

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

OFFICER-INVOLVED SHOOTING – 078-13

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Southwest	8/20/13		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	6 years, 3 months
Officer B	6 years, 6 months
Officer C	10 years
Officer D	9 months

Reason for Police Contact

Officers responded to a radio call of an active shooter at a residence. Upon arriving in the backyard, the officers were confronted with an armed subject, resulting in an OIS.

Suspect	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 74 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 August 19, 2014.

Incident Summary

Witness A was watering the front lawn of her residence when the Subject drove to her residence and spoke to her from the sidewalk in front of the house. At some time during their conversation, the Subject armed himself with a pistol and shot Witness A in the head, causing a non-fatal injury. Fearing for her life, Witness A ran down the driveway to the detached rear residence, where Witness B resided, and entered, screaming for help. Witness B called 911 and reported the incident.

Communications Division (CD) broadcast, "Southwest units, a shooting just occurred" and provided the location. CD assigned Officers A and B, driving a marked black and white police vehicle, to the radio call. Officers A and B activated their emergency equipment and advised CD they were responding. Having heard the CD broadcast, uniformed Officers C and D also responded to the call.

Note: Both police vehicles were equipped with Digital In-Car Video Systems (DICVS), which recorded the audio during the OIS. Upon review, the audio content was consistent with officers' accounts of the incident.

CD provided an update indicating that the Subject was in his sixties, wearing a white shirt, and continued to fire shots. The Subject was identified as the husband of Witness A, and was in the rear back yard.

After hearing the comments of the radio call, Officers A and B believed they may be faced with an active shooter situation; therefore, Officer B advised Officer A that he would deploy the shotgun. Officer B obtained the shotgun from the shotgun rack. While the shotgun safety remained engaged, Officer B held the shotgun at port arms, with the barrel pointed toward the vehicle roof and placed the shotgun butt on the seat, between his legs.

Officers C and D arrived first and were followed by Officers A and B. While driving, Officers C and D were flagged down by pedestrians standing on the east side of the street, who directed the officers to the correct residence and advised them that the Subject was shooting in the backyard. Officers C and D parked their police vehicle and exited. Officers C and D unholstered their pistol.

Simultaneously, Officers A and B parked their police vehicle and exited. Officer A unholstered his pistol and approached the west sidewalk. Officer B exited the vehicle armed with the shotgun.

While in front of one residence south of the subject's location, Officer C, being the senior officer on scene, acted as the team leader and formed officers into a line. Officer C directed Officer B to take the lead with the shotgun, then placed himself second, Officer D third and Officer A last.

Due to the nature of the call, and nearby pedestrians screaming that the subject was in the backyard attempting to shoot someone, the officers perceived that they were going

to be faced with an active shooter. According to Officer A, the female witnesses who flagged them down were yelling, "He's inside! He has a gun! He has a gun!" Officer A asked the female witnesses where he was, and they replied, "He's in the back. He's trying to shoot her." The officers then quickly, but carefully, moved west down the driveway, on the south side of the property, toward the backyard. As the officers moved down the driveway, they heard a gunshot in the backyard.

According to Officer A, he heard someone scream, "No, no," from the backyard, which sounded like someone crying for help. As Officer B approached the west portion of the driveway, he encountered a six-foot tall wooden fence that separated the front yard from the backyard. Officers B and C recognized that the fence was made of wooden planks with large gaps between the planks that allowed them a partial view into the backyard. Due to Officer D's height, he was able to partially see over the top of the wooden fence and observed the Subject walking around in the backyard, but did not see a weapon at this time. Officer D alerted the other officers that he could see someone straight ahead of them in the backyard. As the officers momentarily paused in the driveway, Officer A moved to his left and noted the large gap between the wooden planks allowed him a view into the backyard.

Officers B, C and D determined that the wooden fence was not adequate cover, or concealment, and decided to enter the backyard to locate the Subject. Officer B noted a partially ajar chain-link access gate that led into the backyard. Officer C opened the gate for Officer B, who immediately entered the backyard, followed by Officer C. Officers B and C had just entered the backyard when they observed the Subject near the southeast corner of the rear residence looking in a west direction. Officers yelled, "Hey, come here! Come here! Let me see your hands! Get your hands up!" The Subject looked over at the officers, without turning his body, but the officers were unable to see his hands. According to Officer B, the Subject appeared to be manipulating something in his hands. Just prior to Officer D entering the backyard, he observed the Subject holding a small silver pistol in his right hand. Simultaneously, as officers provided commands, the Subject turned in a north direction while holding a small caliber pistol in his right hand.

Just as Officers B and C entered through the access gate into the backyard, Officer A was still in the driveway and observed the Subject through the gaps in the wooden fence holding a small silver pistol in his right hand. Officer A realized that he could not use the vehicles that were parked in the driveway as cover because it would cause a potential crossfire situation and the wooden fence was not adequate cover.

Upon seeing the Subject's pistol, the officers immediately began giving commands to, "Drop the gun!" As the Subject walked in a northern direction, he looked in the officers' direction but ignored their commands. The Subject stopped in front of a closed window, on the east-facing wall of the rear house and looked inside. Officers continued to give the Subject commands to drop his gun; however, he continued to ignore the officers, raised his pistol and fired one round through the window and into the rear portion of the house.

After firing his pistol, the Subject turned his body, facing in a northern direction, hunched over, and, as described by officers, made movements consistent with someone racking the slide on a pistol in an attempt to chamber a round or clear a malfunction. Simultaneously, Officer D continued into the backyard behind Officers B and C. Officer A decided to enter the backyard behind Officers B, C and D. Once in the backyard, Officer A moved south to provide space between him and Officer D.

Note: Witness B saw the Subject armed with a pistol and heard officers yelling for him to "Drop the gun."

The Subject continued to ignore the officers' commands to drop the gun, looked in their direction while holding the pistol in his right hand and pointed it at the officers' lower torsos. Fearing that the Subject was about to shoot him and the other officers, Officer B aimed his shotgun at the Subject's upper torso and fired two rounds from a distance of approximately 26 feet. After firing his first two rounds, Officer B quickly moved to his right.

Simultaneously, Officer C, fearing that the Subject was going to shoot him and the other officers, pointed his pistol at the Subject's front upper torso and fired three rounds.

Officer B observed that the Subject was hunched over while he continued to point his pistol at the officers. Fearing that the Subject was going to shoot him or the other officers, Officer B fired one additional round from his shotgun at the Subject's torso from a distance of approximately 24 feet.

According to Officer A, the Subject pointed his gun at Officer B. Fearing that the Subject was about to shoot Officer B, Officer A fired seven rounds at the Subject from a distance of 26 feet.

The Subject fell, lying on his left shoulder and back while his head faced upward and was pointed in a southern direction. According to Officer D, the Subject's back was toward the officers, and his right hand was obstructed by his body. Officers continued to give commands to the Subject to, "Drop the gun!" which he ignored. Suddenly, the Subject looked over his right shoulder and, while holding the pistol in his right hand, rolled in an easterly direction toward the officers.

Fearing that the Subject was going to shoot at him and the other officers, Officer C pointed his pistol at the Subject's center body mass and fired two additional rounds from a distance of approximately 27 feet.

Simultaneously, Officer D saw the Subject rolling over and bringing his right arm across his body in an attempt to point his pistol at the officers. Fearing for their safety, Officer D fired three rounds at the Subject from a distance of 27 feet.

According to Officer C, he believed the last volley of gunshots caused the Subject's body to roll away from the officers, and onto his stomach. Due to the fact that the

Subject rolled over onto his stomach, officers were unable to see whether he still held the pistol in his right hand.

Note: From the time officers arrived on scene to the conclusion of the OIS was approximately 49 seconds.

The officers slowly moved in a northwest direction in an attempt to locate the Subject's pistol and handcuff him. As officers cautiously made their approach, they observed the Subject's pistol laying on the concrete slab, approximately one foot west of his body. Due to the close proximity between the Subject and his pistol, Officer C moved the pistol on to a nearby patio table, without manipulating it.

While other officers covered the Subject with their pistols, Officer D holstered his pistol and approached the Subject. Officer D stood over the Subject, who was still moving and breathing, to handcuff him. Officer D donned latex gloves, reached down, placed the Subject's hands behind his back and placed handcuffs on both wrists.

Officer B requested two Rescue Ambulances (RA), one for the Subject and the other for Witness A.

After the OIS, additional patrol resources began arriving on scene and running to the backyard. The officers, not knowing who was inside the rear residence, covered the door with their weapons. Simultaneously, they heard Witness B yell from inside the residence that his mother had been shot. The Subject's legs were blocking access to the front door of the rear residence. Officer C holstered his pistol, grabbed the Subject's pant legs and pulled his legs out of the way so officers could enter the rear residence to search.

After the Subject was moved, officers opened the front door to the rear residence, and had Witness B step out. Officers entered the rear residence where they discovered Witness A lying on the floor in a bedroom with a gunshot wound to the right side of her head. After the scene was cleared, Officer A holstered his pistol and Officer B engaged the safety on the shotgun.

Los Angeles Fire Department (LAFD) Paramedics A and B arrived on scene and began to treat Witness A for a gunshot wound to the right side of her head. The paramedics assessed Witness A and transported her to a hospital.

Paramedics C and D arrived on the scene and began to treat the Subject for multiple gunshot wounds. LAFD Paramedics assessed the Subject and determined that he still had vital signs. Paramedics C and D transported the Subject to a hospital where he was subsequently pronounced dead by the Emergency Room doctor.

Upon securing the scene, Sergeant A separated Officer B and obtained a Public Safety Statement (PSS). Sergeant A then separated Officer A and also obtained a PSS. Sergeant B obtained a PSS from Officer D, and Sergeant C obtained a PSS from Officer C.

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 A, B, C, and D's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Officer A, B, C, and D's 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. Loading Shotgun in a Police Vehicle

As Officers A and B drove to the location of the radio call, Officer B removed the shotgun from the police vehicle shotgun rack and maintained control of the shotgun at port arms. The investigation revealed that Officer B may have chambered a round from the shotgun while inside the police vehicle.

A review of the DICVS audio recording revealed what sounded like a shotgun pump action being cycled as Officers A and B responded to the radio call. A subsequent interview was conducted with Officer B regarding this matter. After Officer B reviewed the DICVS audio recording, he agreed that the sound was consistent with chambering a shotgun round; however, he did not have any recollection of chambering a round while inside the police vehicle and believed

he chambered a round after he arrived to the radio call location and exited the police vehicle.

A review of the DICVS revealed that the sound on the audio recording was consistent with a shotgun being chambered inside the vehicle. The evidence reflects that Officer B likely chambered a round into the shotgun while still in his police vehicle, but he believed the round was chambered into the shotgun after stepping out of the vehicle in accordance with Department policy. That being said, there was no other evidence identifying when the round was chambered.

2. Command and Control

Officer C arrived at the location and assumed the role of the functional supervisor, maintaining Command and Control of the incident involving an armed suspect.

The success of a tactical operation considerably hinges on effective leadership provided throughout the incident. In this circumstance, the BOPC conducted an analysis and review of the leadership provided by Officer C throughout the incident. Officer C and his partner were the first officers to arrive at the scene. Based on the investigation, Officer C accomplished the following:

- Obtained information regarding the specific location of the Subject.
- Directed responding personnel to the target location.
- Directed Officer B, who was armed with the shotgun, to assume the point position.
- Was aware that they were equipped with a less-lethal force option, as Officer D carried a TASER on his person.
- Moved the Subject to facilitate entry into the rear residence to render aid to the victim.

Considering the dynamic and rapidly evolving nature of this incident, it was incumbent for an officer to take command and control of the incident in order to maximize the officers' actions in a unified effective manner. Officer C's actions were exemplary and met the BOPC's expectation as a senior officer in a critical situation.

- 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.

After a thorough review of the incident, the BOPC determined that the identified areas for improvement neither individually nor collectively substantially deviated from approved Department tactical training. Therefore, a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and

individual actions that took place during this incident with the objective of improving overall organizational and individual performance.

In conclusion, the BOPC determined that Officers A, B, C and D's tactics warrant a Tactical Debrief.

B. Drawing/Exhibiting

- In this instance, Officers A, B, C and D responded to a radio call of a shooting in progress. As they exited their respective vehicles and deployed to the location, they drew or exhibited their weapons.

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

C. Lethal Use of Force

- The officers observed the Subject fire a round in a westerly direction into the rear residence. After firing his weapon and with his back to the officers, the Subject appeared to manipulate the handgun, and then turned toward the officers. With the handgun still in his hand, the Subject pointed the handgun at the officers.
- **Officer B** (shotgun, four rounds in two sequences of fire)

First Sequence of Fire

Officer B recalled that the Subject fired a round and turned his direction toward the officers. The Subject had the gun aiming at the officers' lower torsos. Officer B thought the Subject was either going to fire on him or his partner so he fired one to two rounds toward the Subject.

Second Sequence of Fire

Officer B then assessed the situation and recalled that he stopped firing, at which point he continued to observe the Subject hunched over, like he was hurt, but his gun was still pointing in the officers' direction. Officer B moved to the right, offsetting the direction he was pointing at. Officer B still felt that the Subject was able to fire. He moved to the right and fired one more round at the Subject. Officer B heard a few other shots, and the Subject started falling to the ground at that point.

Note: Based on a review of the DICVS audio recording and post-incident examination of Officer B's shotgun, the FID investigation

revealed Officer B fired four shotgun rounds during this incident. It appears that Officer B fired one round after the Subject fired into the rear residence, and the three additional rounds simultaneous to the other officers firing. Due to the overlapping of gunshot sounds, the caliber of weapons being fired could not be determined in any discernible sequence.

- **Officer C** – (pistol, six rounds, two sequences of fire)

First Sequence of Fire

Officer C recalled, that the Subject was looking through the window of the rear house and appeared to engage with something inside the house. Officer C told the Subject, “Drop the gun. Drop the gun.” The Subject came down, started manipulating the handgun, looked in Officer C’s direction, and then raised the gun towards the officers. Officer C proceeded to fire three rounds towards the Subject.

Second Sequence of Fire

The Subject collapsed to the ground on his left side while still holding his weapon in his right hand, while officers continued ordering him to, “Drop the gun!”

Officer C recalled that the Subject went down on his left side and looked over his right shoulder at the officers. The Subject’s arm came back up with the gun in his hand, and he started to roll to his right. Officer C believed the Subject still had the pistol in his hand and was preparing to engage the officers. In response, Officer C recalled firing two additional rounds at the Subject.

Note: Although Officer C recalled firing a total of five rounds at the Subject, the investigation revealed he fired six rounds.

- **Officer A** – (pistol, seven rounds)

Officer A recalled that the Subject was going to shoot his partner, so that’s when Officer A fired his weapon.

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

Officer D recalled the Subject began walking northbound and fired a round into the window of the rear house. At that time, the officers entered the backyard, and Officer B fired a shotgun round that struck the Subject in what seemed to be his hip, or side area. The Subject fell to the ground and then while laying on the ground, the Subject started to turn towards Officer D with the firearm. Accordingly, Officer D fired at him.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A, B, 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 reasonable in this situation.

The BOPC assessed the individual actions of the involved personnel. Based on the immediate defense of life of each officer and their partners, the BOPC found all the involved officers' actions to be in compliance with Department policy and tactical training.

In conclusion, the BOPC found Officers A, B, C, and D's lethal use of force to be in policy.