

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

**OFFICER-INVOLVED SHOOTING – 049-15**

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

Northeast      6/19/15

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

Officer A    2 years, 5 months  
Officer B    2 years, 5 months

**Reason for Police Contact**

While officers were stationary in traffic, the Subject approached their police vehicle, shouting at them and pointing a rolled up T-shirt at them in a manner which led the officers and witnesses to believe he was pointing a pistol. The officers exited the vehicle, and an officer involved shooting (OIS) occurred.

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

Subject: Male, 48 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 19, 2016.

## **Incident Summary**

Two Los Angeles Police Officers were stopped in traffic. They were in their patrol car when the Subject, approached them. Officer A was driving and Officer B was the passenger.

Unbeknown to the officers, moments earlier the Subject had approached Witness A, who was walking along the sidewalk. The Subject had approached Witness A and told him to call 911 and report that there was a man armed with a gun and that he (the Subject) was that person. The Subject repeated the statement and then continued walking. Witness A promptly used his cell phone and dialed 911.

Witness A was connected to the California Highway Patrol's (CHP's) Emergency Dispatch Center, where he proceeded to tell the CHP 911 operator that he was walking along the street and was approached by a male who stated the following, "Call 911. Let them know I'm walking down the street, and I have a gun in my hand." CHP asked: "What did he look like?" Witness A: "Short, stubby medium build. Brown hair [...] Oh, no. And he's shooting. Actually, I hear gunshots."

Witness A continued to walk and was informing the 911 operator with the details of the encounter. He answered their questions and stated that the Subject had his hand wrapped with a towel. He also provided them with the Subject's physical and clothing descriptions. Witness A also reported hearing gunfire but stated he could not see the shooting from his location. The operator instructed Witness A to remain on the line so that they could connect him to the Los Angeles Police Department's Communications Division (CD). Witness A declined and soon afterwards hung up with the CHP operator.

After the Subject had spoken with Witness A, he continued walking on the sidewalk. Several witnesses observed him turn left, step onto the grass parkway and approach Officers A and B's police vehicle. The officers were stopped in traffic in the eastbound number two lane. The witnesses described the Subject with his right hand wrapped in a gray or blue shirt. The shirt was rolled in such a manner that it appeared that he was concealing a firearm inside of it. The witnesses then observed the Subject clasp his hands together, fully extend his arms, and aim them toward the officers.

**Note:** During their interviews, several witnesses demonstrated the Subject's body posture, which resembled a two-handed shooting stance.

The witnesses indicated a perception that the Subject's actions were of someone who was about to assault and shoot the officers who were seated in their patrol vehicle. Several witnesses reported that they observed the officers exit their vehicle, order the Subject to drop the gun, followed by gunfire. The Subject was struck by gunfire and fell to the ground onto his back.

During the course of the investigation, 11 individuals were identified as eyewitnesses to the Officer-Involved Shooting (OIS). Ten of those witnesses were seated in their respective vehicles stopped in traffic on the eastbound lane.

All the witnesses, with the exception of Witnesses A and H, drove away but subsequently identified themselves to police.

Witness B was alone in his vehicle and stopped directly behind the police car. He witnessed the incident and stated, "The only reason why I saw him, because he was in my peripheral vision, is because he was yelling, 'Cops, cops, cops, cops, cops,' in this tone and in this distance of a repetitive form. He approached. There was a big redwood tree. He approached the tree. Held what looked like an actual gun wrapped in a T-shirt. And as he was pointing at them, at the police officers, he was approaching them walking, like going near them. Police officer bolted out of the car. The driver went into the back of the trunk. Told the person pointing the gun at them to drop the gun three times. 'Drop it. Drop the gun. Drop the gun.' And he said, 'Partner, move to the left. Partner, move to the left.' Boom, boom. And that was it." After the OIS, Witness B video-recorded part of the incident with his cellphone.

An additional cell phone video clip was recorded by a witness who was in his vehicle directly in front of the police car. Witness C video recorded the incident moments after the OIS from the front passenger seat while Witness D drove away. Witness C stated that he saw a male approaching the vehicle directly behind them while carrying what appeared to be a gun. He told his family to get down and then heard four to five gunshots. Witness C looked out the window and saw that it was, in fact, a police car behind them with two police officers. He then saw the male on the ground.

Witness D stated, "We overheard some commotion, a guy yelling. And when I looked back through my back window, I saw a gentleman have -- it looked like to be -- be appeared to have a gun wrapped up in a blue towel and pointed at some officers that were directly behind me in their vehicle."

Witness E was driving alone in the number one lane. He saw the incident and stated, "What caught my attention from waiting in traffic is I heard car doors open. And then I heard officers say something on the lines of put it down or don't shoot. And when I looked to my right over my shoulder, I saw two officers in their car and then I saw a gentleman that was holding some - something and he had a like a shirt covering something so it looked like it could have been a gun. So, you know, officers were doing what they're supposed to do is protect themselves too. And, you know, they told him to not shoot and the guy didn't do what they asked him so they shot him down and he fell down to the ground."

Witnesses F and G were in their vehicle in the number three lane when they observed the incident. Witness F was driving and stated, "And even though I couldn't see the gun, I instantly thought, 'He's pointing a gun at somebody, and he's got it wrapped and hidden in a blue T-shirt.'"

Witness G, in the front passenger seat, stated, "He took a stance right by the curb -- on the grass still, but right near the curb, and then this hand comes up like this with his towel, and he's standing like he's actually aiming at something. And we both said to ourselves, "My gosh, what's he aiming at? He must have a gun."

Witness H had parked her car in a driveway near the OIS location and exited. She observed the Subject on the sidewalk. Witness H stated, "I looked at a man that was holding what seemed to be a gun wrapped in a gray fabric of sorts holding it with both hands pointed like it was a gun. So I assumed it was a gun. Turned -- I turned quickly to see what he was pointing at and it was -- there was a lot of back to back traffic [...], and there was a police car that was just sitting there in traffic and he was definitely just pointing at the police car."

Witness I was driving in the number two lane and saw the incident. She too, believed the Subject was armed with a gun. Witness I stated, "The guy raised his hands to the officer, and that's when there was three shots. And that's and the guy the gentleman dropped to the ground and I turned around and I was like oh, they shot the guy. And I had told her I think he has a weapon. Because that's what I thought."

Witness J was driving alone in the number one lane, when she observed the Subject on the sidewalk. She stated, "I'm just sitting in the car and I see a man on the sidewalk so he's kind of to the -- just in front of my car over to my right hand side. And I see him walking with his right hand extended forward wrapped in what looked like a T-shirt to me. But pointing it as if he had a gun. And he started yelling something pointing it towards the officer's car, and I saw him and my first thought was this man has a gun and he's going to shoot someone."

Minutes before the OIS, Officers A and B had conducted a hit and run investigation and were en route to the police station to complete the traffic report. Officer A was driving east in the number two lane with his window down and stopped in traffic. The officers were discussing their traffic collision investigation. Officer A then heard a loud moan or a scream which sounded like a male's voice. He heard it again and looked over to his right side and saw the Subject walking east on the sidewalk. The Subject walked toward them on the grass parkway with his right hand wrapped in a towel or rag. Officer A stated that the Subject's arms were up at a 90 degree angle while holding a gun in a shooting stance and pointing it in their direction. Officer A perceived the Subject's body posture as someone who was armed with a gun and believed that he was about to shoot them.

Officer A immediately reacted by placing the car in park, unbuckling his seat belt, and exiting the car. Officer A quickly moved to the trunk area on the driver's side and unholstered his pistol. The Subject was still standing by the grass parkway and aiming what Officer A believed to be a gun at him.

Officer A stated, "I go to the trunk and I see the suspect pointing the gun at me, and I clearly remember something like a barrel pointing in my direction. I'm going to get shot. I'm going to die here."

With no vehicles in his line of fire, Officer A held his pistol with both hands, crouched down, aimed for the Subject's center body mass, and fired three consecutive rounds at him. The Subject was struck by gunfire. He fell to the ground on his back and landed with his right hand on top of his chest still wrapped in the shirt. Officer A told his partner to move to cover because the Subject was moving and considered armed.

Officer A broadcast that he had been involved in an OIS and gave CD his location.

Officer B stated that while they were stopped in heavy traffic in the number two lane, he heard a loud noise from behind them. The loud noise sounded like a voice. Officer B said he looked down to the computer to place them on a follow-up to the station when he heard his partner say something unintelligible to him. Officer B looked up and to his right. He saw the Subject standing on the sidewalk. The Subject had his arms extended out in front of him with his hands together wrapped in a shirt. It appeared to Officer B that the Subject was concealing a weapon inside the shirt.

Simultaneously, as Officer B was removing his seat belt, he heard his partner exit the vehicle. He also quickly exited the vehicle and immediately unholstered his weapon. He held it with both hands in a low-ready position, with his trigger finger along the frame. Officer B said he ordered the Subject to drop whatever he was holding. He then heard his partner yelling, "Drop," followed by three rapid gunshots. He then saw the Subject drop to the ground near the tree on the sidewalk.

Officer A stated that the Subject still posed a risk because he was still moving, so they moved to the driver's side of their vehicle for cover. With the shirt still covering the Subject's hand and posing a threat, Officer A told his partner that they needed to handcuff him. They agreed and moved next to the driver side of a parked car that was located on the driveway east of the Subject's position. They paused to assess the situation and made sure there was no one else around. Officer A told his partner to cover the subject while he handcuffed him. Officer A holstered his weapon, put on latex gloves, and they approached him together. Officer A took the cloth out of his hand, rolled him over onto his stomach and handcuffed him. When Officer A took the cloth out of his hand he realized that there was nothing inside.

Officer B broadcast that a Rescue Ambulance (RA) was needed. Afterwards, Officer B put on latex gloves and conducted a cursory pat down search of the Subject.

Officer A said, "My partner made the R.A. request, and I was surprised there was no gun in his hand so I looked around to see if he might have dropped it, but I found no gun."

Witness K (a Californian State licensed Physician and Surgeon) was driving by the scene and saw the Subject lying on the grass parkway next to a tree and observed Officers A and B tending to him. Witness K stopped, identified himself as a medical doctor, and offered assistance. Officer B retrieved a first aid kit from the back of his police car and assisted Witness K by opening bandages for him. He asked the officers if they could rotate the Subject from the stomach position onto his back so that he could assess him better. Witness K applied bandages and held pressure on the Subject's gunshot wound until paramedics arrived on scene.

**Note:** During Witness K's interview he was asked if he observed any evidence near the area. He responded, "Yes. There was a white kind of a T-shirt kind of -- It was rolled like a Tootsie Roll."

Los Angeles Fire Department personnel arrived at scene and treated the Subject. The Subject was transported by ambulance to a local hospital.

### **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 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 Officer A and B'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. Approaching Armed Suspects**

Officers A and B approached a subject whom they believed to be armed with a handgun without the assistance of additional resources.

Operational success is based on the ability of the officers to effectively plan and approach each incident in a safe manner, keeping officer safety in mind at all time. Officers when faced with an ongoing tactical situation, must remain alert to improve their overall safety by their ability to recognize an unsafe situation and work collectively, to ensure a successful resolution.

After the OIS, the officers communicated the need to redeploy to a new position to further assess the situation. Upon doing so, Officer A was able to observe that the Subject had a lot of blood coming from his head and was seriously injured. Officer A also believed that the Subject was still a threat because his right hand was resting on his chest and it was still wrapped in the shirt. After assessing the situation, the officers formulated a tactical plan, which included contact and cover roles, and approached and handcuffed the Subject.

- The BOPC additionally considered the following:

#### **1. Situational Awareness**

The investigation revealed that Officer A and B both heard a loud noise coming from outside their police vehicle which they perceived to be the sound of a voice. The officers did not initially attempt to identify the source or make any effort to determine if it was someone possibly attempting to get their attention. Officers A and B are reminded that situational awareness while travelling in a police vehicle improves overall officer safety by each officer remaining cognizant of their surroundings.

#### **2. Simultaneous Commands (Non-Conflicting)**

The investigation revealed that Officers A and B were giving simultaneous commands to the Subject during this incident. Although the commands were non-conflicting, the officers are reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

### 3. Contact and Cover

The investigation revealed that Officers A and B holstered their service pistols and donned protective gloves at the same time as they were preparing to handcuff the Subject. Although the Subject was clearly suffering from a severe gunshot wound to his head and likely appeared to be incapacitated, officers should always maintain their contact and cover roles until the Subject has been handcuffed and the potential threat no longer exists.

### 4. Effective Encounters with Mentally Ill Persons

Prior to the OIS, the Subject's behavior was consistent with a person suffering from a mental illness, and/or being under the influence of drugs or alcohol. In an effort to bring further awareness to the personnel at scene the topic of Effective Encounters with Mentally Ill persons 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 discuss the incident and the individual actions that took place during this incident.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's actions were reasonable and not a substantial deviation from approved Department tactical training.

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

### **B. Drawing/Exhibiting**

- Officer A observed the Subject turn to his left and begin walking toward the police vehicle with his right hand wrapped in a towel and his arms raised in their direction at a 90 degree angle in a shooting stance. Believing that he was about to be shot by the Subject, Officer A placed the police vehicle in park, exited and drew his service pistol.

Officer A recalled that he didn't remember exactly when he unholstered, but that he did so as a result of the suspect pointing a gun at him.

As Officer B looked to his right, he observed the Subject standing on the sidewalk approximately 20 to 30 feet from their police vehicle, facing in their direction with a blank stare on his face with his arms extended out in front of him, with what he believed was a shirt wrapped around his hands. Officer B believed that the Subject was holding some sort of a weapon and immediately exited the vehicle and drew his service pistol

Officer B recalled that he exited the vehicle after his partner. He thought the Subject was holding a weapon, which he perceived to be a knife or some metallic object. When Officer B exited the vehicle, he had unholstered his pistol and was holding it in a two handed grip. Officer B stated that he ordered the Subject to drop the weapon.

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. Lethal Use of Force**

According to Officer A, he observed the Subject still pointing the gun at him and observed the barrel pointed in his direction. In fear for his life, Officer A fired at the Subject to stop the deadly threat.

Officer A recalled, "The gun was pointed at our direction so obviously I put the car in park and I thought this guy has a gun. And I was getting out of my car, I remember thinking to myself, I'm going to hear the pop and I'm going to get hit soon. I see the suspect pointing the gun at me, and I clearly remember something like a barrel pointing in my direction. I'm going to get shot. I'm going to die here. So I shot three successive rounds."

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as that of Officer B 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 to address this threat.

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