

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

OFFICER-INVOLVED SHOOTING – 075-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Van Nuys	8/27/15		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	7 years, 3 months
Officer B	10 years

Reason for Police Contact

Officers were called to an allegation of theft. During their investigation, they were confronted by a Subject who failed to comply with the officers' commands. The Subject then assaulted both officers with a blunt object, at which time an Officer Involved Shooting (OIS) occurred.

Suspect	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male 29 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 9, 2016.

Incident Summary

Witness A called Communications Division (CD) and requested that officers respond to someone stealing water from her residence. On arrival Officers A and B met with Witness A. Witness A stated that the house next door was vacant, a light was turned on in one of the bedrooms, and that someone had unrolled her front yard garden hose into the backyard of the vacant property and was stealing her water.

Upon responding to the call, the officers observed Witness A's hose run underneath a wooden fence that separated the two properties. Officer B observed that the electrical meter on the east side of the vacant house was not running. Officer B then observed an extension cord feeding into a window on the east side of the vacant house, and that a bedroom with a sheet covering the window was illuminated.

Officer B attempted to pull Witness A's hose out from underneath the adjoining fence but was unable to do so. The officers then went into the rear yard of the vacant house and Officer B unholstered his pistol. As the officers walked past the west-facing windows into the rear yard, they illuminated the windows with their flashlights and determined the house appeared to be vacant.

The officers located the end of Witness A's hose, and Officer B reholstered his pistol to cut the hose loose from the tie. The officers then decided to return to Witness A to pull the hose from underneath the wooden fence and speak with her.

Officer B was in front of Officer A as they walked west through the rear yard toward the driveway. As Officer A passed the rear door of the residence, it opened. Officer A illuminated the area with his flashlight and observed the Subject, standing in the doorway. Officer A gave several commands for the Subject to exit the residence. According to Officer A, the Subject seemed hesitant to comply. Officer A gave him a few more commands to exit, at which time the Subject's hands went to his waistband.

Believing that the Subject was about to arm himself with a weapon, Officer A unholstered his pistol and pointed it at the Subject. Officer A gave the Subject commands to put his hands up, and to come outside. Officer A stated that he believed the Subject was a theft or burglary suspect based on the information that Witness A had provided.

Officer A believed the Subject understood his commands, but was not obeying them. When the Subject's hands came up from his waistband and then returned to his waistband, Officer A concluded that the Subject was not arming himself, rather was tightening the belt on his pants. Officer A holstered his pistol and ordered the Subject in Spanish to turn around and raise his hands.

The Subject attempted to close the door on the officers. Officer A stepped up onto the porch and grabbed the Subject's right arm with both of his hands, attempting to pull him outside. The Subject was able to pull away from Officer A's grasp. Officer A removed his OC canister from the holster and deployed a one-second burst toward the Subject's

face. The Subject turned away and the OC made contact with the back of his head and upper shoulder area, which proved ineffective.

Officer B requested a back-up, and CD acknowledged the request. Patrol units, along with an LAPD air unit initiated a response.

The Subject ran through the house into the hallway. It appeared the OC spray was starting to take effect because the Subject turned to his left and looked like he was going to rub his face.

As Officer A followed the Subject into the hallway, the Subject momentarily looked over his right shoulder exposing his face. Officer A administered a second burst of OC spray at the Subject, which struck him in the face. The Subject ran into the living room area and attempted to flee through the front door, but the door was locked. When Officers A and B entered the living room, the Subject turned and faced them. According to Officer A, they triangulated on the Subject, with Officer A standing to the Subject's right side and his partner to the Subject's left side.

Both officers recalled that there was no lighting in the living room and it was dark when they entered it. Officer A and B illuminated the Subject with their flashlights and commanded the Subject to put his hands up and to get on his knees. When the Subject did not comply, Officer A approached the Subject and grabbed the Subject's left arm, while Officer B took control of the Subject's right arm. The officers attempted to push the Subject down to the ground and use the floor as a controlling agent. Officer A used his right leg to sweep the Subject's legs from underneath him while they continued to push downward on the Subject. The Subject lost his balance and fell in a prone position, facing away from the front door.

According to Officer A, as the Subject began pushing himself upward from the floor, he turned and punched Officer A once in the upper chest. Officer A pushed the Subject back to the floor in a prone position again, but the Subject pushed upward and tried using his left elbow to strike Officer A's face. Officer A responded by punching the Subject in the face twice with his left hand.

The Subject turned his head to the right, away from Officer A and continued to push himself up from the ground. Officer A used his right hand to punch the right side of the Subject's face. As Officer A continued to struggle with the Subject who was in a prone position, the Subject made a forward-reaching motion in which he retrieved a long and narrow object from the floor. Shortly after, Officer A felt himself being struck violently on the top of his head twice with a hard object.

The Subject then swung the object toward the left side of Officer B's head. Officer A pushed himself away from the Subject and was in the process of standing up to gain distance. Officer A unholstered his pistol and activated the tactical light. The Subject rose to a crouched position, holding an object in his hands in a right-handed swinging stance, with his legs and torso in a counter clockwise pivoting position. Officer A believed that if the Subject hit him again with the object it would cause him serious

bodily injury, knock him out, or even kill him. Officer A fired his pistol rounds at the Subject.

According to Officer B, meanwhile, as the Subject went down to the ground onto his stomach, he attempted to place his left knee on the Subject's back to hold him down. When he observed that the Subject had tucked his right arm underneath his own chest, he took a kneeling position on the Subject's right side. Officer B inserted the long portion of a baton between the Subject's right arm and right side of the Subject's body, attempting to pry his arm out from underneath him. Officer B then felt resistance from his baton as if the Subject had grabbed it from underneath his body and was trying to pull it away from him. Officer B began verbalizing with the Subject to let go of his baton.

The Subject moved himself into a seated position, which allowed Officer B to regain control of his baton. Officer B was still on his knees with his left side exposed to the Subject. Officer B heard his partner telling the Subject repeatedly to stop. Officer B then felt the Subject grab the left side of his utility belt, around his magazine and OC pouches, and felt himself being pulled toward the Subject. When Officer B yelled at the Subject to let go, the Subject released his hold and picked up what appeared to be a wooden plank from the floor. Fearing that the Subject would use the plank as a weapon against him and his partner, Officer B raised his baton with his right hand and in a downward motion struck the Subject across his knees. The Subject then swung the plank backward and struck Officer A in the face between the eyes. In an attempt to stop the Subject from hitting his partner again, Officer B struck the Subject a second time across his knees with his baton. Officer B then heard a distinctive thud-like sound, but was unsure if the Subject struck his partner again, or the floor.

Officer B then heard Officer A state that he was going to shoot the Subject. As Officer B stood up to move away from the Subject, he was struck on the left side of his face with a solid object. Officer B then heard gunshots and observed the Subject fall to the floor in a prone position.

Officer B broadcast a shots fired request for help and a Rescue Ambulance (RA) for the Subject. Believing that the Subject no longer posed a threat, Officer A holstered his pistol and handcuffed the Subject. The Subject failed to respond to treatment by Paramedics and was subsequently declared dead.

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 unanimously made the following findings.

A. Tactics

The BOPC found Officers A and B's tactics to warrant Administrative Disapproval.

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 Officers A and B's non-lethal use of force to be in policy.

D. Lethal Use of Force

The BOPC found Officer A'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. Tactical Communication and Planning

Officers A and B did not communicate with each other before entering the residence and pursuing the Subject.

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 instance, the officers were confronted with a Subject who was exhibiting signs of being under the influence and refused to comply with commands to exit the residence. When Officer A attempted to grab the Subject's arm, the Subject pulled away and fled into the residence with officers following behind. In this case, the Subject was not posing an immediate threat to himself, the public or the officers, and there was no exigency to make entry into the residence.

The BOPC concluded, that Officers A and B's decision not to wait for additional resources and lack of communication were substantial deviations without justification from approved Department tactical training.

2. Deployment of OC in Confined Space

Officer A sprayed the Subject with two approximately one second bursts of OC in an enclosed hallway of the residence with limited ventilation. Prior to spraying OC, officers should consider the wind direction and the location of officers who might be impacted by the OC.

Officer A's deployment of his OC spray in the enclosed environment resulted in secondary exposure concerns to the involved officers.

3. Building Searches

Officer A and B pursued the Subject into an unsearched residence without a tactical plan or sufficient personnel.

In this case, Officers A and B entered the residence without the sufficient personnel necessary to conduct a safe and systematic search of all areas of the residence. Furthermore, during the search, the officers acted independently and did not communicate with each other, thus limiting tactical options and unnecessarily endangering their safety.

The BOPC determined that Officer A and B's decision to follow the Subject into the residence, placed the officers at a distinct tactical disadvantage, created an unnecessary risk to their safety, and was a substantial deviation without justification from approved Department tactical training.

- The BOPC additionally considered the following:

1. Punches to the Boney Areas

The investigation revealed that Officer A delivered three punches to the Subject's face in attempt to stop his resistance. Officer A is reminded that striking a hard boney area may cause self-injury, and could also result in the inability to utilize other force options.

2. Less-Lethal Force Options

The investigation revealed that the officers left their TASERs inside their police vehicle. The officers are reminded of the importance of having all of their less-lethal force tools readily available should the need arise.

- 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 that the tactics be evaluated based on the totality of the circumstances.

In conducting an objective assessment of this case, the BOPC found the overall tactics utilized by Officer A and B unnecessarily jeopardized the officer's safety and was a substantial deviation without justification from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

B. Drawing/Exhibiting

- According to Officer B, the location appeared like a typical narcotics user's pad that squatters would use and be present. Based on his observations, Officer B drew his service pistol as the officers passed the front door of the residence and cleared the rear yard.

According to Officer A, he observed the Subject in a crouched position like a baseball player in a batting stance, but offset to his left with back towards him as if he was winding up to connect the object with his head. Fearing that if he was struck he could be knocked out or sustain serious injury, and for the safety of his partner, Officer A drew his service weapon for a second time.

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

C. Non-Lethal Use of Force

- **Officer A** – OC Spray, Firm Grip, Physical Force, Take-Down, Leg Sweep, Bodyweight, and Punches
- **Officer B** – Firm Grip, Bodyweight, Other Motion (Prying arm with baton), and Baton Strikes

According to Officer A, the Subject ignored his commands, stepped forward and attempted to close the door. Officer A utilized his right foot to prevent the door from closing and grabbed the Subject's right arm with both of his hands and attempted to pull the Subject outside.

The Subject violently ripped Officer A's right hand in a backward motion and broke free from his grasp and began to back pedal further into the residence. Officer A retrieved his OC Spray with his left hand and sprayed a one second burst at the Subject's face from a distance of approximately 10 feet.

Also according to Officer A, as he followed the Subject into the hallway, the Subject looked back over his right shoulder, at which time he sprayed a second burst of OC spray at the Subject's face.

The officers followed the Subject into the living room area and gave him commands to get on the ground. The Subject ignored their commands. Officer A grabbed the Subject's left arm, while Officer B grabbed his right arm, and they attempted to take him down to the ground. The Subject resisted, and Officer A utilized his right leg to conduct a leg sweep on the Subject to take him down to the ground in a prone position.

According to Officer A, the Subject immediately began resisting by pushing himself up off the ground, punching and throwing his elbows. He was able to force the Subject back down. However, he continued to resist by pushing himself off the ground and throwing his left elbow toward his head. Officer A punched the Subject two times in the face with his left hand. The Subject continued to resist and push off the ground. Officer A then punched the Subject in the face one more time with his right hand in an attempt to stop his resistance.

According to Officer B, the Subject swung his right arm underneath him to prevent them from handcuffing him. He drew his baton and placed the long portion of the baton in between the Subject's right arm and right side to use as leverage to get the Subject's right hand from underneath his body, to get him into handcuffs the safest way he could. The Subject grabbed hold of Officer B's baton, but Officer B was eventually able to regain control of it.

According to Officer B, he observed the Subject pick up a long plank-type object from the floor. Believing that the Subject was about to use the object as a weapon to injure him or his partner, he struck the Subject in the knees with his baton to stop an attack.

Upon review of the incident, the BOPC determined officers with similar training and experience as Officers A and B, while faced with a similar set of circumstances, would believe that the application of non-lethal force by these officers would be reasonable to overcome the Subject's resistance, to prevent further injury, effect an arrest or prevent escape.

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

D. Lethal Use of Force

- **Officer A – (pistol)**

According to Officer A, the Subject had already struck him two times on the top of his head with a long narrow object that he had picked up from the floor.

He then observed the Subject in a crouched position like a baseball player in a batting stance but offset to his left with his back towards him as if he was winding up to connect the object with his head. Fearing that if he was struck again he could be knocked out or sustain serious injury, and for the safety of his partner, he drew his service weapon and fired four rounds 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 Officer A would reasonably believe that the Subject's actions presented an imminent threat of death or serious bodily injury to both officers, and the use of lethal force would be objectively reasonable to address this threat.

In conclusion, the BOPC found Officer A's use of lethal force to be objectively reasonable and in policy.