

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

OFFICER-INVOLVED SHOOTING – 068-12

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
Southwest	10/06/2012		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	5 years, 8 months

Reason for Police Contact

The victim's sister-in-law called 911 when she became aware of a domestic dispute between the victim and her husband (the Subject). Subsequent to the officers' arrival, a categorical use of force occurred when the Subject displayed threatening behavior toward the victim.

<u>Subject</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
Subject: Male, 64 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.

Incident Summary

Victim A and the Subject had been married for eight years, the last three of which, the Subject had been suffering from seizures. The week before the Officer-Involved Shooting (OIS) incident, the Subject had multiple epileptic episodes, had been in and out of hospitals, and had been given several medications to stabilize his condition. During that week, the Subject's behavior had become increasingly aggressive and erratic.

The Subject continued with his unpredictable behavior by refusing to eat the breakfast the Subject had cooked and accusing her of trying to poison him. The Subject then grabbed the Subject by her hair, held her at knifepoint and told her to eat the food. The Subject then told her that they were both supposed to die that day.

Victim A's sister-in-law, Witness A, lived across the street. Witness A was aware of the Subject's disturbing behavior the previous week and walked across the street to the Subject's apartment to check on him. As she approached the door, she heard loud screaming emanating from inside the apartment and told her daughter, Witness B, to call 911 and request the paramedics.

Los Angeles Fire Department (LAFD) personnel received an alarm to respond to the location for a seizure patient. LAFD personnel arrived and met with Witness A, who directed them to the correct apartment. They heard screaming and the sounds of a struggle coming from within the apartment.

Believing there was a medical emergency inside the apartment, LAFD personnel knocked on the apartment door and identified themselves several times in an attempt to enter the apartment and render aid. Eventually, a paramedic obtained a key to the apartment from Witness C, the apartment manager. The paramedic heard a female screaming in Spanish for help. As he walked to the kitchen, he observed Victim A sitting in a chair with the Subject standing next to her. The Subject was holding the Subject's hair with his left hand and held a knife to her neck with his right hand. The Subject looked at the paramedic, said something in Spanish and lunged at him with the knife. Fire Department personnel exited the apartment and broadcast a help call.

Communications Division (CD) broadcast, "All units, FD (Fire Department) is requesting help at [the location.] Man with a knife, threatening FD."

Uniformed Police Officers A and B were driving a marked black and white police vehicle equipped with ballistic door panels. Officers A and B had been assigned as partners on approximately three prior occasions and had past discussions regarding tactics, including contact and cover, foot and vehicle pursuits, containing armed subjects and less-lethal options. While enroute to the call, the officers discussed tactics related specifically to subjects with knives.

Officers A and B advised CD when they arrived. Officer B parked the police vehicle in the street, adjacent to the apartment building.

The officers exited their police vehicle and approached the paramedic, who told them he entered the apartment and observed a male holding a female by the hair and a knife at her throat. He also stated the female appeared to be held hostage by the male. Further the paramedic also advised that other tenants told him there were possibly guns inside the residence. After receiving the information, Officer A told Officer B to retrieve the beanbag shotgun from the vehicle.

Note: Although he did not recall doing so, the paramedic informed the officers that there was a report of a gun inside the apartment and that it was a possible hostage situation.

After Officer B heard the information from the paramedic, he walked back to the police vehicle to retrieve a Department-issued bean bag shotgun from the trunk. Officer B indicated that LAFD personnel were standing around, there was no yelling or screaming heard and he thought the incident was over, so he turned off the video recorder on his vehicle.

As Officer B deployed the beanbag shotgun, he chambered a round, placed an additional round in the magazine and walked back to assist Officer A. Officer A broadcast to CD, “[C]an I get an additional unit and a supervisor.”

An Air Unit arrived over the location. While waiting for additional officers to arrive, Officer A switched his radio to a different frequency and advised the officers in the air regarding the information he received from the paramedic.

The officers on the ground were standing approximately 20 feet away from the apartment complex when they heard a female screaming in Spanish. At the same time, they observed Witness D standing inside his apartment, frantically pointing toward the apartment. Officer A believed that somebody’s life was in danger, either the male’s or the female’s and decided accordingly that he and Officer B were going to make entry into the apartment. Officer A advised the officers in the airship that he heard a woman screaming and that he and Officer B were going to make entry.

As the officers approached the front door to the apartment complex, Officer A unholstered his pistol to a two-hand low-ready position with his right index finger on the frame. Officer B held the beanbag shotgun in a low-ready shoulder position, with his right index finger on the safety button.

The officers entered the doorway and cleared the entryway of the apartment complex. As a result of the information the officers received regarding the Subject in possession of a knife and possible firearms inside the residence, and the fact that they now heard screams emanating from within the location, Officer A took the lead as the contact officer.

Officers A and B approached one door of the apartment. The officers noted that the door was open six to eight inches. Officer B pushed the door open with his left foot, and the officers crisscrossed as they entered. The officers heard a female screaming from the kitchen area as they cleared a bathroom which was directly in front of them.

After clearing the bathroom, Officer A, followed by Officer B, walked toward the kitchen area of the apartment. Officer A positioned himself near the doorway, peered north to his right into the kitchen and observed the Subject standing over Victim A, who was lying on her back on the floor, with her head toward Officer A. The Subject held a 9-inch kitchen knife in his right hand, with the blade extended between his thumb and index finger. The Subject was slightly bent over, attempting to grab Victim A's legs and feet with his left hand as she kicked her legs toward him. Victim A yelled for help in Spanish.

Officer A ordered the Subject to drop the knife. The Subject and Victim A both looked toward the kitchen doorway and made eye contact with Officer A. As the Subject looked at Officer A, he stood completely erect and stated in Spanish, "Matame! Matame!" (Kill me! Kill me!). The Subject immediately crouched down, reached toward Victim A's legs with his left hand and then lunged toward her and attempted to stab her in the stomach/chest area with the knife he held in his right hand.

Note: Officer A was not sure if he issued commands in English or Spanish or both.

Believing the Subject was going to kill Victim A, Officer A raised his pistol, aimed at the Subject's upper torso and chest area and fired four rounds from a distance of approximately six feet. Officer A's background during the OIS was the north interior wall inside the kitchen, the kitchen sink and counter area. Officer A stopped firing when the Subject was struck by the gunfire and fell on his right side onto the kitchen floor. As the Subject lay on the kitchen floor, he still held the knife in his right hand.

Officer B positioned himself so that he was able to cover the uncleared portion of the apartment and still observe the incident unfolding in the kitchen. He observed the Subject with a knife in his right hand and Victim A lying on the floor. Officer B heard Officer A order the Subject to drop the knife and then the Subject said two things in Spanish. As he observed Subject thrust the knife toward Victim A, Officer B believed the situation was going to escalate to the use of deadly force. Officer B dropped the beanbag shotgun on the hallway floor, stepped toward the kitchen doorway and unholstered his service pistol to a low-ready position with his right index finger along the frame. Officer A fired four to five rounds, and the Subject fell to the floor. Officer B covered the Subject as he lay on the floor.

Officer B broadcast to CD, "Officers need help, shots fired."

Uniformed Sergeant A, along with Police Officers C, D, E and F monitored the broadcast and arrived at the location.

Based upon their knowledge that an OIS had occurred and the possibility that deadly force may still be used, Officers C, D and F unholstered their pistols and entered the apartment building.

As the additional officers entered, Officer A advised them that the Subject was still moving and was holding the knife. Officer A held his pistol at a low-ready position and continued to cover the Subject. Officer A stepped toward the Subject, placed his left foot on the knife and slid it into the doorway out of the Subject's reach.

Officers B, D and F conducted a protective sweep of the apartment. Officer D returned to the kitchen area and advised the officers they should escort Victim A out of the apartment. Victim A stood up and was taken out of the apartment by Officers C and D. Both officers holstered their pistols as they escorted Victim A to the front of the apartment complex.

While Officer A covered, Officers B and F holstered their pistols and stepped into the kitchen to take the Subject into custody. Officers B and F handcuffed the Subject's wrists behind his back. After the Subject was handcuffed, Officer A holstered his pistol.

Moments later, Sergeant A entered the apartment, as Officer A held his pistol at the low-ready and officers were placing handcuffs on the Subject. Sergeant A verified that Officer A had been involved in an OIS. While Officer F remained in the kitchen with the Subject, Sergeant A escorted Officer A out of the apartment. Officer A told Sergeant A he fired two to three rounds at the Subject, who was armed with a knife. The Subject was injured, and his wife was a witness to the OIS.

Paramedics, who had remained at scene pending the outcome of the medical emergency call, entered the apartment, administered emergency medical treatment to the Subject and subsequently transported him to a local hospital. Officer C rode with the Subject in the RA and his partner, Officer D, followed behind the RA to the hospital. Officer C stated the Subject was unresponsive the entire time and made no statements regarding the incident.

An unknown officer issued a broadcast to CD that the incident had been resolved.

At the hospital, the Subject was treated for multiple gunshot wounds. The Subject did not respond to the treatment and was pronounced dead. Real-Time Analysis and Critical Response (RACR) Division was notified of the Categorical Use of Force, consistent with Department protocols.

As a result of the incident, Victim A sustained scratches on her hands and neck, an apparent small puncture wound on the inside of her right thigh, and an approximately 1/2 inch cut to her left shoulder blade. She declined treatment at scene and declined to be transported to the 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/Holstering 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 Officer A's use of lethal force to be in policy.

Basis for Findings

A. Tactics

- In their analysis of this incident, the BOPC identified the following tactical considerations:
 1. Tactical Communications/Help Call

In this instance, Officer A received information that the Subject was observed holding a knife to Victim A's throat and that the Subject had lunged at a paramedic upon reaching the kitchen area of the apartment. As a result of the information he received, Officer A requested an additional unit and a supervisor. While awaiting the additional resources, Officers A and B heard screams emanating from the apartment and made the decision to enter the apartment. Prior to making entry, Officer A advised the air unit regarding their tactical plan, but did not upgrade the additional unit request to a help call.

Here, Officer A was confronted with a potentially life threatening situation, where he was tasked with balancing the need for immediate entry versus the notification and coordination of responding resources. Cognizant of that fact and that the Air Unit was orbiting overhead, Officer A informed them regarding the circumstances and their intent to make immediate entry into the location. Furthermore, a request for “LAFD requesting Help” had already been communicated, and additional police resources would have been responding accordingly.

In conclusion, although a broadcast of a “Help Call” would have been prudent, Officer A’s initial request for resources was clear and his communication with the Air Unit advised them of the rapidly unfolding tactical incident, thereby enabling them to make subsequent broadcasts and coordinate the response of additional personnel. Therefore, in evaluating the totality of the circumstances, the BOPC determined that Officer A’s actions did not represent a substantial deviation from approved Department tactical training. However, the importance of effective tactical communications can never be understated. Therefore, the BOPC directed this topic be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:

A review of the in-car video camera showed the system was deactivated. Officer B stated that, as a result of the relaxed demeanor of the LAFD, that the incident had been resolved. As a result, Officer B returned to the police vehicle and deactivated the camera. Officer B was advised regarding the procedures of the camera by the captain. Nonetheless, this will be a topic of discussion at 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 area where improvement could be made (see additional) and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and the individual actions that took place during this incident.

B. Drawing/Exhibiting

- In this instance, Officers A and B were advised that a possible hostage incident was underway inside the apartment. While being briefed by LAFD, Officer A heard a female scream and observed a neighbor pointing at the apartment. Officer A believed someone’s life was in imminent danger and decided to enter the apartment complex. Officer A opined that the situation had escalated to the level of deadly force and consequently drew his service pistol.

Officer A indicated that based on what he had heard from LAFD personnel and the screaming he heard inside the apartment, he believed that somebody's life was in danger, and the officers decided to make entry into the apartment. He drew his gun as soon as he heard the female screaming so they could make entry into the complex.

Officers A and B were positioned at the front door of the apartment and tactically entered the apartment. Officer A was the designated lethal option while Officer B was designated the less-lethal option. Officer B observed Officer A involved in an OIS when the Subject lunged at Witness A with a knife. Consequently, Officer B dropped his beanbag shotgun onto the ground and drew his service pistol.

Officer B recalled that when he observed the Subject begin to thrust the knife towards the victim, he dropped his beanbag shotgun and unholstered his pistol. Fearing the situation would escalate to the point of deadly force, he had his gun out and knew Officer A had already discharged shots. He was not able to get a clear shot towards the Subject.

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 might escalate to the point where deadly 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, four rounds)

In this instance, Officer A approached the kitchen and observed the Subject and Witness A in the kitchen area. The Subject was holding a six inch kitchen type steak knife in his right hand while he attempted to grab Victim A's foot with his left hand. In response, Victim A was attempting to kick at the Subject in an effort to escape. Officer A instructed the Subject to drop the knife in English and Spanish with negative results. Suddenly, the Subject looked the officers and told Officer A to kill him in Spanish.

Officer A observed Subject lunge towards Victim A's abdominal area in an attempt to stab her. Officer A, in immediate defense of Victim A's life, fired four rounds at the Subject.

Officer A recalled the Subject was holding a knife, trying to stab Victim A. And when he saw the officers, he stopped, told the officers to kill him, lunged at Victim A, and Officer A discharged his weapon.

An officer with similar training and experience as Officer A would reasonably believe that the Subject posed an immediate threat of serious bodily injury or death and that the use of lethal force would be justified. In conclusion, the BOPC found Officer A's use of lethal force to be objectively reasonable and in policy.