

Incident Summary

A housekeeper for a motel (Witness A), was on the second-floor hallway performing her daily cleaning activities when a guest (the Subject) exited the room and told Witness A he did not need his room cleaned. Witness A advised the Subject he had to check-out, at which time the Subject gestured with his middle finger and yelled a profanity at Witness A. Witness A began to push her room servicing cart down the hallway to continue her cleaning activities.

Simultaneously, motel guests Witness B and her daughter Witness C, were on the second-floor hallway when they passed Witness A. The Subject approached Witness B armed with a handgun, placed the gun against Witness B's forehead, smiled, and made the verbal expression, "Poof." The Subject then approached Witness C, pointed a gun to the right side of her head, and made the verbal expression, "Pow."

Witness A turned around to ascertain what was occurring and noticed the Subject was now aiming a handgun toward the right side of her (Witness A's) head. The Subject made the verbal expression, "Boom, boom," and began to laugh. The Subject then re-entered his motel room.

Meanwhile, motel guests Witnesses D and E, who were siblings, were returning to their room located on the second-floor of the motel. The Subject exited his room, now armed with a handgun in each hand, approached Witnesses D and E, and pointed the guns toward them. The Subject told the children, "Get the [expletive deleted] out of here," at which time they ran and entered their room.

The Subject pointed the gun at four additional guests, which included Witness F. Witness F responded to the second-floor balcony, yelled toward the front desk, and told the receptionist to call the police.

Witness G, the manager of the motel, contacted Los Angeles Police Department (LAPD) Communications Division (CD) via 911. Witness G advised CD there was a guest who had pointed a gun at two female guests and at one of her employees.

Witness G was calling on behalf of the victims and did not personally witness the incidents. Witness G also provided additional information to the operator that the Subject was "mentally ill." The operator then asked if Witness G knew what kind of mental illness the Subject suffered from. Witness G did not elaborate, instead offering to have the operator speak to the victim employee; however, she explained that the employee did not speak English. The operator did not request to speak to the victim employee and resumed asking Witness G for the Subject's description. No further inquiries by the operator were made as to the Subject's reported mental illness.

CD broadcast the call, location, circumstances, and description of the Subject, including that he was armed with an unknown type gun.

No information was broadcast to the officers regarding the Subject's possible mental illness.

Partner Officers A and B responded. The officers were in a marked black and white police sport utility vehicle (SUV) equipped with a Digital In-Car Video System (DICVS).

Sergeant A advised CD he was also responding.

Officer A activated his emergency equipment and responded with emergency lights and siren (Code Three) to the location. Officer B read the comments of the call as the officers responded to the location and advised him the Subject had threatened employees with a gun. The officers did not discuss a tactical plan or their roles while en route.

The officers arrived at the scene as Officer B broadcast their status and location (Code Six). Officer A parked their police vehicle along the curb in front of the motel. Officers A and B exited their vehicle and proceeded toward the front entrance of the motel.

CD broadcast that the Subject was now on the second floor outside of the identified room where the Subject was located.

Officers A and B entered the front lobby of the motel, were directed to the second floor of the motel, and took the stairs up to the second floor. The officers exited the stairwell and met with Witness G.

According to Officer A, he obtained a clothing description from Witness G and was told the Subject was pointing a gun at motel guests and employees. Witness G told the officers the Subject was a male, a guest in an identified room, and was last seen walking on the second-floor hallway.

As described by Officer A, the officers spoke to Witness G for approximately 15-20 seconds. According to Witness G, they spoke "not even -- maybe a few seconds" before the officers responded to the Subject's room.

According to Officer B, Witness G stated the Subject brandished a weapon. Officer B stated when they entered the motel; it did not seem like a hostile environment.

Officer A stated he did not consider requesting an additional unit at that time because he wanted to do an assessment prior to requesting additional units.

The officers proceeded toward the hallway as Witness G stayed near the elevator. Officer A approached the hallway, turned the corner, and noticed a maid cart in the hallway. The officers did not observe any maids or a person armed with a handgun. According to Officer A, based on not seeing the Subject in the hallway and Witness G advising them the Subject was in a specific room, he believed the Subject was now

inside his room and wanted to make contact with the Subject, assess, and then formulate a plan.

Officers A and B entered the hallway as Officer A proceeded along the side of the hallway and Officer B proceeded along the other side of the hallway toward the room.

It was at this time that Officer A unholstered his service pistol and held his pistol in a low-ready, left-handed position. Officer A stated he unholstered his service pistol because the comments of the call indicated the Subject was armed with a gun and believed the situation could escalate to a point where deadly force might be necessary. In addition, Witness G told Officers A and B the Subject had pointed a gun at an employee.

Officers A and B arrived at the front entrance of the room where the Subject had been identified, at which time Officer B unholstered his service pistol and held his pistol in a two-handed, low-ready position with his finger along the frame. Officer B stated he unholstered his service pistol because the comments of the call indicated there was a gun involved. Officer A crossed over the doorway and positioned himself in the hallway next to the front door. Officer B positioned himself on the other side of the hallway, also next to the front door.

Officer A transitioned his gun into a close contact position. Officer A knocked on the front door with his right hand and moved back into the hallway. The DICVS microphones worn by Officers A and B captured the Subject asking who was at the door. Officer A identified himself as a police officer and told the Subject he wanted to speak with him. The Subject refused to open the door and told the officers to leave.

After approximately 15 seconds of speaking with the Subject, the Subject was heard saying something unintelligible and then said, "Shot." According to Officer A, the Subject stated, "If you come in here I'm going to shoot you." According to Officer B, he did not hear the Subject state he was armed.

The officers' DICVS captured audio of their communications with the Subject. Officer A was heard telling the Subject that if he did not come out, they would have to go in, to which the Subject replied, "I don't think so." Moments later the Subject was heard making an apparent threat, stating, "(unintelligible) come in here (unintelligible) shot," which may be consistent with Officer A's characterization of the Subject's threat to shoot the officers if they entered. Officer A immediately responded, "Okay, so you have a gun?"

From the time the officers met with Witness G until they knocked on the front door, the approximate total time that elapsed was 56 seconds. From the time the officers exited their vehicle until they knocked on the front door, the approximate total time that elapsed was one minute 12 seconds.

Officer A asked the Subject if he had a gun, at which time the Subject began to yell, telling the officers to leave. According to Officer A, he believed the Subject was armed, wanted to contain the Subject inside the motel room, and requested an additional unit. Officer B asked Officer A if he wanted an additional unit and he replied, "Yes."

Officer B walked away from the doorway, but remained within view of Officer A, and requested an additional unit. Partner Officers C and D advised CD they were responding.

Officer A stated his thought process at this time was to keep in contact with the Subject, assess his mental capacity, and attempt to de-escalate the situation. Officer A stated he did not consider re-deploying to another position because he did not want to lose sight of the door and jeopardize public safety. Officer A stated he did not request the Special Weapons and Tactics (SWAT) team because he was waiting for additional units and a supervisor to arrive at the scene.

Officers C and D, in addition to Sergeant A, subsequently arrived at the scene. Officers C and D entered the front lobby of the motel with Sergeant A in trail. The officers were directed to the second floor of the motel, ran up the stairwell, and observed Officers A and B in the hallway situated on a door with their service pistols unholstered. According to Sergeant A, he had to pass several people on the second-floor as he approached Officers A and B and observed three to five guests close to Officers A and B.

It was at this time that Officer D unholstered his service pistol and held his pistol in a two-handed, low-ready position with his finger along the frame. Officer D stated he unholstered his service pistol because the comments of the call indicated the Subject was armed with a gun. Officers C and D then walked in the hallway towards Officers A and B.

According to Sergeant A, he arrived on the second floor and assumed command and control of the incident.

Officer D positioned himself in the doorway as Officer C unholstered his service pistol. Officer C stated he unholstered his service pistol because the comments of the call indicated the Subject was armed and had threatened people's lives with a handgun. Officer C placed his pistol in a two-handed, low-ready position with his finger along the frame. Officers D and A covered the door of the room with their service pistols as Officer C crossed the doorway and positioned himself behind Officer A.

Meanwhile, Officer B briefed Sergeant A and advised him the Subject was not cooperating. Sergeant A requested two additional units.

There was no indication that Sergeant A, or any officer aside from Officer A, was aware that the Subject had made a conditional threat to shoot at the officers.

According to Officer B, the motel guests from the room adjacent to the Subject's room opened their motel door and asked what was going on. Officer B evacuated the guests, leaving the door open. Sergeant A then positioned Officer B inside that room, allowing Officer B a view of the room where the Subject was contained.

Meanwhile, Officer D evacuated the guests from the room directly next door to the Subject's room, leaving that room empty.

In the interim, Officer A continued to verbalize in a calm and patient tone while attempting to command the Subject to exit the room. At one point, Officer A utilized a ruse and told the Subject the situation was just a business dispute. The Subject stated he was upset with a famous female actor and made statements that were unintelligible and that did not make sense. This continued for a total time of approximately 11 minutes 39 seconds.

The Mental Evaluation Unit (MEU) was never requested during this time.

The DICVS microphones captured the sound of a door opening. Officer A stated he noticed a silhouette along the wall of the room next to the front door. Officer A then noticed an arm extend out of the door with a black semiautomatic handgun in the right hand and discerned the Subject was behind the door.

According to Officer A, the arm was locked and parallel to the ground with the barrel of the gun pointed in a southerly direction. Officer A yelled, "Gun, gun, gun," and then noticed the gun orientate toward Officer D. Officer A stated Officer D was in a position where he may have been struck by gunfire. Officer D stated he was in a position to see approximately two inches of the door but not the side of the door that opened.

According to Officer A, the door opened approximately 30 degrees from the closed position and the right arm was visible, slightly above the right elbow. Criminalists assigned to Forensic Science Division (FSD) were unable to determine how far the door was open based on the physical evidence.

Officer B stated multiple officers yelled there was a gun. The DICVS microphones only captured Officer A.

Fearing the Subject was about to shoot Officer D, Officer A, from a left-hand shooting position, fired four rounds through the door in order to prevent serious bodily injury or death to Officer D. Officer A heard the Subject grunt as his right arm retracted back into the room and as the door closed. According to Officer A, he did not observe the Subject's torso at any time during this incident.

SWAT later arrived and entry was eventually made, once it was confirmed the Subject was no longer a threat. The Subject was pronounced as deceased at the location, as a result of being struck by rounds fired by Officer A.

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). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC found Officers C and D's tactics to warrant a Tactical Debrief. The BOPC also found Sergeant A's and Officers A and B's tactics to warrant a finding of Administrative Disapproval.

B. Drawing/Exhibiting

The BOPC found Officers A, B, C, and D'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

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Use of Force Policy, Los Angeles Police Department Manual.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in Graham v. Connor, 490 U.S. 386 (1989), that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject’s actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer’s decision to draw or exhibit a firearm should be based on the tactical situation and the officer’s reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so. (Tactical De-Escalation Techniques, October 2016.)

A. Tactics

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

1. Tactical Planning/Communication (Substantial Deviation – Officers A and B)

Officers A and B did not formulate a tactical plan prior to approaching the Subject's location, and Officer A did not communicate that the Subject had threatened to shoot the officers if they entered the room.

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. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

In this case, the officers approached the Subject's motel room, held their positions, and attempted to build rapport. While the officers did not formulate a specific tactical plan, they did discuss that they were not going to make entry into the room while awaiting the arrival of additional resources.

Additionally, although Sergeant A was not advised of the Subject's threat to shoot the officers, he believed the Subject was armed with a gun and directed the officers to maintain their positions while he formulated a tactical plan to coordinate resources in order to contain the location, evacuate the occupants, and notify SWAT.

2. Additional Unit vs Back-Up Request (Substantial Deviation – Officers A and B)

Officers A and B did not request back-up upon locating a possible ADW suspect armed with a gun.

In this case, Officer A heard the Subject threaten to shoot the officers if they entered the motel room. Additionally, Officer B knew that the Subject had threatened motel employees with a handgun.

3. Barricaded Suspects (Substantial Deviation – Sergeant A)

In this case, Sergeant A had formulated a tactical plan to contain the Subject's location and evacuate the other occupants of the motel to address public safety concerns if the Subject attempted to flee the location, all prior to notifying SWAT. The OIS occurred approximately 10 minutes after Sergeant A arrived at the scene; however, SWAT was not requested for approximately 45 minutes.

4. Tactical Vehicle Deployment (Substantial Deviation – Officer A)

The investigation revealed that Officer A parked the police vehicle in front of the location where the Subject was described as being armed with a handgun.

5. Ballistic Vest (Substantial Deviation – Sergeant A)

The investigation revealed that Sergeant A was not wearing his ballistic vest during the incident.

In conclusion, the BOPC found Sergeant A's and Officers A and B's tactics to warrant a finding of Administrative Disapproval. The BOPC also found Officers C and D's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- According to Officer A, he drew his service pistol as he was approaching the Subject's room because he believed that deadly force might be necessary due to the Subject being armed with a gun.

According to Officer B, he drew his service pistol when he got to the Subject's door because the comments of the radio call indicated that a gun was involved.

According to Officer C, he drew his service pistol as he approached the officers who were at the Subject's door because the radio call was for an armed suspect who had threatened people with a handgun.

According to Officer D, he drew his service pistol when he approached the officers who were at the Subject's door. Due to the nature of the call, he knew a gun was involved.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, C, and D, 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 found Officers A, B, C, and D's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- **Officer A** – (pistol, four rounds)

According to Officer A, he observed the Subject's right hand extending out from the door, holding a black semi-auto handgun. He then observed the Subject turning the handgun towards Officer D's position and fired four rounds from his service pistol through the door where the Subject was standing.

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

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