

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

OFFICER-INVOLVED SHOOTING – 040-12

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

West LA	06/11/12		
---------	----------	--	--

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

Officer A	7 years, 4 months
-----------	-------------------

Reason for Police Contact

The Subject's relative called 911 to report that the Subject was suicidal and threatening to harm anyone who arrived at his residence. As a result of this phone call, officers were dispatched to the Subject's residence.

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

Subject: Male, 44 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 May 14, 2013.

Incident Summary

Communications Division (CD) received a call from Witness A, who was calling from another state. She indicated that her stepson (the Subject), male, 45 years old, had called her with information that he was armed with a gun, threatening to kill himself, and shoot anyone that responded to his location. The Subject had a history of threatening suicide but had not been formally diagnosed with a mental illness. Witness A believed that the Subject was possibly upset over the recent break-up with his girlfriend that occurred approximately two weeks prior. With the information given to her by Witness A, CD generated a radio call.

CD broadcast, "... possible attempt suicide, [...] second hand information [...] subject is a male [...], 45 years, armed with a gun threatening to kill himself and anyone that responds to his location. Code-Three."

Uniformed Police Officers C and D heard the broadcast and advised CD to assign the call to them and they were responding with emergency lights and siren (Code-Three).

Uniformed Sergeant A monitored the comments of the call and responded to the location. As he arrived, uniformed Police Officer E was already at scene.

Sergeant A and Officer E located the Subject's apartment. The apartment was located on the second floor of the building and no lights were on in the apartment. Sergeant A made several attempts via the telephone to contact the Subject, but he did not answer. Sergeant A then requested additional units and established a perimeter around the location.

Sergeant A immediately directed units to evacuate the nearby apartments and established a command post (CP). Metropolitan Division, K-9 Police Officer F, arrived at the CP and was directed to notify Metropolitan Division, Special Weapons and Tactics (SWAT) and brief them of the situation.

As a result of the additional units request, additional uniformed officers responded to the scene and secured the location.

Sergeant A notified the Watch Commander, Sergeant B, and advised him that based on the comments of the call, the situation fit the criteria of a "barricaded suspect."

Meanwhile, Sergeant B made contact with the Subject from his office via the telephone. According to the Subject, he refused to come out of his apartment and was going to kill anyone who came to his apartment. The Subject also stated he was armed with two loaded guns and had 80 rounds of "Black Talon" ammunition.¹ Sergeant B relayed the additional information to Sergeant A at the scene.

¹ Black Talon is a type of hollow point ammunition manufactured by Winchester Ammunition in 1991 known to penetrate body armor.

Sergeant B briefed Officers A and B at the station of the incident and directed them to respond to the location to assist Sergeant A with a possible “barricaded suspect.” Sergeant B knew that Officers A and B were trained and certified with the patrol rifle. Officers A and B had been assigned as partners for approximately three years.

Officers A and B responded to the location. Officer A exited his vehicle and retrieved his rifle from his rifle bag inside the trunk. Officer A inserted a 20-round magazine in the rifle and chambered a round. Officer A also placed a magazine carrier on his left leg which contained four 30-round magazines, each contained 28 rounds.

Note: Personnel and Training Bureau Notice No. 12.1.1, dated March 22, 2012, directs that all patrol rifle magazines shall be loaded with two rounds less than full capacity. A 20-round magazine shall be loaded with 18 rounds and a 30-round magazine shall be loaded with 28 rounds. The rifle shall be stored with no ammunition or magazines in the weapon until deployed.

Officers A and B proceeded to the CP. The officers were given additional information that the Subject had been previously placed on a 72-hour detention for evaluation and treatment pursuant to Section 5150 of the Welfare & Institutions Code. They were also told that the Subject was known to have weapons; he had made threats to Sergeant B that he wanted to kill himself and was not afraid to shoot at officers who approached his location. After the officers were briefed, Officer A was directed to respond to the southeast corner of the Subject’s apartment building with his rifle, and Officer B was directed to stay at the CP.

Officer A responded to the southeast corner of the building and met up with Officers G and H. Officer G pointed out the location of the Subject’s apartment and the rear balcony to Officer A. Officer A took a position of cover behind a trash dumpster, alongside of Officer G. Officer A braced himself against the dumpster and maintained his rifle pointed at the Subject’s balcony.² Officers G and H unholstered and also maintained a visual of the Subject’s balcony. Officer G handled the communications via the radio and relayed additional information that was broadcast over the radio to Officers A and H. According to Sergeant B, the Subject made reference several times to his ammunition, that it was capable of piercing body armor and he was not afraid to use it.

An Air Unit subsequently arrived at the scene. The Air Unit provided air support to the units on the ground by orbiting and illuminating the location. Over the course of the negotiations, the Subject became very angry and agitated with the noise of the Air Unit over his apartment and made several demands for the Air Unit to leave the location.

² Officer A was looking through a magnified optic lens on the patrol rifle which is magnified to the three times power. He maintained his right hand on the pistol grip of the rifle while his thumb was on the safety.

The Subject exited his apartment to his balcony, raised a handgun and fired four rounds in the direction of the Air Unit.

Note: The Subject later claimed he shot from the apartment into a berm and never stepped out onto the balcony. However, the four casings recovered were located outside of his apartment. Two were recovered from the balcony and the other two directly below the unit.

According to Officer A, the pistol was elevated to him, as though the Suspect was going to be shooting at the airship. Officer A observed the gun immediately start to fire, and he could observe the muzzle flashes and smoke through his optic. Officer A started shooting where he could best determine that the Subject was located.

Believing that the Subject was shooting at the air unit, Officer A fired three rounds from his rifle from a distance of 56 feet. As Officer A fired his last two rounds, the Subject stopped firing and the hand and pistol disappeared from Officer A's view.

Note: Further investigation revealed that the Air Unit was not hit by gunfire and the occupants were not aware they were fired upon.

According to the Subject, he shot three rounds because, he said, the officers "were gonna get [the Air Unit] the fuck out of here. You blew it, bro. You blew it."

Officer A maintained his position and a visual on the balcony. Moments later, Officer B armed with his rifle joined Officer A behind the dumpster. Both officers maintained a visual of the balcony until Officer A was ordered to respond to the CP. Officer A placed the rifle's safety in the "on" position before he responded to the CP. Officer B remained at his position behind the dumpster. Officer A then secured the rifle in the trunk of his vehicle.

Note: Personnel and Training Bureau Notice No. 12.1.1, dated July 11, 2012, directs that after an officer-involved shooting (OIS) with a rifle, and once the tactical situation is safe, officers shall not unload, download, remove the magazine from the weapon, or remove the round from the chamber. The weapon shall then be placed in the trunk of an uninvolved supervisor's vehicle.

Sergeant A obtained a Public Safety Statement (PSS) from Officer A. Officer A stated he fired two to three rounds when he observed the Subject fire his weapon at the air unit over his apartment. Once Sergeant A obtained the PSS from Officer A, he ordered Officer A not to discuss the incident and then transported him to the local police station. Sergeant A monitored Officer A at the station and was briefly relieved by Sergeant C.

Note: Force Investigation Division personnel reviewed all the documents and circumstances surrounding the separation, monitoring, and the admonition not to discuss the incident to officers prior to being

interviewed by FID investigators and determined all protocols were followed.

SWAT arrived on scene, assumed tactical command of the scene, and relieved the other personnel from their positions around the perimeter. Police Officer I, assigned to the SWAT Crisis Negotiation Team, responded to the station and joined Sergeant B for the telephone negotiations with the Subject. The negotiations continued for several hours and the Subject refused to surrender.

The negotiations process continued between Sergeant B, Officer I, and the Subject with intermittent breaks in the communication when the Subject hung up his phone or his cell phone would lose power. In every instance, Sergeant B would call the Subject back to re-establish communication.

When telephonic communication with the Subject ended, SWAT deployed multiple rounds of teargas into the Subject's apartment, and moments later, the Subject exited his apartment and was taken into custody. A search warrant was executed at the Subject's apartment and evidence was recovered which included firearms and ammunition. Also searched was the Subject's parked vehicle. No evidence was recovered from the vehicle.

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 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 its review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

The BOPC found Officer A's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Lethal 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. Tactical Awareness

In this instance, although Sergeant B provided the on-scene personnel with the information he received from the Subject, it appears the information regarding the threat to shoot at the air unit and the fact that the aircraft was the intended target of the Subject when he fired was not known to the air crew.

The BOPC was concerned that this critical information was either not captured or clearly articulated to the personnel in the Air Unit. According to a deputy from an outside police agency who was in the Air Unit at the time of this incident, the Air Unit personnel were neither aware of the threat to shoot at the air unit nor that the Air Unit was fired upon until several hours later, after they had landed.

It is the BOPC's expectation that pertinent information is broadcast and confirmation is obtained that the information was received, especially in a circumstance where there is the potential for the catastrophic loss of life and property. It is imperative that the Air Unit personnel possess the information to avert such an occurrence to ensure the safety of the air crew and, when shot at, to take the appropriate measures to ensure the aircraft is airworthy.

Accordingly, the BOPC has objectively evaluated the circumstances and specifics of this incident, and determined that, although there is evidence that the communications could have been improved upon to ensure all of the tactical resources had a clear understanding of the events as they unfolded, it was clear that the majority of the uniform personnel were apprised of the pertinent information. Therefore, the communications of the incident did not substantially deviate from approved Department tactical training. Nonetheless, the involved personnel are to be reminded of the importance that sufficient communication resources are dedicated to support the tactical mission in order to ensure critical information is disseminated to all involved personnel. This topic was to be discussed during the Tactical Debrief. Additionally, supervisory personnel at the station will conduct roll call training on the importance of ensuring that sufficient communication resources be dedicated to support the tactical mission on incidents of this magnitude.

- The evaluation of tactics requires 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 the incident.

The BOPC found that Officer A's tactics warranted a Tactical Debrief.

B. Drawing/Exhibiting

- Information provided in the comments of the call indicated a "possible attempt suicide... Subject is a male [...], 45 years, armed with a gun threatening to kill himself and anyone that responds to his location." Sergeant A requested additional units, and Officer A was dispatched due to his certified status with the patrol rifle.

Upon arrival at the CP, Officer A believed that the situation may escalate to the point where the use of lethal force may be justified to protect himself or others from serious bodily injury or death. Officer A prepared his police rifle for live fire by inserting one magazine and chambering a round. He donned a ballistic helmet and a magazine carrier on his left leg, and carried the rifle with a three-point tactical sling with the safety engaged.

Given the fact that a mentally ill person claimed to be armed and suicidal, and threatened to shoot officers who approached his apartment, the BOPC found that an officer with similar training and experience, 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, based on the totality of the circumstances, the BOPC found Officer A's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

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

In this instance, Officer A was in a standing position behind the cover of a dumpster and used the optic lens on his patrol rifle with three times magnification to observe the Subject's balcony as he grasped the pistol grip of the patrol rifle with his right hand, thumb on the safety. When the Subject began to fire his handgun at the Air Unit, Officer A feared that the gunfire would hit the pilots or the airship. In order to stop the Subject's actions, Officer A disengaged the safety and fired three rapid rounds at the Subject from a distance of approximately 56 feet. Officer A stopped firing when the Subject retreated back into the apartment.

Note: Although the Subject admitted to firing his handgun, he claims he never exited his apartment and merely extended his arm out of the

balcony door and fired into the berm, denying he fired at the Air Unit. Based on the Subject's threats to shoot at the air unit, Officer A's observations and the Subject's statements following the OIS where he admitted to firing shots at "them," the preponderance of the available evidence supports that the Subject, in fact, fired at the Air Unit.

The BOPC found that an officer with similar training and experience as Officer A, when faced with similar circumstances, would reasonably believe that the Subject posed an imminent threat of death or serious bodily injury to the air crew. Therefore, the BOPC found Officer A's use of lethal force to be objectively reasonable and in policy.