

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

OFFICER-INVOLVED SHOOTING – 041-13

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Topanga	05/05/13		
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Officers(s) Involved in Use of Force	Length of Service
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Officer A	4 years, 1 month
Officer B	4 years, 1 month

Reason for Police Contact

After arriving at an “armed burglary in progress” radio call, the officers saw the Subject at the PR’s door, armed with a handgun. A resulting encounter with the officers led to an OIS.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 23 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 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 March 25, 2014.

Incident Summary

Officers A and B had been partners for approximately two years. They had prior tactical discussions regarding contact and cover, foot pursuits and containing armed subjects.

Los Angeles Police Department Communications Division (CD) received a 911 call from Witness A. She told the emergency operator that there was an unknown man with a gun outside her apartment, and he was ringing her doorbell. She stated that she was scared. Witness A had recently moved into the apartment and several times provided the CD operator with the wrong address. Witness A was also calling from a cellular phone, which did not automatically provide an address for the caller.

The emergency radio call was assigned to Officers A and B, who acknowledged the call and stated they would be responding.

Upon arrival in the area, Officer B told CD there were no similar apartments at that address and asked for an update. When Witness A again gave her (incorrect) address, she was told that the officers were unable to locate her residence. Witness A then provided the cross-streets, and officers located her apartment complex.

Officer B broadcast that he and Officer A had arrived and were at the location. Simultaneously, Officers C and D arrived to assist.

The officers unholstered their weapons, staggered themselves approximately 15 feet apart in a box formation, and began to walk down the driveway. When they located the correct building, they collapsed to single file and made their way down the sidewalk on the west side of the building. Upon reaching the southwest corner of the building where they determined the apartment to be, they stopped with Officer B in the lead, followed by Officers A, C and D.

According to Officer B, when the officers reached the location they believed to be the correct apartment, he noticed there was an exterior staircase leading to the second level of the building. He positioned himself where he could look up the stairs. He observed a male, later identified as the Subject, standing on the third floor landing with his back toward him. The Subject turned toward the officers, and Officer B could see that he was holding a revolver in his hand.

Officer B alerted the other officers that the Subject was on the stairs and had a gun. Officer B broadcast a backup request for a 415 man with a gun. As Officer B was making his broadcast, Officer A stepped forward and observed the Subject facing the apartment door holding a stainless steel revolver in his right hand. Officer A identified himself as a police officer and ordered the Subject to drop the gun. The Subject began to turn towards the officers, and Officer A again ordered him to drop the gun and identified himself as a police officer.

According to Officer A, the Subject raised the gun in his direction and pointed it at him.

Officer A then fired two rounds at the Subject from a distance of approximately 41 feet. The Subject fell backwards, and from his position, Officer A was able to see the Subject's legs and feet.

According to Officer B, the Subject raised the gun in a two-handed grip, assumed a shooting stance, and pointed the weapon toward the officers.

Officer B saw stucco flying off of the stairwell wall above him, and although he heard no gunshots, he believed that the Subject had fired at him.

Officer B perceived the Subject as a deadly threat and fired two rounds at him while holding his pistol in his left hand and his radio in his right hand from a distance of approximately 42 feet.

Officer B observed the Subject still pointing his gun at him, determined that he was still a threat, and fired two additional rounds at him. The Subject fell to his knees, then slowly onto his side. Approximately 10 seconds after broadcasting the backup request, Officer B broadcast an officer needs help, shots fired call. Assistance arrived, and the wounded Subject was taken into custody. A loaded revolver was recovered next to the Subject, however the cylinder had been manipulated by the recovering officer and it could not be established if the Subject fired at the officers. An impact was later located, consistent with having been caused by a projectile fired from the Subject's elevated position.

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 Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officers A and B'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 and B to be in policy.

Basis for Findings

A. Tactics

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

1. Back-up Versus Help Call

Based on the comments of the radio call and the officers' observations that the subject was armed, the BOPC would have preferred that Officer B initiated an "officer needs help" broadcast and provided pertinent information to responding units. The BOPC believes Officer B's radio communication would have been beneficial for the entire operation, but did not substantially deviate from approved Department tactical training. Nonetheless, the personnel at scene could benefit from a review of the difference between a back-up request versus a help call request.

2. Effective Use of Cover

The officers approached the apartment and communicated to each other about their observations. As Officers A and B observed the Subject armed with a revolver, they utilized the archway as cover. The examination of the ballistic impacts, from the interior of the stairwell, could only be attributed to a Subject firing from that position atop the stairwell. The BOPC was pleased with Officers A and B's decision not to pursue the Subject and utilize the archway as cover.

3. Air Unit Request

Officers A and B did not request an air unit prior to their arrival or while at the call. Officers A and B had knowledge the Subject was armed with a gun in front of the residence on the third floor. Due to the nature of the call and the Subject's position of advantage, Officers A and B were reminded of the tactical advantages gained by having an air unit overhead for additional tactical insight and assessment, as well as officer and public safety.

4. Single-Hand Shooting

While requesting a backup for a man with a gun, the Subject turned toward Officer B, raised his revolver and pointed it toward him. Officer B fired at the Subject while holding his service pistol in his left hand and holding his radio in his right hand. While dealing with a rapidly evolving tactical incident, Officer B's decision to hold his service pistol single-handed was reasonable.

5. Equipment

The investigation revealed that Officer A did not possess two magazines in his magazine pouch at the time of the OIS, as required. The investigation reflects that the magazines were in the trunk of the officer's vehicle.

6. Preservation of Evidence

The investigation revealed that Officer E recovered the Subject's handgun, opened the cylinder and handed it to Sergeant A. Sergeant A then handed the handgun to another officer, with instructions to safeguard it. That officer placed the handgun in the trunk of his police vehicle. During a review of the statements, there were inconsistencies regarding who recovered the handgun. However, every indication revealed Officer E retrieved the handgun.

The investigation also revealed that a knife was observed on the ground where the Subject was lying. It was determined an unknown officer removed the knife and placed it in the trunk of a police vehicle.

- 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.

After a thorough review of the incident, the BOPC determined that the identified areas for improvement neither individually nor collectively substantially deviated from approved Department tactical training. Therefore, 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 with the objective of improving overall organizational and individual performance.

In conclusion, the BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- In this instance, Officers A and B responded to a radio call of a, "Possible burglary subject there now." The comments of the call stated that the Subject was armed with a handgun, knocking on the PR's door and attempting to turn the door knob. Believing the situation may escalate to the point where lethal force may become necessary, the officers drew their weapons.

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 lethal force may be justified.

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

C. Lethal Use of Force

- **Officer A** (pistol, two rounds)

In this instance, despite numerous verbal commands to the Subject to "drop the gun," he refused to comply. As the Subject turned in the direction of the officers, he raised the revolver and pointed it toward the officers. Fearing for his safety and his partner's safety, Officer A fired two rounds from his service pistol to stop the Subject's actions.

- **Officer B** (pistol, four rounds)

Officer B observed the Subject standing on the second floor landing with his back toward him, and holding a revolver in his right hand. Officer B communicated his observations and broadcast a backup request for a 415 man with a gun. As Officer B was broadcasting, the Subject turned in the officers' direction while raising the revolver and pointed it at Officer B. Officer B then fired at the Subject. After he fired an initial two rounds, Officer B assessed the situation and observed the Subject still pointing his revolver at him. Officer B fired an additional two rounds at the Subject.

Based on the totality of the circumstances, an officer with similar training and experience as Officers A and B would reasonably believe that the Subject's actions of pointing the revolver at them, presented an imminent threat of death or serious bodily injury, and the use of lethal force would be reasonable.

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