

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

OFFICER-INVOLVED SHOOTING – 070-13

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Harbor	7/31/13		

Officer(s) Involved in Use of Force	Length of Service
Officer F	17 years, 11 months
Officer G	5 years

Reason for Police Contact

Officers responded to a request from plainclothes officers for a patrol unit. When they encountered the Subject, the Subject pointed an object at them, resulting in an OIS.

Suspect	Deceased ()	Wounded (X)	Non-Hit ()
Subject: Male, 28 years old.			

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 July 15, 2014.

Incident Summary

Harbor Area officers were in the area of eight motels within close proximity to one another, known for its prostitution activity. The officers were monitoring the area for vice-related violations.

Officers A and B were in plainclothes and Officer A was driving a plain vehicle. Officer C was also present in the area, in plainclothes, and driving a plain vehicle.

Officers A and B were driving west on the highway when a male standing on the southwest corner of the intersection caught their attention. The male, later identified as the Subject, was wearing a black and white bandana covering the lower portion of his face. He was wearing a black long sleeve shirt, black pants, a black beanie, sunglasses, and black gloves. Officer B stated that the weather conditions were warm and believed the Subject was dressed like somebody who looked as though he would rob a business or pedestrian on the street. They observed the Subject walking westbound and decided they would monitor his activities.

The Subject had entered the lobby area of a motel. Officer A positioned his vehicle where they had a clear view of the interior of the motel lobby through a window. The Subject was still wearing the bandana and appeared to be talking to the motel clerk. The officers were concerned that a robbery was occurring or about to take place. Officer B broadcast the officers' location and status on his radio and requested a patrol unit to meet them. Uniformed Officers D and E acknowledged that they would respond to the request. Officer B instructed the unit to meet them at the parking lot.

At the same time, Officer A contacted Officer C on the radio and advised him of his and Officer B's observations. Officer C was near the area and immediately responded to Officers A and B's location. He arrived and positioned his vehicle by the motel.

While this was occurring, uniformed Officers F and G were several blocks away and heard the radio broadcasts. They also responded to the request for patrol officers. Officer F was driving a marked police vehicle.

As they waited for the patrol unit to arrive, the plainclothes officers continued their surveillance. The Subject exited the motel and walked west on the sidewalk. Officers A and B remained in place and contacted the motel clerk by phone to determine if a crime had occurred. Officer B spoke with the clerk, but due to a language barrier could not determine if a crime had occurred. As the officers were contacting the clerk, Officer C continued to watch the Subject and broadcast his location. The Subject walked west on the sidewalk and entered the lobby area of another motel. Officer C continued to update his partners via his radio of the Subject's whereabouts. Officer C drove into the motel parking lot and observed the Subject making contact with the clerk. After a short period of time, the Subject exited the lobby and began to walk east on the sidewalk.

Note: The investigation revealed that the Subject did not commit any robberies.

Officers F and G were the first patrol unit to arrive. As Officers F and G neared the location, heading west, they were listening to the radio broadcasts and observed the Subject walking east on the sidewalk. Officer F activated the vehicle's emergency lights, causing the Digital in Car Video System (DICVS) to begin recording.

Officer F made a left turn travelling south across the eastbound lanes. He drove directly towards the Subject to detain him for a robbery investigation. The officers stopped just short of the south curb perpendicular to the sidewalk, approximately 20 to 30 feet away from the Subject.

The Subject looked in the officers' direction, reached into the right side of his waistband and removed an item, which the officers perceived as a firearm. The Subject pointed the item at the officers with both hands and yelled, "You're going down!" He then took several steps towards them, while maintaining the same shooting stance.

Note: Witness A who was standing nearby observed the Subject raise his hands, point an object towards the officers, and yell, "I'm a Marine!"

The officers were taken by surprise and believed they were about to be shot. They believed the Subject had the advantage, because he was close, in front of their car, and in a shooting stance. The officers felt trapped and exposed, and wanted to create distance and seek cover. Both officers exited the police car, unholstered their weapons, and moved to the rear of the patrol car for cover.

Officer F stood behind the driver's side and Officer G behind the passenger side of the vehicle. Officer F observed the Subject pointing what he believed to be a firearm at them. Officer F raised his pistol and fired five rounds from a distance of approximately 30 feet as the Subject moved to the east.

Simultaneously, Officer G raised his pistol and fired one to two rounds at the Subject in a southerly direction. The Subject continued to move to the east and turned his upper torso towards the officers. Officer G stated that he perceived the Subject's body movements as an attempt to acquire a target on them. Officer G fired three more rounds at him in a southeasterly direction from a distance of approximately 28 feet. Officer G's height allowed him to fire his pistol over the top of the patrol car at the Subject, who was standing on an elevated sidewalk.

The Subject was struck and fell face down on the ground with his hands underneath his body. Officers F and G approached the Subject and ordered him not to move. The officers agreed that Officer G would conduct the handcuffing, while Officer F remained as cover. Officer G holstered his pistol and approached the Subject's right side. Immediately following the Officer-Involved Shooting (OIS), Officers A, B, and C joined them at the location.

Officers F and G handcuffed the Subject's hands behind his back, while Officer B held onto his legs. Officer G searched the Subject for weapons and none were found. Once the Subject was in custody, Officer F holstered his weapon.

Note: A glass bottle of Seagram's Seven Crown was recovered from the OIS scene. It was located on the sidewalk, directly in the path that the Subject had taken, and 15 feet west of where he was taken into custody. Based on the dimensions of the bottle, investigators believe it was the item the Subject pointed at the officers. No other similarly sized or shaped objects were found in the immediate vicinity of where the Subject fell to the ground.

Officer F broadcast an "officer needs help, shots fired" call, in addition to the officers' location and indicated that the Subject was down.

Officer C broadcast a request for a Rescue Ambulance (RA). All five officers assumed responsibilities of establishing the perimeter as well as requesting additional units for traffic control near the OIS scene.

Uniformed Sergeant A arrived at the scene. Sergeant A learned that an OIS had occurred and proceeded to identify the officers involved. He separated Officers F and G from the rest of the officers.

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 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 made the following findings.

A. Tactics

The BOPC found Officers F and G's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officers F and G's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

The BOPC found Officer F and G's use of lethal force to be in policy.

Basis for Findings

A. Tactics

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

1. Code Six Broadcast (Substantial Deviation - Justified)

Officers F and G responded to an additional unit request for a possible robbery subject and did not advise Communications Division (CD) upon their arrival to the area.

Officer C advised Officers F and G that the subject was directly in front of them. Officers F and G believed the Subject may be armed. As a result, Officers F and G took immediate action to contact the Subject.

Officers are required to balance officer safety considerations against the need to make a timely "Code Six" notification to CD. Department tactical training allows for officer safety concerns to take precedent over making an immediate "Code Six" broadcast. Therefore officers must be afforded some discretion in determining the appropriate time to make the broadcast.

The BOPC recognized that the incident was rapidly unfolding, and both officers had to make decisions and take action with little time to do so. Accordingly, it was reasonable for Officers F and G to remain focused on the Subject, the possible armed robbery subject. The BOPC also took into consideration the officers' knowledge there were other units in the immediate vicinity.

In conclusion, although Officers F and G's decision not to broadcast a Code Six location was a substantial deviation from approved Department tactical training, it was justified and consistent with the BOPC's expectations that officers maintain a tactical advantage.

2. Tactical Vehicle Deployment

Officer F positioned the police vehicle perpendicular to the Subject after observing him walking on the south sidewalk and tactically deployed on the Subject.

A review of the DICVS revealed Officer F, activated the police overhead emergency lights to safely maneuver across oncoming eastbound traffic, and

stopped the police vehicle perpendicular to the sidewalk. Officer F then moved the police vehicle a few feet toward the Subject. Officers F and G exited the police vehicle, drew their service pistols, and moved to the rear of their police vehicle.

The BOPC discussed the position of the police vehicle and concluded that Officer F placed the police vehicle in a position which was advantageous for the officers. Officers F and G were able to exit the vehicle and address the threat.

In conclusion, the BOPC determined that Officer F's deployment of the police vehicle did not substantially deviate from approved Department tactical training.

3. Utilization of Cover

Officers F and G exited their police vehicle and realized they were too close to the Subject when he reached for his waistband and simultaneously advanced toward them. Mindful that the ballistic door panels could provide protection for their redeployment, Officers F and G redeployed to the rear of the vehicle to create distance and better exploit the vehicle as cover.

Although the philosophy behind a Tactical Debrief is to enhance future performance by discussing areas where improvements could be made, often times, discussions pertaining to positive aspects of the incident lead to additional considerations that would be beneficial in future incidents. Therefore, the BOPC directed that Utilization of Cover be discussed during the Tactical Debrief.

- The evaluation of tactics requires 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 review and discuss the incident and the individual actions that took place during this incident.

In conclusion, the BOPC determined that Officers F and G's tactics warrant a Tactical Debrief.

B. Drawing and Exhibiting

- Officers F and G were responding to an additional unit request for a possible robbery suspect. As they were en route to the location, Officers F and G observed the Subject walking eastbound on the sidewalk. Upon making their approach, Officer F tactically positioned the police vehicle, allowing the officers to tactically re-deploy out of their vehicle on the Subject. The Subject grabbed his waistband, retrieved an

object and pointed it at the officers. Officers F and G believed the Subject was armed with a handgun and drew their respective service pistols.

Based on the totality of the circumstances, the BOPC determined that officers with similar training and experience as Officers F and G, 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 F and G's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- **Officer F** – (pistol, five rounds)

Officer F observed the Subject pointing an object that he believed to be a handgun at him and Officer G. Officer F exited and re-deployed to the rear of the police vehicle and then pointed his service pistol at the Subject, resulting in an OIS. Officer F fired five rounds at the Subject. Officer F recalled, *"I pop up and I still see the guy, he's holding what I believe to be a gun at us and so I fired because I thought I was getting shot at."*

- **Officer G** – (pistol, first volley, one to two rounds; second volley, two to three rounds)

Officer G believed that the Subject was going to shoot him and Officer F. Officer G exited the vehicle, drew his service pistol and re-deployed to the rear of the vehicle. Officer G also perceived what he believed to be a firearm being pointed by the Subject at the officers and fired two rounds during his first sequence of fire.

Officer G assessed the situation and observed that the Subject was continuing to point what he believed to be a handgun in his direction. In response, Officer D fired three additional rounds at the Subject.

Based on the Subject's action of raising his hands and assuming a shooting stance while holding an object aimed toward the officers and their belief that the object was a handgun, Officers F and G's decision to discharge their service pistols to protect themselves was objectively reasonable.

Note: A review of the Digital in Car Video System (DICVS) reflects the Subject removing the object from his waistband and pointing it at the officers.

In conclusion, the BOPC found Officer F and G's lethal use of force to be in policy.