

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

OFFICER-INVOLVED SHOOTING – 062-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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North Hollywood	7/24/15		
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Officer(s) Involved in Use of Force	Length of Service
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Sergeant A	19 years, 7 months
Officer C	25 years, 7 months
Officer D	1 year, 2 months

Reason for Police Contact

Officers responded to a “shots fired” call, in front of a bank. Upon arrival, they contacted the Subject who pointed a handgun at them, resulting in an officer-involved shooting.

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
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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 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 BOPC 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 June 28, 2016.

Incident Summary

A male, later identified as the Subject, 44 years of age, was seated on the wall of a brick planter in front of a Bank. According to Witness A, as she waited to make a left-hand, northbound turn into the parking lot behind the Bank, she observed the Subject raise his arm above his head and fire a handgun into the air.

Note: According to Witness A, the Subject fired approximately six shots, while other witnesses believed the Subject fired two to four shots. No video footage of the Subject firing the handgun prior to the arrival of police was located. Three expended casings, that were determined to have been fired from the Subject' handgun, were recovered during the crime scene investigation.

After the Subject fired, Witness A observed him lower his arm between his legs and place the handgun into a brown paper bag. She described that the Subject ejected the magazine from the handgun, retrieved an additional magazine from inside the bag, and loaded it into the handgun.

Witness A estimated that approximately five seconds later, the Subject raised his arm, pointed the handgun in the air, and fired one additional shot. At that time, westbound vehicular traffic subsided, and Witness A turned her vehicle left (north) into the driveway. Witness A stopped her vehicle in the access drive to the rear parking lot alongside the west exterior wall of an adjacent restaurant and made an emergency call for service (911) to report the incident. After making the 911 call, she proceeded into the rear parking lot and drove away from the area.

Note: Communications Division (CD) received a total of eight 911 calls in regard to this incident.

CD broadcast an "ADW Shots Fired Just Occurred" radio call, and assigned two uniformed officers as the primary unit. In the comments of the call, the Subject was described as a male, wearing a black jacket, white pants, with black curly hair, and a handgun between his knees. The call was assigned as an emergency call (Code Three). The officers acknowledged the call and responded Code Three, with emergency lights and siren, to the location.

Sergeant A responded to the call as well and placed himself at the location (Code Six) via his police radio. He was the first officer to arrive at the location. Sergeant A positioned his vehicle south of the Subject, facing in a northeasterly direction on the marked center divider of street. The distance between the police vehicle and the Subject was estimated to be approximately 89 feet. Sergeant A observed the Subject seated on the planter wall with a handgun in his right hand positioned between his knees.

Note: Cellular telephone video footage of the event taken by Witness B, who was positioned on the north sidewalk approximately 150 feet west of the Subject's position, depicted Sergeant A at scene shortly after his arrival until approximately five minutes and 59 seconds after the officer-involved shooting (OIS) occurred. Witness B provided his video to investigators; however, he declined to be interviewed.

Note: Although Witness B declined to provide an interview to investigators, he could be heard on the video recording making several comments that were captured by the footage. Witness B could be heard explaining to someone that he had captured the entire OIS on video and that he had seen the Subject fire several shots into the air, and then point the gun at officers, at which point the officers had fired. Comments made at various times by the Witness B included, "He [the Subject] didn't really give them [the officers] a choice." "When he pointed it at them, what else are they going to do?" "This is one of those cases where I feel the cops didn't do anything wrong." "They didn't even shoot that much to be honest. Usually you see some [expletive] like that, they shoot him 20 times."

Sergeant A exited his vehicle, unholstered his service pistol, and assumed a two-handed low-ready position while utilizing the open driver's ballistic door for cover. Sergeant A yelled at pedestrians walking on the north sidewalk to get back and ordered the Subject to drop his handgun.

Watch Commander Lieutenant A requested an Air Unit to respond to the incident. During this time, Sergeant A observed that westbound traffic was still open and patrol units were converging on his location.

Uniformed Sergeant B drove east and arrived at the location. Sergeant B observed Sergeant A with his pistol aimed in a northerly direction and stopped his vehicle approximately 10 feet east of Sergeant A's vehicle.

Sergeant B opened his driver's door and unholstered his service pistol as he exited his vehicle. Sergeant B utilized the open driver's ballistic door for cover and observed the Subject sitting on the planter, holding an unknown object in his right hand. Sergeant B asked Sergeant A if the Subject was holding a handgun, and Sergeant A confirmed that he was. Sergeant B utilized a two-handed grip and aimed his pistol at the Subject. Sergeant A continued to command the Subject to drop his handgun. The Subject did not comply and continued to hold the handgun in his right hand between his legs. Several witnesses stated they heard numerous commands for the Subject to drop the handgun. (The commands can be heard on the video filmed by Witness B.)

During this time, Officers A and B arrived at the location. The officers positioned their vehicle in the intersection east of the Subject's position, with the front of the vehicle pointed in a northwesterly direction toward the Subject. Officer B told Officer A he was

going to deploy his shotgun. Officer A exited the vehicle, unholstered his service pistol, assumed a two-handed low-ready position, and used the passenger ballistic door for cover. Simultaneously, Officer B removed the shotgun from the interior shotgun rack, exited the vehicle, chambered a round from the magazine, assumed a low-ready position and used the open driver's ballistic door for cover.

Sergeant A broadcast a request for units to respond to the parking area to the rear of businesses along the north sidewalk to keep traffic from exiting the driveway between the bank and nearby restaurant. As he made the broadcast, the Subject fired one round from his handgun in a southerly direction.

Note: One gunshot was heard over the base frequency of the police radio when Sergeant A made his broadcast. In addition, the video footage taken by Witness B captured the Subject raising the handgun in the air in a southerly direction and firing one round.

According to Sergeant A, the Subject fired one round with the handgun pointed toward the sidewalk.

Meanwhile, Officers C and D responded and arrived at scene. As they were en route, Officer C directed Officer D to prepare to deploy the patrol shotgun that was in the rack inside the interior of the police vehicle upon their arrival. Officer D changed the radio carried on his equipment belt to the local base frequency to monitor communications. Officer C positioned the police vehicle approximately eight to 15 feet west of Sergeant A's police vehicle and angled it in a northeasterly direction.

Officer C exited the vehicle, unholstered his service pistol, and took cover behind the open driver's ballistic door. Officer C utilized a two-handed shooting grip, with his finger along the frame, and aimed his pistol between the door frame and the A-pillar. Simultaneously, Officer D exited the vehicle with his patrol shotgun and observed the Subject seated on the planter wall, leaning forward and holding an object in his hand. Officer D chambered a round from the shotgun magazine and then loaded one round from the butt cuff into the magazine to full capacity. Officer D stood behind the open passenger ballistic door for cover, as he held the shotgun at a low-ready position with the safety on, and aimed the shotgun between the A-pillar and door frame.

A short while later an airship arrived.

Sergeant A felt his body position was exposed and repositioned himself by sitting on the driver's seat with his right leg inside the vehicle and his left foot on the ground outside the vehicle. He aimed his service pistol at the Subject between the window frame and the A-pillar. Sergeant A placed his index finger on the trigger because the Subject had already fired one round.

During this time, Sergeant B redeployed to the passenger side of Sergeant A's vehicle to acquire a better line of sight of the Subject. Sergeant B opened the passenger door and utilized it for cover as he ordered the Subject to put his hands up and drop the gun.

The Subject spoke, but Sergeant B could not understand him due to the noise of the Air Unit overhead. Sergeant A observed a black square object on the sidewalk next to the Subject, and saw the Subject transition the handgun to his left hand. Sergeant A heard the Subject state, "I have a bomb." Sergeant A perceived the immediate threat to public safety was the fact that the Subject was armed and had already fired his handgun prior to the arrival of officers and while officers were at the scene.

Officers E and F then arrived at the scene. As they were en route, Officer F told Officer E he would deploy his patrol rifle upon arrival and that Officer E should provide cover for him as he retrieved his rifle from the trunk. The officers positioned their vehicle pointing in a northwesterly direction toward the Subject next to the vehicle staffed by Officers A and B.

Officer E exited the vehicle, unholstered his service pistol, assumed a two-handed low-ready position, and utilized the driver's ballistic door for cover. Simultaneously, Officer F exited the vehicle and moved to the trunk area of the police vehicle. Officer F retrieved his patrol rifle, inserted a magazine, and attempted to charge the rifle; however, a "feedway stoppage" malfunction occurred.

Note: A "feedway stoppage" is a common firearm malfunction that can occur during the loading process when two live rounds are stripped from the inserted magazine and attempt to enter the firing chamber as the bolt travels forward. Officer F did not observe the OIS occur, as he was at the trunk area of his police vehicle clearing the malfunction with his patrol rifle; he heard shots fired only.

During this time, additional officers responded to the request for officers to post in the rear parking area. While en route, the officers agreed that an officer would deploy his slug shotgun upon arrival. The officers entered the parking area and positioned their vehicle near one corner of the restaurant.

The officers were deployed in a position that provided them with a visual of the Subject, but the bank building obstructed their view of the personnel deployed on the street in front of the bank.

During this time, Officer C believed his vehicle and Sergeant A's vehicle were too close together, so he directed Officer D to redeploy to the passenger side of Sergeant A's vehicle for better tactical advantage. According to Officer D, Officer C directed him to redeploy to the driver's side of Sergeant A's vehicle.

Sergeant B observed that Sergeant A and Officers C and D were in position behind cover with their weapons at the ready, and believed there were sufficient officers in

place to address the lethal threat posed by the Subject. Sergeant B brought his service pistol to the low-ready position and transitioned his focus to coordinating the response of arriving units. Sergeant B also continued giving the Subject verbal commands, but the Subject did not comply. Officer D disengaged the safety of his shotgun, as he believed the Subject was an immediate threat based on the fact that the Subject had already fired gunshots.

Sergeants A and B, as well as Officers C and D, observed the Subject, while still seated on the planter wall, raise the pistol with his right hand and point it in a southerly direction. The officers feared that the Subject was going to fire his pistol in their direction, at other officers at scene, or at bystanders on the south sidewalk.

Note: The video footage filmed by Witness B depicts the Subject raise the handgun as described by Sergeants A and B and Officers C and D. Witness C observed the Subject raise the handgun, and believed the Subject was targeting the officers positioned near a store on the southeast corner of the intersection.

Note: Witness B's video was shot facing eastbound, from the north sidewalk, approximately 3 to 4 businesses west of where the Subject was seated. The Subject was partially visible sitting on the planter ledge, facing southbound. Several officers and units could be seen in the area. Officers could also be seen in front of a store on the north sidewalk, taking cover behind a metal traffic control box and a pole.

At approximately the same time as the OIS, the Subject quickly raised his weapon to chest level, extended his arm forward and rapidly started to bring the weapon back down. The entire movement took less than a second. Due to the angle of the video, it could not be determined if the Subject was pointing his weapon straight ahead, or at the officers.

In response, Sergeant A fired two rounds from his service pistol at the Subject in a northeasterly direction from a distance of approximately 83 feet. Simultaneously, Officer C fired one round from his service pistol in a northeasterly direction from a distance of approximately 75 feet. Officer D, believing the Subject had fired at the officers, fired one round from his shotgun in a northeasterly direction from a distance of approximately 85 feet. The Subject was pronounced deceased at the location. A blank firing semi-automatic pistol was recovered by investigators at the scene, as was a facsimile improvised explosive device (IED).

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, made the following findings:

A. Tactics

The BOPC found Sergeants A and B's, as well as, Officers A, B, C, D, E and F's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officers A, B, C, D, E and F's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

The BOPC found Sergeant A's as well as Officer C and D'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. Help Call

Sergeant A did not broadcast a Help Call when he observed that the suspect was armed with a handgun.

In this case, Sergeant A was working alone and knew that additional resources were already en route to his location. As he exited his vehicle, Sergeant A had to focus his attention on the immediate deadly threat of a suspect armed with a handgun. He also had the task of coordinating responding units to ensure traffic was stopped in order to limit putting civilians in danger. Given these circumstances, his actions were reasonable and consistent with Department tactical training.

2. Code Three/Code Six

Sergeant A and Officers C, D, E, and F did not advise CD that they were responding Code Three or place themselves Code Six when they arrived at the scene.

In this case, Sergeant A and Officers C and D knew they were responding to multiple radio calls of a shooting in progress or a man with a gun, where Sergeant A had already arrived on scene and was broadcasting pertinent information to personnel that were responding to the incident. Based on the circumstances, Sergeant A, along with Officers C and D, decided not to broadcast their Code Three response or Code Six location upon their arrival in order to keep the radio clear for emergency broadcast.

- The evaluation of tactics requires that consideration be given to the fact that sworn personnel 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 that tactics be evaluated based on the totality of the circumstances.

In conclusion, the BOPC found Sergeant A and B's, as well as Officer's A, B, C, D, E and F's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- Sergeants A and B as well as Officers A, B, C, D, E, and F responded to multiple radio calls of a shooting in progress and a suspect armed with a gun. Sergeants A and B, and Officers A, C, and E drew their service pistols, while Officers B and D exhibited their Department issued shotguns, as Officer F exhibited his UPR.

Based on the totality of the circumstances, the BOPC determined that officers with similar training and experience as Sergeants A and B, and as Officers A, B, C, D, E and F while faced with similar set of circumstances, would reasonably believe there was a substantial risk that the situation may escalate to the point where deadly force may be justified. Therefore, the BOPC found the officers' drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- **Sergeant A** – (pistol, two rounds)

Sergeant A observed the Subject raise his handgun up and point it toward the people that were behind them, causing him to believe the Subject was going to fire a round at someone on the sidewalk. Fearing for their safety, Sergeant A fired two rounds from his service pistol at the Subject to stop his actions.

- **Officer C** – (pistol, one round)

According to Officer C, he observed the Subject holding a handgun and not complying with officers' commands to drop the gun. The Subject then started to get up at the same time the handgun started to raise up. Fearing for the safety of the

other officers, Officer C fired one round from his service pistol at the Subject to stop the threat.

- **Officer D** – (shotgun, one round)

Officer D observed the Subject quickly raise his handgun up as if he was ready to fire, and then heard what sounded like a gunshot. In defense of the officers and civilians' lives, Officer D fired one round from his Department issued shotgun at the Subject to stop the deadly threat.

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

Therefore, the BOPC found Sergeant A and Officers C and D's use of lethal force to be objectively reasonable and in policy.