

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

OFFICER-INVOLVED SHOOTING – 032-15

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

Mission 4/23/15

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

Officer A 12 years, 9 month

Reason for Police Contact

Officer G confronted an armed Subject near a middle school and ordered him to drop the handgun. The Subject refused multiple commands and pointed the weapon at Officer G, resulting in an Officer-Involved Shooting (OIS).

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

Subject 1: Male, 26 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 March 22, 2015.

Incident Summary

Witness A was inside his second-floor bedroom when he heard someone outside yelling profanities. Witness A walked out onto his balcony and observed the Subject kneeling down and staring into the face of a German Shepherd dog.

Witness A asked the Subject what he was screaming about and the Subject looked at Witness A, removed a black handgun from his waistband, and pointed it towards him. The Subject then pointed the gun at his own head, began waving the gun around in the air, and walked away. Witness A exited his residence and followed the Subject down the street as he called 911. The Subject continued walking and out of Witness A's view.

Communications Division (CD) broadcast a radio call of an ADW Subject "there now." Uniformed Police Officers A and B were assigned the call. Officers C, D, E, F, G, H and Sergeant A also responded.

Note: Officers requested an air unit to respond but it did not arrive until after the Officer-Involved Shooting (OIS) occurred.

The Subject continued to walk toward a middle school while still holding the gun. As the Subject neared the school, he approached Witness B, a student at the school, and pointed the gun at his head. Witness B ran to Witness C, a school employee, who was standing in the school parking lot and reported that there was a man with a gun. Witness C looked toward the street and observed the Subject waving a gun in the air and yelling that he was going to take himself out of this world.

Note: Witness D was parked in front of the school when he saw the Subject waving a gun in the air and yelling that he was going to "get the school."

Three additional radio calls for a man with a gun were broadcast by CD as the Subject continued walking in the neighborhood. Officers C and D observed the Subject walking on the west sidewalk approximately four to five car lengths in front of them, waving a gun in the air. Officer C broadcast the Subject's location and Officer D parked their police vehicle.

Officers C and D exited their vehicle, unholstered their weapons, pointed the weapons at the Subject, and told him to stop and drop his gun. The Subject, who was speaking incoherently, appeared not to hear the officers' commands, and continued to walk. Sergeant A arrived at the location and briefly activated his emergency siren to gain the Subject's attention. Sergeant A exited his vehicle, unholstered his weapon and told the Subject to stop and drop the gun. Shortly thereafter, Officers A, B, E, and F arrived at scene. Officers A, B and F unholstered their weapons, and Officer E retrieved the shotgun from the shotgun rack. Officer E cycled a round into the chamber and added an additional round into the magazine. The responding officers deployed around the Subject using their vehicles as cover, held their weapons at a low ready position, and ordered the Subject to stop and drop his weapon. The Subject ignored the officers' commands and continued to point the gun at his head and wave it in the air. As the

Subject pointed the gun at his head, Officer C saw him pulling the trigger and heard a clicking sound. Officer C thought that the gun might be a replica because of the sound it made when the trigger was pulled. Officer C then told the other officers that he thought the gun was a replica. Officer C did not broadcast his belief, and his statement was only heard by Officer D.

The Subject began to walk north on the sidewalk, and Officer C broadcast this information. The Subject then quickly changed his direction and began walking south. As the Subject walked south on the west sidewalk, Officers A, B, C, D and Sergeant A holstered their weapons, entered their respective vehicles and started to redeploy. Officer F holstered his weapon, and Officer E gave Officer F the shotgun.

Note: The Subject's change in direction from walking northbound and then southbound was not broadcast.

Officer E disengaged the safety while he held the shotgun at the low-ready position. He engaged the safety prior to handing Officer F the shotgun.

Officers G and H responded north as the Subject changed direction. The officers saw the Subject walking south toward them with a gun in his right hand, and Officer G stopped his vehicle approximately 70 feet south of him. Officer G described the Subject as looking angry and having jerky movements, and believed that he was either mentally ill or under the influence of drugs or alcohol.

Note: Witness E believed that the Subject fired his gun at least four times in the air as the Subject walked on the sidewalk.

Officers G and H exited the car, unholstered their weapons, stood behind their vehicle's ballistic doors, and ordered the Subject to drop the gun. The Subject ignored the officers' commands and continued to walk south toward them while waving the gun in the air and pointing it at his head. Officer G continued to order the Subject to stop and drop the weapon, but he refused to comply. As the Subject approached the officers, Officer H began to lose his tactical advantage and believed he was going to be in a cross fire situation with Officer G between him and the Subject. In order to avoid the cross fire, Officer H started to redeploy toward the trunk of the vehicle. While Officer H moved toward the trunk, Officer G continued to order the Subject to stop and drop the weapon. The Subject ignored the commands, continued to walk towards the officers, and placed the muzzle of his weapon inside of his mouth. The Subject then removed the gun from his mouth, turned his upper body toward the officers, and pointed the gun at Officers G and H. Fearing that he and his partner were going to be shot, Officer G, who was standing behind the driver's side door with a two-handed shooting position, fired one round at the Subject.

Note: As Officer H moved toward the trunk, he heard a single gunshot. Officer H did not witness the OIS.

Officers A, B, C and D had followed the Subject and observed that he was still armed with a gun. Officer A stopped his vehicle north of the Subject. Officers A and B then exited their vehicle and stood behind their ballistic door panels. Officers A and B unholstered their weapons, heard a single gunshot, and observed the Subject fall to the ground. Officers C and D stopped their vehicle north of the Subject. Officers C and D exited their vehicle and unholstered their weapons when they heard a single gunshot and observed the Subject fall to the ground.

Sergeant A observed the Subject through his windshield as he followed behind him. As the Subject walked, Sergeant A observed him turn his body to his left and point his gun at Officers G and H's police vehicle. Sergeant A then parked his car along the curb, north of the Subject, and began to exit when he heard a gunshot and observed the Subject fall to the ground.

At the time of the OIS, Officers E and F were entering their vehicle, which was parked at a nearby intersection. Officers E and F responded after the round had been fired.

The Subject was struck by the gunshot in his left torso, fell to the ground, and dropped his gun. Officer G moved his weapon at a low ready position, and approached the Subject with Officers A, B, C, D, E, F and H. As the officers approached the Subject, Officers B and G holstered their weapons. Officer C observed that the gun was within the Subject's reach and kicked it in a southerly direction out of his reach. Officers A and C holstered their weapons, handcuffed the Subject, and a Rescue Ambulance (RA) was requested. Officer F then downloaded the shotgun to patrol ready and secured it back in the shotgun rack.

Note: Prior to approaching the Subject, Officer C believed that he communicated to his partner that he was moving forward.

A Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) responded to the scene, provided emergency medical treatment to the Subject, and transported him to a nearby hospital where he was pronounced dead.

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 Sergeant A's and Officers A, B, C, D, E, F, G and H's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Officer G'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 Communications

When the Subject changed the direction he was walking, Officer C did not provide CD with updated information.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, Officer C was forced to make a split-second decision during a rapidly unfolding tactical situation and made the decision to focus on the deadly threat of the Subject being armed with a gun.

The BOPC determined that Officer C's actions in this circumstance was not a substantial deviation from approved Department tactical training.

2. Tactical Planning

After the OIS, Sergeant A, along with Officers A, B, C, D, G, and H, approached the Subject without formulating a tactical plan or designating contact, cover, and less-lethal officers.

The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, thus ensuring a coordinated effort and successful resolution.

In this case, Sergeant A along with Officers A, B, C, D, G and H acted as an arrest team while relying on each other's training and experience to take the Subject into custody without incident. However, it would have been tactically prudent for the officers to develop a tactical plan prior to approaching a possibly armed Subject.

The BOPC determined that Sergeant A's along with Officers A, B, C, D, G and H's actions were not a substantial deviation from approved Department tactical training. These topics will be discussed during the Tactical Debrief.

The BOPC additionally considered the following:

1. Simultaneous Commands

The officers gave simultaneous commands to the Subject while trying to get him to surrender and submit to the arrest. Although the commands were non-conflicting, the officers are reminded that simultaneous commands can sometimes lead to confusion and non-compliance, especially if the Subject suffers from mental illness.

2. Situational Awareness

The investigation revealed that Officer C observed the Subject manipulating the trigger of his gun and heard a clicking noise that caused him to believe that the gun may be a replica, then attempted to verbally alert the officers around him that the handgun could be a replica. Officer D was the closest officer to Officer C and during his interview with FID investigators stated that he heard Officer C say something about the gun being a replica, but he could not verify this.

All of the remaining officers in the vicinity of Officer C were to the south of him, standing outside their vehicles with their service weapons drawn and focusing their attention on the Subject and the immediate deadly threat of a Subject armed with a handgun. None of these officers reported hearing Officer C make any statements in regards to the handgun possibly being a replica. The officers are reminded of the importance of maintaining constant communication and strong situational awareness while dealing with an armed Subject.

3. Shotgun Manipulations

The investigation revealed that Officer E disengaged the safety prior to his intent to fire. Officers are reminded that the safety is to remain engaged until the officer intends to fire.

4. Agitated Delirium

Throughout this incident, the Subject's behavior was consistent with a person suffering from a state of Agitated Delirium.

5. Code Six

The investigation revealed that Officers G and H did not advise CD that they were Code Six at the location due to the need to focus on the immediate deadly threat.

6. Equipment Required

Officer G was not equipped with his Hobble Restraint Device (HRD). Additionally, Officers A, B, C, G, and H were not equipped with their TASER. Officers are to be reminded to have their required equipment on their persons while in the performance of their job.

7. Preservation of Evidence

The investigation revealed that Officer C used his foot to slide the handgun out of the Subject's reach as he made his approach. Officers C is reminded that moving a possibly loaded weapon could cause an unintentional discharge and that whenever possible it is preferable to leave evidence undisturbed until FID investigators can properly document and preserve the scene. 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 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 individual actions that took place during this incident.

In conclusion, the BOPC found Sergeant A's and Officers A, B, C, D, E, F, G and H's tactics warrant a Tactical Debrief.

B. Drawing/Exhibiting

- Sergeant A along with Officers A, B, C, D, E, F G and H responded to a radio call of a man with a gun. Upon their arrival, they observed the Subject with a handgun in his right hand waving it in the air and pointing it to the right side of his head. The officers exited their vehicle and drew their service pistols.

Sergeant A and all the above officers unholstered their weapons fearing that the situation was going to escalate to the point where deadly force may be necessary to protect their lives, the lives of fellow officers, and the public.

The BOPC determined an officer with similar training and experience as Sergeant A along with Officers A, B, C, D, E, F, G and H, while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC determined that Sergeant A's along with Officers A, B, C, D, E, F, G and H's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- Officer G observed the Subject put the barrel of the handgun in his mouth and then point the handgun in his direction. In fear for his life and the life of Officer H, Officer G fired one round at the Subject to stop the deadly threat.

Officer G recalled observing that the Subject had a gun in his right hand. At that point he stopped the police vehicle and opened his door. Officer G drew his weapon and was issuing commands for the Subject to stop and drop the gun, but he did not comply. Officer G then observed the Subject place the gun in his mouth and then point the gun in his direction. At this point, Officer G fired one round.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer G would reasonably believe 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.

Therefore, the BOPC found Officer G's use of lethal force to be objectively reasonable and in policy.