

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

OFFICER-INVOLVED SHOOTING – 072-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Hollenbeck 8/22/15

Officer(s) Involved in Use of Force	Length of Service
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Officer A	20 years, 1 month
Officer B	8 years, 5 months

Reason for Police Contact

Officers attempted to contact the Subject for a pedestrian traffic violation. Upon contact, officers saw that the Subject was armed with a handgun. The Subject fled and as he ran, he armed himself with his handgun resulting in an Officer Involved Shooting (OIS).

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 34 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 August 2, 2016.

Incident Summary

On the date and time noted uniformed Police Officers A (driver) and B (passenger), were assigned crime suppression duties in their Area. They were in an unmarked dual purpose police vehicle equipped with ballistic side panel doors. As they drove, they observed a male, later identified as the Subject, 34 years of age, walking across the street directly in the path of traffic.

A security video captured the Subject crossing the street. The video depicted him cross the center double yellow lines as the dual purpose police vehicle approached in the number two lane. As the Subject proceeded through the northbound center lane, the dual purpose police vehicle came to a stop in the number two lane.

Note: According to Officer B, southbound vehicular traffic had to slow to avoid colliding with the Subject. He also indicated Officer A had to slow the police vehicle to avoid colliding with the Subject. According to Officer A, the Subject was not looking out for vehicular traffic and was on course to collide with the police vehicle.

Officer A communicated his observations to Officer B, and the officers decided to detain the Subject for a pedestrian violation of the California Vehicle Code (CVC).

Note: According to Officer B, the cause for the stop was “jaywalking” (Crossing Between Controlled Intersections) and “impeding traffic” (Pedestrian Outside Crosswalk). According to Officer A, the stop was for a “pedestrian in the roadway” violation (Pedestrian Outside Crosswalk).

Officer A told investigators that because of the Subject’s actions and demeanor, he suspected that the Subject may have been involved in some other criminal activity that he was running from. Officer A recalled, “It looked to me like he was, he was trying to get -- he was moving away from the motel in a quick fashion as if he wanted to -- it didn’t seem like he was a regular pedestrian stopping, waiting for traffic [...] As I saw him, I had noticed the pedestrian in the roadway violation, and [thought] it may be resulting in some other crime because of his demeanor and the way he was moving away from the motel.”

As Officer A stopped their police vehicle in the northbound curb lane, he and Officer B exited their vehicle and maintained positions behind their respective ballistic doors. The security video depicted the Subject at the driver’s side front bumper as the officers exited. According to Officer A, he stated to the Subject, “Hold on, I want to talk to you.”

Note: Officer B believed his partner activated their vehicle’s forward-facing red light when conducting the stop. According to Officer A, he did not activate the forward-facing red light. The video does not depict the illumination of the police vehicle’s emergency lights.

The security video depicted the Subject momentarily stop in front of the police vehicle in close proximity to the driver side headlamp. According to Officer A, the Subject faced him, stiffened his body posture and appeared stunned. The Subject said something, but Officer A could not discern what was said.

Note: According to Officer B, the Subject stated, "Come on man, I'm just going home."

The video then depicted the Subject walking in front of the police vehicle. As the Subject turned eastbound, Officer A observed the butt of a revolver sticking out from his right front jacket pocket and communicated his observation to his partner. As the Subject reached the front passenger side of the police vehicle, he began to run toward the sidewalk. Officer B stated he heard his partner shout, "He has a gun! He has a gun!"

Note: According to Officer B, the Subject walked, whereas Officer A recalled that the Subject ran. According to Officer A he shouted, "Gun! Gun! Gun!"

According to Officer B, he was about to broadcast the officers' Code-Six location when his partner shouted that the Subject had a gun, prompting him to unholster his service pistol and forgo making the broadcast. Officer B held his service pistol in a two-handed, low ready position, with his finger along the frame.

The video depicted the Subject running between two parked vehicles facing northbound at the curb and then proceeded to run on the sidewalk of the street.

The officers initially maintained their positions of cover behind their ballistic doors; however, as the Subject continued on the sidewalk, they redeployed to obtain cover and maintain a visual on the Subject. According to Officer B, the movement of the Subject caused the cover of his ballistic door to become ineffective.

Officer B redeployed to the driver's side of a vehicle parked on the curb, while Officer A simultaneously redeployed to the rear driver's side of their police vehicle.

The Subject continued running on the sidewalk toward an open chain link gate and walkway leading to an apartment building a short distance down the street. According to Officer B, he feared the Subject intended to enter that apartment building and believed he posed a threat to the residents because he was armed.

According to Officer B, he moved to the sidewalk. The video depicts Officer B running on the sidewalk behind the Subject.

Note: Officer B described that the Subject "had his back towards me as he [the Subject] was walking southbound."

Meanwhile, Officer A moved from behind the police vehicle and used the parked vehicles on the curb as cover as he continued in a fluid motion, which provided him the ability to maintain a visual on the Subject.

Note: It appears in the video that Officer B is holding an illuminated flashlight while running behind the Subject. Although he recovered his flashlight from the sidewalk after the OIS, Officer B does not recall carrying it or having it illuminated.

According to Officer B, the Subject slowed his pace, but did not stop. While moving with his back toward Officer B, and roughly parallel to Officer A, who was west of the Subject with a parked vehicle between the two of them, the Subject turned his torso to his right while holding the revolver in his right hand.

Note: According to Officer B, the Subject's right elbow was close to his body while his right hand pointed the revolver away from his body. According to Officer A, the Subject held the gun out at a 90 degree angle.

Officer A recalled, "I noticed that the suspect was running south on the side, well, he was on [...] the sidewalk and at that point I noticed that he had the gun in his hand and he had the -- it was a revolver. He had it in his hand and he was turning to the right, towards my direction."

Officer B believed that the Subject was turning back toward him with the gun in his hand in order to shoot either himself and/or his partner. Officer B transitioned from a two-handed, low ready grip to an isosceles stance and, while still moving forward, pointed his service pistol at the Subject's center body mass and fired three rounds in rapid succession in a southbound direction at the Subject from a decreasing distance of approximately 12 to seven feet.

Note: Officer A believed that in response to the Subject turning toward him with the revolver in his hand, he may have unholstered his weapon; however, he was not certain whether he unholstered or not.

Officer B stated, "I was moving southbound towards the suspect. As I pressed off my round and continued to monitor the suspect watching the gun in his hands, it didn't seem like he was stopping. I pressed again a second round and then a third, at which point the suspect dropped the gun from his right hand and took a few more steps toward that open gate of the apartment building."

The officers observed the Subject drop the revolver from his right hand to the sidewalk. The Subject stumbled through the open gate at the apartment building and fell face down on the paved walkway.

Officer A broadcast, "...I'm Code Six, I need a back-up, man with a gun."

Note: Officer A stated that he initially misread the address on the front of the apartment building and inadvertently broadcast the wrong address.

Officer B gave verbal commands to the Subject to, "Stay down! Don't move! Don't move!" The Subject ignored the commands and rolled back and forth from side to side on his stomach and moved his hands about, while shouting obscenities.

Officer B was concerned that the Subject was ignoring his commands and that he may try to rearm himself with the revolver he had dropped on the sidewalk or a possible secondary weapon on his person. Officer B moved forward to the Subject's left side and placed his right knee on the Subject's back to prevent him from getting up while he held his service pistol at a "close contact" position against his own body.

Officer A approached the Subject's right side, near his head. He knelt down and grasped the Subject's hands and arms and pulled them behind his back and handcuffed his wrists.

Note: Officer A believed he may have put his knee on the Subject's back when he knelt down, but was not sure if he did.

Officer A observed blood coming from the small of the Subject's back. His own hands became covered in blood while handcuffing the Subject.

Officer A broadcast, "... man with a gun, shots fired, we got the gun in custody, the suspect in custody, we need a supervisor, I need an RA (Rescue Ambulance), male... 30 years old, gunshot wound."

Several area residents were gathering in the front yard directly north of their location. Some people in this group were belligerent and began to shout and curse at the officers.

Officers C and D arrived at scene, exited their vehicle and approached Officers A and B. Officers C and D observed that the Subject was laying handcuffed on the walkway leading to the apartment building.

Officer A advised the responding officers to be careful not to step on the evidence on the sidewalk, including the revolver and expended casings. He further advised that a crowd was forming at the adjacent property and the integrity of the crime scene was of concern. Officers C and D initiated efforts to maintain the crime scene.

Simultaneously, other officers arrived on scene and assisted in securing the crime scene, while Officer A directed Officer E to conduct a pat down search on the Subject. The results of the search were negative for any additional weapons.

Note: According to Officer E, while conducting the pat down search, the Subject stated “I’m not armed anymore.”

Sergeant A arrived at scene, separated Officers A and B and took a Public Safety Statement (PSS) from Officer B. The results of the PSS were consistent with the results of this investigation.

Sergeant B arrived at scene and took a PSS from Officer A. The results of the PSS were consistent with the results of this investigation.

Sergeants A and B began monitoring the involved officers until additional supervisors arrived at scene and took over monitoring responsibilities.

Los Angeles Fire Department (LAFD) personnel arrived at scene and began to medically treat the Subject for multiple gunshot wounds.

Note: The Subject was contacted at the hospital for interview, but he declined to waive his rights and requested an attorney. No interview was completed.

LAFD personnel transported the Subject to the hospital where he was treated.

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 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. Non-Lethal Use of Force

The BOPC found Officer A and B’s non-lethal use of force to be in policy.

D. Lethal Use of Force

The BOPC found Officer 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 consideration:

1. Code Six

Officers A and B did not notify CD of their Code Six location when they conducted a pedestrian stop on the Subject.

The purpose of issuing a Code Six broadcast is to advise CD and officers in the area of the responding officers' location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

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

In this case, Officer B indicated that he was about to broadcast the officers' Code Six location when he heard his partner shouting that the suspect had a gun. Upon being alerted that the suspect had a gun, Officer B drew his service weapon and focused his attention on the immediate threat of an armed suspect.

Officer safety is of paramount concern and officers should always strive to maintain the tactical advantage during field duties. Officers A and B are to be reminded of the Department's requirement to go Code Six whenever tactically feasible when conducting a field investigation.

2. Pursuing Armed Subjects

Officers A and B pursued a suspect who they knew was armed with a handgun.

Containment of an armed suspect demands optimal situational awareness. The ability to maintain a tactical advantage rests on the officers' use of effective communication, thus ensuring a coordinated effort and successful resolution.

Generally, officers are discouraged from pursuing armed suspects on foot. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their decision to engage in a foot pursuit of an armed suspect.

In this case, Officer B indicated that he believed it was critical to maintain visual sight of the Subject who was armed with a firearm and was running towards an apartment complex.

Officers should be decisive in their actions during a rapidly unfolding, life-threatening situation while taking into consideration police work is inherently dangerous. In this case, the officers were attempting to minimize the continued threat to the public while dealing with a fleeing armed suspect.

Based on the totality of the circumstances, the BOPC determined that the officers' actions were not a substantial deviation, without justification from approved Department tactical training.

3. Utilization of Cover

The utilization of cover enables an officer to confront an armed suspect while simultaneously minimizing their exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options.

In this case, video footage of the rapidly unfolding incident depicted the officers effectively utilizing cover at the initiation of the pedestrian stop. As the Subject moved eastbound towards the sidewalk, compromising Officer B's cover behind the door of the police vehicle, Officer B made a tactical decision to follow the suspect who was armed with a handgun without the benefit of cover.

Officer B is to be reminded of the importance of utilizing cover when dealing with a suspect armed with a handgun.

4. Back-up versus Help Call

Following the OIS, Officer A broadcast a request for a back-up unit instead of initiating a "help call."

In this case, an OIS had just occurred and the suspect had not been handcuffed or searched for additional weapons. The suspect's handgun was also still on the ground a few feet away from the suspect.

Although officers are given discretion regarding the appropriate time to broadcast for resources based on the ongoing tactical situation, it would have been tactically advantageous for Officer A to broadcast a help call so that responding

personnel are aware of the seriousness of the incident and ensure appropriate resources were responding in the event they were needed.

These topics were to be discussed 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. Therefore, the BOPC found that Officers A and B's tactics warranted a Tactical Debrief and that the specific identified topics be covered.

B. Drawing/Exhibiting

- As the officers exited their vehicle to conduct a pedestrian stop on the Subject for jaywalking, Officer A observed the butt of a handgun sticking out of the right front pocket of the Subject's jacket and immediately advised his partner of his observations by shouting, "Gun! Gun! Gun!" Officers B drew his service pistol.

Officer A was unable to recall if he drew his service weapon at any time during the incident.

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

C. Non-Lethal Use of Force

- **Officer A:** Body weight
- **Officer B:** Body weight

As the Subject was lying on the ground, Officer B approached with his service pistol drawn to the low ready position. Officer B placed his right knee on the Subject, and Officer A placed a knee on the Subject's back to prevent him from moving as they handcuffed him.

Officer B recalled, "...and he was continuing to move, you know, he was failing to -- failing to comply with my commands. I kept telling him, 'Stay down. Stay down. Don't move.' Being that, you know, he had -- had the gun and he wasn't secured

and he wasn't searched and he was still -- still continuing to move I -- I placed my knee along his left side to prevent him from -- from getting up.”

Officer A recalled, “...I was kneeling down. I may have even been kneeling on his back. I don't know.”

After a review of the incident and the non-lethal force used by these officers, the BOPC determined an officer with similar training and experience as Officers A and B would believe this same application of force would be reasonable to overcome the Subject's resistance, prevent his escape, and effect an arrest.

Therefore, the BOPC found Officers A and B's non-lethal use of force to be objectively reasonable and in policy.

D. Lethal Use of Force

- **Officer B** – (pistol, three rounds)

According to Officer B, he observed the Subject slow down and began to turn in a clockwise direction towards Officer A and himself while holding a handgun in his right hand and immediately ordered the Subject to, “Stop.” The Subject continued to turn in the officers' direction while simultaneously bringing his arm up. Fearing for the safety of his partner and himself, Officer B fired three rounds from his service pistol at the Subject to stop the deadly threat.

Officer B recalled, “...and then as he was moving southbound he slowed and began turning clockwise towards his right shoulder back in the direction of myself and my partner. At that point is when I observed the suspect holding a handgun in his right hand. I yelled, ‘Stop,’ and the suspect continued to turn. He was bringing his arm up with his elbow -- elbow bent and bringing his arm up and turning in my direction, the direction of myself and my partner. At that point I was in fear that the suspect was going to engage us in gunfire. I was scared that he was going to shoot at us. And fearing for myself, my safety, my life, and also that of my partner as the suspect turned and was bringing his arm up with the handgun in my -- in my direction, the direction of my partner, I fired rounds at the suspect to stop his actions.”

Officer B continued, “...as I pressed off my round and continued to monitor the suspect watching – watching the gun in his hands. It didn't seem like he -- he was stopping. I pressed again a second round and then – and then a third. At which point the -- the suspect dropped the gun from his right hand and took a few -- few more steps towards that open gate of the apartment building.”

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as 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.

Therefore, the BOPC found Officer B's use of lethal force to be objectively reasonable and in policy.