

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

OFFICER-INVOLVED SHOOTING – 038-13

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

Outside City 4/30/13

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

Officer A 18 years, 9 months

Reason for Police Contact

SWAT officers were assisting with a barricaded armed subject. The subject pointed a handgun at a SWAT officer, which resulted in an officer-involved shooting (OIS).

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

Subject: Male, 41 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 April 29, 2014.

Incident Summary

On the indicated date and time, officers initiated a vehicle pursuit of the Subject and during the pursuit, the Subject intentionally rammed his vehicle into the rear end of a gray sedan vehicle, which was stopped at a red light. This action pushed the gray vehicle into the intersection and allowed the Subject to continue evading officers. The Subject then entered the freeway traveling at a high rate of speed, and, at times, speeds in excess of 100 mph. Officers continued to pursue the Subject into a nearby city, where he continued to commit several traffic violations and crashed his vehicle into a residence.

After crashing his vehicle into the front of the residence, the Subject exited the driver side door and ran toward the side of another residence. The pursuing officers saw the Subject grasp his waistband and believed he was armed with a gun.

The Subject continued running through the backyard with the Air Unit overhead, directing officers on the ground. The Subject climbed a block wall to the rear and ran through the unlocked front door of an adjoining residence where he resided with Witness A, the mother of his child. After entering the residence, the Subject closed the door behind him. The Air Unit advised officers of the Subject's location and began to set up a perimeter around the residence. A short time later, Witness A exited the front door holding her three-week old baby in a carrier and was directed to walk toward awaiting officers. Officers then took Witness A to the Command Post (CP), which was located at nearby. While at the CP, Witness A told officers that the Subject had entered the residence and appeared to be under the influence of drugs. She told officers that the Subject used rock cocaine on previous occasions and did not know of the Subject having a gun and had never seen him with a gun before.

A pursuing officer positioned himself behind the driver side door of a police vehicle parked in the mouth of the driveway southeast of the front door. While positioned at this location, the officer had verbal contact with the Subject who was, at that point, determined to be barricaded inside the residence. According to the officer, the Subject's emotions ranged from crying to being angry and, at times, irrational. The officer told the Subject that he was not going to be hurt and he needed to follow officers' commands to come out of the residence. According to the officer, the Subject stated "You just want to kill me." The Subject broke off communication with the officer and remained in the residence.

The Incident Commander (IC) notified Metropolitan Division, Special Weapons and Tactics (SWAT) Lieutenant A, and advised him of the chain of events leading up to the Subject barricading himself inside his residence. Lieutenant A was also advised that the Subject was observed holding his waistband while running from officers and was believed to be possibly armed. After a brief discussion with the IC, a decision was made to have patrol resources make entry into the residence and arrest the Subject.

A Metropolitan Division K-9 sergeant was notified of the ongoing incident and responded to the location, where he met with the IC and evaluated the incident. Due to the fact that the Subject's identity and whereabouts were known, and no weapon was seen, it was determined the incident did not meet K-9 or SWAT criteria. The sergeant advised Lieutenant A of his initial assessment and had Metropolitan Division K-9 personnel standby to assist patrol officers if the Subject ran from the residence. Lieutenant A spoke with the IC regarding the incident not meeting K-9 or SWAT criteria and advised him to deploy his officers into the residence to search for and arrest the Subject. Lieutenant A advised the IC to keep him informed with any additional information that may arise during their search of the residence that would dictate a SWAT response.

According to the IC, he advised an officer to gather a search team, make entry into the residence, and locate the Subject.

An entry team was formed and planned to make their approach toward the front of the residence and make entry through the front door. After receiving their assignments, the entry team approached the front door of the residence and lined up against the exterior wall prior to making entry. Officers utilized a pry bar and ram to force the wooden front door open. A supervising sergeant stood along the exterior wall next to an open window. As the entry team struck the front door with the pry bar and ram he heard the Subject yelling, "Don't do it, don't do it." As the entry team struck the front door with the pry bar and ram a second time, the sergeant heard the Subject yell, "Don't do it or I'll shoot." Simultaneously, the door opened, officers entered the residence and began searching for the Subject. The sergeant stated that the officers had already entered the residence and he did not have time to tell them to stop so they could redeploy. During the search of the residence, an entry team officer observed an opened kitchen drawer containing knives. The officer, believing that the Subject may have armed himself with a knife, advised the entry team of his observations and the fact that the Subject may have armed himself with a knife.

As some entry team members were lined up and holding their position along the interior wall of the living room, other team members were clearing rooms on the other side of the residence. As one of the officers traversed the hallway door opening from the kitchen, he observed the Subject standing in the bedroom, which shared a common wall with the living room where officers were standing. The Subject was facing toward the officers in the living room, holding a black semiautomatic pistol in his right hand, with his left hand underneath as support in a low-ready position. Officers immediately redeployed outside and set up a perimeter.

The IC called Lieutenant A back and updated him with additional information that a patrol officer observed the Subject, during the interior search of the residence, holding a dark colored pistol. He was also told that patrol officers had exited the residence, leaving the Subject inside, and officers had reestablished containment around the residence awaiting SWAT's arrival.

Lieutenant A notified Metropolitan Division SWAT Sergeant A, who notified on-call SWAT personnel to respond for the armed barricaded suspect. All SWAT personnel who were on call for this incident arrived at the CP and received additional information regarding the incident and the Subject. As SWAT personnel arrived, they replaced patrol officers on the interior perimeter positions. A specialized armored vehicle was driven into the driveway replacing patrol vehicles.

Lieutenant A spoke with the officer who saw the Subject in the residence with the gun. The officer told him that as he was clearing the residence, when he saw the Subject holding a small black semiautomatic pistol in a low-ready firing position facing the bedroom doorway.

Metropolitan Division SWAT Crisis Negotiations Team (CNT) members, including Officer C, arrived at the scene and met with Witness A to obtain background information on the Subject. Witness A advised officers that the Subject smoked cocaine and thought he was "high" on drugs when he ran into the residence. Witness A told them that she did not know of the Subject having any guns or had never seen him with a gun.

Simultaneously, while on containment behind the armored vehicle, a SWAT officer established verbal contact with the Subject. He asked the Subject to come out of the residence, and the Subject told him that he was scared. The officer reassured the Subject that he was not going to be hurt. The conversation with the Subject lasted approximately 30 to 45 minutes; however, the Subject would not come out.

After obtaining information from Witness A, two SWAT officers positioned themselves inside the armored vehicle. One of the officers used a specialized speaker system to establish voice-to-voice contact with the Subject. After several attempts to elicit a response, the Subject finally replied he was scared. Officers assured him that he would not be harmed.

Meanwhile, an audio recording of Witness A asking the Subject to surrender was played. The Subject wanted to see Witness A and his three-week old daughter. Officers told the Subject that they would facilitate his request if the Subject surrendered. The Subject then requested time to write a letter to his family and was afforded some time. After completing the letter, the Subject requested additional time to pray. The Subject was given time to pray and when finished, an officer asked the Subject to come outside to see Witness A. The Subject ignored the officer's request to come out of the residence and remained inside.

A second recording of Witness A was played, which stated that she would bail him out if he surrendered. After hearing the recording, the Subject stated he did not want to be in this world and he was a failure.

An officer told the Subject to put the weapon down and come outside. The Subject told the officer that he would come outside in his underwear so officers could see he was not armed. The officer then announced, over the MAD system, that the Subject would be

exiting in his underwear, holding a letter; however, the Subject did not exit. Officers asked the Subject if he had a gun and the Subject replied "Yes, it's to my head." They asked the Subject to put the gun down and come out; however, the Subject ignored them and remained in the house.

An officer told the Subject that if he remained in the house, the officers would have to take him into custody, which may include using a K-9 to do so. The Subject replied, "I don't want to hurt the dogs."

Note: Metropolitan Division SWAT Officer A was positioned in the driveway one residence away. According to Officer A, the Subject yelled, "I have a weapon in my hand. If an officer comes in here, I'll kill him, or if you send in a dog in here, I'm gonna kill him."

According to Officer C, he believed the Subject was armed with a gun due to his statements. Officer C continued with negotiations and heard the Subject state, "I want to kill myself," and later, "I want to blow my brains out." Officer C realized that the situation may have transitioned to a possible suicide attempt.

Meanwhile, a tape recording of Witness B (the Subject's mother) and Witness C (the Subject's sister) asking the Subject to surrender was played over the speaker system. The Subject continued to refuse to surrender. Officer C told the Subject that physical tactics may be used to get him out of the residence that may include tear gas. Officer C advised the Subject that using tear gas may make the residence unlivable for Witness A and their daughter. According to Officer C, the Subject yelled, "I'm no good to nobody."

Lieutenant A met with Sergeant A regarding the negotiations, and they both agreed that no progress was being made toward a non-tactical resolution. As a result, a tactical, fire, and medical plan were developed in the event that the situation escalated. Lieutenant A then met with a Behavioral Science Services (BSS) doctor and Commander A regarding the negotiations, at which time they concurred that they were at an impasse. It was determined that the incident would now move from negotiations to a tactical resolution.

Note: Doctors from BSS provide emergency response and immediate on-scene support/advice at unusual or potentially traumatizing situations.

As the situation continued, the Subject told negotiators, "I want one of you guys to kill me." Officer C told the Subject, "That's not going to happen," in an attempt to change the Subject's mindset of police killing him. The Subject was told he could have another five minutes to come out before the situation would escalate into a tactical resolution. Officers C and his partner were advised by Sergeant A that the incident was moving to a tactical phase; they exited the armored vehicle and reported back to the CP. Sergeant A announced a warning over the speaker system, advising the Subject that the incident was now moving to a tactical phase, that gas was going to be introduced, and the effects it may have on him. The Subject was also advised that K-9's may be

used and serious injury could occur. According to Sergeant A, after giving the warning, the Subject yelled out, "Fuck you. This is my house. I'm not coming out." Due to darkness, SWAT personnel utilized artificial lights from the armored vehicles and hand-held high intensity lights to illuminate the interior of the residence.

A short while later, the first volley of gas projectiles were deployed into the residence. The gas was given several minutes to disperse. Sergeant A reported back to Lieutenant A that there was no reaction or coughing from the Subject.

Several minutes later, the second volley of gas rounds were deployed into the residence. The gas was again given several minutes to disperse with no reaction or coughing from the Subject.

Moments later, a SWAT officer broadcast over the radio that he saw the Subject on the north side of the residence holding a rag over his nose with his left hand, looking out of the window. The officer also broadcast that the Subject's right hand was near his right waistband.

Several minutes later, three additional gas rounds were deployed into the north side of the residence along with one pyrotechnic projectile, known as "hot gas," which was deployed into the south side of the residence. The Subject was then seen by SWAT personnel on the north side of the residence lying on the floor and closing the door to the northeast bedroom.

Moments later, more gas was deployed into the residence. The gas was given several minutes to disperse and again the Subject did not attempt to surrender. SWAT containment personnel advised that they could see the Subject moving from room to room, closing doors, and holding a towel or rag over his face. Containment officers observed the Subject enter the bedroom on the east side of the residence and close the door behind him.

Sergeant A discussed a plan to place a robot inside the residence to obtain visual contact on the Subject. The plan was to break the window on the southeast corner of the residence and place the robot inside. A plan was also made to breach the back door on the north side to allow SWAT personnel an entry point in the event they needed to enter the residence to conduct a rescue. Sergeant A then briefed Lieutenant A regarding their plan.

Several SWAT officers placed the robot into the east facing window of the family room. Officers then redeployed back to the armored vehicle, where an additional SWAT officer operated the robot. The robot operator observed a pile of clothing near the kitchen. Believing that the Subject may be hiding there, the robot operator drove the robot toward the pile of clothing and bumped into it. The clothing moved and the Subject kicked at the robot. The Subject then crawled to the east bedroom, closed the door, and isolated himself between the bedroom door and wall of the closet.

Due to the Subject's unwillingness to surrender, the decision was made to use less-lethal "Sting Grenade" munitions. Prior to deployment, Sergeant A used the speaker system to warn the Subject that additional force was going to be used and that the Subject may become injured in the process if he did not come out. According to Sergeant A, the Subject replied, "Fuck you, this is my house. I'm not coming out. If you come in I will kill you."

Two "Sting Grenades" were then deployed into the east side window of the east bedroom, where the Subject was last seen. After detonation, the Subject was heard yelling and seen by containment officers standing up and running around the room before lying back down.

Sergeant A contacted Lieutenant A regarding the Subject's reaction to the first two "Sting Grenades" and asked for authorization to deploy two additional "Sting Grenades," which was approved. Two additional "Sting Grenades" were deployed into the bedroom where the Subject was located, with no reaction.

Several SWAT officers then approached the back door of the residence to breach it with the breaching tools left behind by patrol officers. One officer held the pry bar while another hit it with the ram.

Note: While breaching the back door, a SWAT officer was injured and subsequently transported to a local hospital for medical treatment.

According to Sergeant A, the Subject could be seen lying in the east bedroom covering himself with possibly a mattress or ironing board. Sergeant A discussed using a "flash bang" device to gain cooperation from the Subject. According to Sergeant A, this device is typically used when suspects are presumed to be lying in wait for police personnel. Sergeant A then requested authorization to deploy the "flash bang."

Lieutenant A directed Sergeant A to give the Subject another warning to surrender or else additional force would be used.

Sergeant A gave an additional warning to the Subject using the speaker system, and the Subject told officers that he was not coming out.

A SWAT officer decided to place a containment team on the roof of the detached garage. He communicated his request to Sergeant A, who directed Officers A and B to take that position.

Officers A and B took their positions on top of the detached garage, providing them an elevated view down into the bedroom where the Subject was located, approximately 28 feet away. Officers A and B's view through the window was blocked initially by curtains. Other SWAT officers approached the east bedroom window and used a fireman's pole with a hook to pull the curtains down. Once the window was clear, Officers A and B saw the Subject lying near the bedroom door and closet.

Officers on the side containment stated they could see the Subject inside the one bedroom with something covering him but they could not see his hands. According to Officer B, the Subject had his feet braced against the bedroom door keeping it closed. The Subject quickly looked around the corner of the closet in Officers A and B's direction, made eye contact, and then secreted himself back into the corner. According to Officer A, the Subject stated that he could see the officers on the roof and if they came in the residence, he would kill them. The artificial lighting utilized to illuminate the inside of the residence created shadows and made it difficult for Officer A to locate the Subject. Officer A stated that he could see the Subject when he looked directly at them; however, when the Subject secreted himself in the corner, he was difficult to see. Officer A felt that the Subject was using the lighting and the shadows it created to his advantage to hide from officers.

Officers A and B yelled back at the Subject, telling him to come out with his hands up, and that they didn't want to hurt him. The Subject ignored their commands and covered himself with an ironing board, a pink clothes basket and blankets. According to Officer A, the Subject again yelled that he could see the officers on the roof and if they came in he would kill them. Seconds later, the Subject again quickly peeked his head around the closet and looked in Officers A and B's direction before secreting himself back in the corner. According to Officer A, he felt the Subject was trying to gauge his and Officer B's position to shoot at them.

Sergeant A requested authorization to deploy the "flash bang" into the east bedroom, where the Subject was barricaded. Lieutenant A spoke with and received authorization from Commander A. Lieutenant A advised Sergeant A of the authorization.

Two officers approached the bedroom window on the east side of the residence. Upon reaching the window, one officer deployed the "flash bang" device into the bedroom and quickly moved back to a position of cover while the device detonated. The "flash bang" detonated, which made a hole in the lower half of the bedroom door and Officers A and B saw the Subject move. According to Officer A, the Subject quickly stuck his right hand around the corner of the closet holding a black semiautomatic pistol. Officer A told Officer B that the Subject was holding a gun in his right hand. After being told by Officer A that the Subject had a gun in his right hand, Officer B broadcast, "Gun in his right hand," over the radio to the rest of the team.

Officer A, fearing that the Subject was going to shoot at him, looked through his rifle optic, which was directed at the Subject's right hand holding the pistol, and fired three rounds in rapid succession. Officer B immediately broadcast over the radio, "Standby, shots away."

After firing the three rounds, Officer A no longer saw the Subject's pistol. The Subject again, had secreted himself back into the corner between the closet and bedroom door. Officer A activated the light affixed to his rifle in an attempt to illuminate the area where the Subject was hiding, but, due to other artificial lighting, there was no effect.

Officer B yelled to the Subject asking if he was shot, to which the Subject replied, “No, you missed me,” and continued to tell them that he would kill anyone who came into the residence. Officer B again asked the Subject if he was sure he was not shot and needed an ambulance. The Subject replied that he wasn’t hurt or coming out.

Sergeant A telephonically spoke with Lieutenant A and advised him that he felt the Subject was lying in wait for officers. He stated that the Subject could be seen, via the robot, covered with objects and lying still. Sergeant A discussed with Lieutenant A using the armored vehicle, with a boom attached to the front, to breach the wall on the side of the residence and deploy a special gas into the bedroom where the Subject was barricaded. The intent was to get the Subject to stand up, drop his weapon, and surrender peacefully. Lieutenant A discussed this plan with Commander A, who gave authorization. Lieutenant A then advised Sergeant A of its approval.

Sergeant A broadcast over the radio that the plan was to breach the exterior wall of the residence and deploy the gas into the residence via the armored vehicle.

The armored vehicle breached the wall of the bedroom where the Subject was barricaded. After breaching the wall, an officer in the vehicle pulled the release pin to the gas canister. Sergeant A continued to monitor the interior using the robot, and could see the boom from the armored vehicle above the Subject, who was lying on the ground. Due to the fact that the boom was directly above the Subject, the decision was made not to remove it while the Subject was still lying underneath to prevent injury to him.

The Subject then surrendered to officers and was taken into custody without further incident.

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 that Commander A, Lieutenant A, Sergeant A, and Officers A and B’s actions warranted a finding of Tactical Debrief.

B. Drawing/Exhibiting

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

C. Use of Force

The BOPC found Officer A'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. Effectiveness of SWAT

Throughout the incident, SWAT personnel utilized a detailed and effective tactical plan and CNT skills, making every effort to persuade the Subject to surrender. Furthermore, Sergeant A communicated with command staff personnel to inform them regarding the effectiveness of chemical agents. The process of dealing with barricaded suspects can cause a variety of concerns while determining the most effective method to safely take suspects into custody. These actions were within Department criteria and policy. Although the philosophy behind a Tactical Debrief is to enhance future performance by discussing areas where improvements could be made, often times, discussions pertaining to positive aspects of the incident lead to additional considerations that would be beneficial in future incidents.

- 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 determined that Commander A, Lieutenant A, Sergeant A, and Officers A and B's tactics warranted a Tactical Debrief.

B. Drawing/Exhibiting

- Officers A and B responded to a scene involving a barricaded suspect who was armed with a handgun. Throughout the incident, the officers exhibited their respective rifles. After several hours of negotiations, Sergeant A advised the situation was transitioning into a tactical phase. Officers A and B redeployed to the rooftop of the detached garage located just east of the residence. Based on the aforementioned information, Officers A and B exhibited their rifles as they covered a window on the side of the residence.

Based on the totality of the circumstances, the BOPC determined that an officer 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. Use of Force

- **Officer A** (rifle, three rounds)

Officers A and B were deployed in a cover position on a detached garage located to the side of the residence. Officers A and B observed the Subject hiding in the corner of a bedroom located within the residence. Officers A and B verbalized with the Subject with negative results. Additionally, the Subject threatened to kill any officers that came into the residence.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe that the Subject's actions of pointing a handgun in his and Officer B's direction, presented an imminent threat of death or serious bodily injury and that the use of lethal force would be reasonable.

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