff presented the matter to the Chief 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 25, 2014.

Incident Summary

Communications Division (CD) received a 911 call from a payphone. The caller, identified only by first name, reported that an intoxicated male was armed with a handgun. The caller further related the male had fired his gun two to three times at a person 30 minutes prior to the phone call. He described the male as a gang member wearing a cap with glasses, and a black shirt with Levi jeans.

CD broadcast an, "Assault with a Deadly Weapon, su[bj]ect there now" call. A description was provided, as well as the fact that the subject had brandished a handgun and fired two shots.

Uniformed Police Officers A and B responded with lights and sirens to the call location. While en route, Officer B requested further details from CD regarding the subject; however, CD advised there was no call back number and no further information was available.

Officers A and B arrived at the intersection where the subject was reported to be, and using the driver's side spotlight, Officer A identified a male matching the subject's description. The Subject was on the west sidewalk of the intersection.

Officer A informed Officer B of a possible subject and drove north on the street past the Subject. Officer A then negotiated a partial u-turn, stopping the police vehicle in the southbound lanes facing in a westerly direction pointed toward the Subject. Officer B broadcast the officers' status and location.

With the Subject approximately 10 yards in front of the police vehicle, Officer A exited the driver's side door while Officer B exited the passenger side door. The officers, believing Subject was armed, unholstered their pistols and took cover behind their doors.

Simultaneously, uniformed Police Officers C and D arrived at the scene. Officer C stopped his vehicle in the crosswalk, on the north side of the intersection.

Officer C illuminated the Subject with his side spotlight and observed a silver object in his right hand, which he believed the Subject was attempting to conceal. Officer C exited the driver's side door and utilized the door as cover, while Officer D exited the passenger side door, closed it, and took cover behind the front of the car. Both officers believed the Subject was armed and unholstered their pistols.

The Subject moved back and forth on the west sidewalk and kept his hands either near his waistband or in his pants pockets. Officers A, B, C, and D alternated giving the Subject verbal commands to remove his hands from his pockets and to raise his hands. When the Subject demonstrated he was not going to comply, Officer B broadcast a request for a backup and a supervisor.

The officers continued giving verbal commands for the Subject to show and raise his hands. The Subject ignored their commands as he moved back and forth on the sidewalk and continued yelling obscenities at the officers. Officer A, believing the Subject was preparing to run south, temporarily stepped out from behind his door and began to approach the Subject. However, Officer A returned to cover behind the driver's side door when the Subject did not run.

The Subject, still ignoring the officers' commands to show his hands, moved south toward the northwest corner and positioned himself behind a large wooden utility pole. While behind the pole the Subject removed a "black object" from his right front pants pocket and held it in his right hand. The Subject peered at the officers from behind the pole and shifted the black object from his right to left hand then back again. Officer D alerted his partner of the object while Officer C alerted the other officers by stating that the Subject had something in his hand. As officers continued yelling commands at the Subject, Officer C redeployed to the rear of his vehicle.

Officer A, attempting to shock the Subject into dropping the object, yelled at the Subject he would shoot him. The Subject continued to yell obscenities at the officers and stated, "Go ahead and [...] shoot me."

At about this time, uniformed Police Officers E and F arrived at the scene, exited their vehicle and took cover behind their respective doors. Officer D, who was adjacent to Officer E, pointed at the Subject and indicated he had something in his hand. Believing the Subject was armed, both Officers E and F unholstered their pistols.

Officer F, with his left hand, turned on his side spotlight and illuminated the Subject. He then holstered his pistol and advised his partner he was going to deploy the shotgun. As Officer F reached into his vehicle to unlock the shotgun he heard someone announce the Subject was running. Officer E holstered his pistol, stated to his partner, "Let's go," as he sat down in the driver's seat. Officer F, following his partner, sat in the passenger seat.

The Subject, who had been standing behind the pole, turned and ran down the sidewalk. After running approximately 15 feet, the Subject stopped, turned 180 degrees to his right, and took approximately two steps toward the officers. Simultaneously, he raised his arms and acquired what appeared to be a two-hand shooting position as he extended his arms toward the officers.

As that occurred, Officers A, B, C and D, perceived the Subject was armed with a pistol and was preparing to shoot them. The officers engaged the Subject with their pistols. The Subject was struck by the gunfire and fell to the ground.

Note: The statements provided by the involved officers with regard to the Subject turning and pointing an object toward them were corroborated by several civilian witnesses.

Upon hearing the gunshots, Officers E and F stepped out of their vehicle and moved west to join the involved officers. Officers A, B, C and D converged on the Subject. As the four involved officers held their pistols in a low-ready position, covering the Subject, Officer E announced he would approach and handcuff the Subject. Officer E then handcuffed the Subject without incident.

Simultaneously, Officer F broadcast shots had been fired. He also requested units to assist with blocking traffic and a rescue ambulance (RA) for the Subject.

As Officers A, B and D holstered their pistols, Officer C conducted a tactical reload before holstering his. Officer D proceeded to search the Subject for weapons. During the search no weapons were found. However, a dark colored cellular phone was present on the ground adjacent to the Subject's right shoulder. The cellular phone had visible traces of blood and visible damage, suggesting it had been struck by a projectile.

Note: According to medical staff at the hospital where the Subject received medical attention, the Subject was struck by a projectile on his right hand.

A broadcast was subsequently made indicating the Subject was in custody, followed by a request for a supervisor.

Sergeants A and B arrived at the scene. While Sergeant A managed the officer-involved shooting (OIS) scene, Sergeant B identified, separated and monitored the involved officers.

Los Angeles Fire Department (LAFD) personnel received an alarm to respond to the location. Fire Department personnel arrived on scene and administered emergency medical treatment to the Subject. Fire Department personnel transported the Subject to a local medical facility. The Subject was admitted to the hospital and remained there until his release. A few days later, the Subject returned to the hospital for a prescheduled follow-up appointment. While awaiting his appointment, the Subject had a seizure and subsequently died.

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 unanimously made the following findings:

A. Tactics

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

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found the use of lethal force by Officers A, B, C and D to be in policy.

Basis for Findings

A. Tactics

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

1. Tactical Vehicle Deployment

Officer A drove his police vehicle past the Subject who was believed to be an armed Assault with a Deadly Weapon (ADW) subject.

Officers are afforded discretion while positioning their vehicles to address an armed suspect. The BOPC considered Officer A's decision to drive past the Subject upon the initial attempt to detain him. The BOPC determined that, although it is generally discouraged, in this unique circumstance, it was reasonable, based on the fact that a pedestrian is highly mobile and can evade detention of officers. In this circumstance, Officers A and B placed their police vehicle in a position that gave them the greatest tactical advantage.

In conclusion, the BOPC determined that Officer A's decision to drive past the Subject in order to effectively position his car, did not represent a substantial or unjustifiable deviation from approved Department tactical training. However, Officer A would benefit from a review of tactical vehicle deployment associated with the contact of possibly armed suspects.

2. Utilizing Cover

Officer A opined that the Subject was possibly attempting to flee on foot. Consequently, Officer A momentarily left the cover of his police vehicle.

Officers must continuously balance the advantage of cover while also determining the appropriate moment to leave cover and pursue a subject, thus enhancing the possibility of effectively containing the subject.

The BOPC discussed Officer A's decision to forego cover in an attempt increase his tactical advantage relative to containment. Department tactical training teaches officers to place themselves in a position of the greatest safety and tactical advantage. In this instance, Officer A was involved in a rapidly unfolding tactical scenario wherein he was forced to make immediate tactical decision. Officer A, upon realizing that the Subject was not attempting to flee on foot, immediately returned to a position of cover behind his police vehicle.

In conclusion, the BOPC found that Officer A's decision to momentarily leave cover did not unjustifiably and substantially deviate from approved Department tactical training. Although Officer A was momentarily exposed, his actions were essential to gain the greatest tactical advantage in the event that the Subject fled on foot.

3. Pursuing an Armed Subject/Apprehension vs. Containment

Officers A, B, C and D pursued the Subject, who was armed with an object that the officers perceived was a handgun, in an attempt to maintain observation and increase the likelihood of containment.

Officers are reminded of the importance of maintaining in a containment mode when pursuing an armed subject. The BOPC assessed Officers A, B, C and D's decision to pursue the Subject while maintaining visual observation of his movement and direction of travel.

It is the BOPC's expectation that officers take action to stop the actions of a potentially armed subject attempting to escape into a community. Based on the facts and circumstances and Subject's behavior, the belief by each of the involved officers that Subject was armed was reasonable. Officers A, B, C and D are reminded of the importance of maintaining a tactical advantage by utilizing cover and concealment, when available. The BOPC found that Officers A, B, C and D's actions did not substantially deviate from approved Department tactical training.

The BOPC found that Officers A, B, C, and D's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- Officers A and B responded to a radio call regarding an armed ADW subject. Officers A and B arrived at the location followed by Officers C and D. Based on the comments of the call, Officers B, C and D drew their service pistols.

Officers A observed the Subject as he continued to move his hands from near his waistband which were consistent with someone attempting to conceal or retrieve a handgun. As a result, Officers A surmised that the incident could lead to a deadly force situation. Consequently, Officer A drew his service pistol.

Officer B indicated that from the contents of the call, he knew there was a man with a gun and that shots had been fired from the area. Consequently, he drew his weapon.

Officer C believed that the Subject had a gun, so he unholstered his weapon and as he stepped out of this police vehicle, pointed it at the Subject.

Officer D indicated that he knew the Subject had a gun, and that two shots were fired close in time to the call regarding an assault with a deadly weapon.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, C, B and D, while faced with similar circumstances would reasonably believe that Subject was armed with a handgun and that he posed a substantial risk whereby the situation may escalate to the point where deadly force may be justified.

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

C. Lethal Use of Force

Despite numerous verbal commands, the Subject refused to comply and removed what the officers perceived as a handgun from his waistband area. The Subject subsequently turned and pointed the object in the direction of Officers A, B, C and D. Fearing for their safety, the officers fired their service pistol to stop the threat.

The preponderance of the evidence supports that the Subject possessed a cellular telephone and used it to simulate a handgun at the time the officers used lethal force. Accordingly, an officer with similar training and experience would reasonably believe that the actions of the Subject represented an imminent threat of serious bodily injury or death. Consequently, the application of lethal force for each officer as indicated was objectively reasonable.

The BOPC found Officers A, C, B and D's uses of lethal force to be in policy.