

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

OFFICER-INVOLVED SHOOTING – 087-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Southwest	10/27/15		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	7 years
Officer B	2 years, 8 months

Reason for Police Contact

Officers conducted a stop on a stolen vehicle. Upon doing so, they were confronted by a Subject who produced a knife. A fight ensued, resulting in an Officer-Involved Shooting (OIS).

Suspect	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 30 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 October 11, 2016.

Incident Summary

Officers A and B were conducting crime suppression patrol. Officer A was the passenger while Officer B was the driver.

Officers were driving on a residential street when they passed a vehicle which was double-parked. As they drove by, they noted and queried the license plate for wants and warrants via the Mobile Digital Computer (MDC). As Officer B conducted a U-turn, the query revealed the vehicle was reported stolen earlier in the day. After the officers conducted a U-turn, they proceeded southbound toward the stolen vehicle, which had continued south and turned into the mouth of a driveway. Officer B stopped the police vehicle in the middle of the street behind the stolen vehicle.

According to Officer A, he observed the male driver exiting the stolen vehicle from the driver's door. Prior to exiting his vehicle, he did not advise Communications Division (CD) that the officers were investigating a stolen vehicle, nor did he broadcast their location. Officer A exited the passenger side of the vehicle and unholstered his pistol because he was approaching a possible felony suspect.

According to Officer B, upon exiting the officers' patrol vehicle, he did not activate their emergency lights, broadcast their location, or advise CD that they were stopping a grand theft auto (GTA) suspect. However, prior to exiting the police vehicle, he did manually activate their Digital In Car Video System (DICVS). Officer B saw the Subject look in their direction as he stopped behind the stolen vehicle.

According to Officer B, he did not have time to notify CD because as he opened his car door, after activating the DICVS, he saw that his partner was approaching the Subject. As he exited his vehicle, he saw Officer A with his pistol drawn and pointed at the Subject who had exited the stolen vehicle. Officer B unholstered his pistol and held it at his side based on his belief that the situation could escalate to one involving the use of deadly force. Officer B observed his partner approach the Subject and attempt to grab his left arm.

Officer A pointed his pistol at the Subject and ordered him to stop. The Subject, while facing Officer A, began to walk backward toward the sidewalk. Officer A saw that the Subject had his right hand in his pants pocket as he continued to step back. Officer A ordered the Subject to stop and to keep his hand inside his pocket. The Subject ignored Officer A's command and continued to back away. Officer A moved forward toward the Subject and got to within three to four feet of him. As Officer A reached out with his left hand, he simultaneously holstered his pistol with his right hand. At this time Officer A realized the Subject was not going to comply. Officer A did not know exactly where his partner was at this time, but assumed he was behind him getting out of the police car.

Officer A continued to move closer to the Subject as he holstered his pistol and simultaneously attempted to grab for the Subject's right hand with his left hand. Officer

A was unable to gain control of the Subject's right hand before the Subject turned and attempted to run away. Officer A was close enough to grab onto both of the Subject's upper forearms from behind. Officer A and the Subject moved north along the sidewalk, north of the stolen vehicle.

According to Officer A, after he placed a firm grip on the Subject's left arm, the Subject pulled away, spun around, and faced him. Simultaneously, as the Subject spun around, he removed his right hand from his pocket, holding a knife. Officer A saw that the Subject was armed with a folding-type knife with the blade open. The Subject swung at him with the knife in his hand. Officer A used his left arm to try and block the Subject from cutting him. With his left hand, Officer A was able to grab the Subject's right arm, and the two began to fight. Officer A yelled, "Partner, he has a knife!" Officer A now saw his partner was behind him and was coming to assist in the fight with the Subject.

Officer B described how he saw the Subject attempt to stab Officer A in the upper back right shoulder area. Officer B used both of his hands to grab the Subject's right arm so he could not stab Officer A. Officer A grabbed the Subject's right wrist with his left hand to prevent the Subject from stabbing him. As they were struggling with the Subject, they all fell to the ground. Officer A fell onto his back and hit his head on the concrete sidewalk. The Subject fell on top of Officer A, and Officer B fell to the left side of Officer A, never losing control of the Subject's right arm.

Officers A and B were fighting to control the Subject, who was holding the knife as they were all on the ground. Officer A was on his back attempting to get out from underneath the Subject as he continued to hold onto the Subject's right arm. Officer A was using his right hand to control the Subject's left arm. They continued to roll to the left and to the right. At some point during the fight, Officer A lost control of the Subject's left arm. Officer A felt the Subject punch him one time on the left side of his mouth.

Officer B described being on his right side the entire time as he had both of his arms extended above his head trying to control the Subject's right hand, which was holding the knife.

As Officer A was fighting with the Subject, he knew his partner, Officer B, was assisting but did not know exactly where he was. While struggling to keep the Subject from stabbing him, Officer A began to feel a pull on his holster. Officer A believed the Subject was attempting to remove his pistol. Officer A believed the Subject was going to shoot his partner or him if the Subject gained control of his pistol. Officer A could feel the Subject's hand on his pistol trying to pull it out of his holster. Officer A immediately put his right hand over the Subject's hand and felt that the hood to his holster was in the down position, meaning the pistol could be removed from the holster. Officer A pushed down on the Subject's hand, preventing the Subject from removing his pistol.

At this point, according to Officer A, he heard Officer B say, "Partner I'm cut." Officer A described the Subject lying on top of his face, preventing him from seeing where his partner was. Officer A knew Officer B was lying on the ground near his head.

Officer A was able to roll to his left. He tried to knee the Subject in the groin to create separation, although he did not believe he hit the Subject with enough force for this strike to be effective. The Subject was no longer grabbing at his pistol, and Officer A punched the Subject on the left side of his body with his right hand. Officer A believed that his partner was seriously cut and needed assistance. He was afraid if he did not end this fight his partner could die. Officer A was able to get enough space to unholster his pistol. According to Officer A he placed his pistol into the left side of the Subject's stomach and fired a single close-contact shot. Officer A was holding onto the Subject's right wrist (the Subject was holding the knife in his right hand) with his left hand when he (Officer A) fired his pistol at the Subject. The Subject then rolled off of Officer A.

According to Officer B, he did not mention to his partner that he was cut until later in the incident, after the Subject was in handcuffs. During the fight, Officer B sustained minor cuts on his right palm, which did not require sutures. Officer B cut his hand while trying to control the knife in the Subject's hand.

Officer B described being on his right side, holding the Subject's right hand (which had the knife) above his head. He was unable to see Officer A completely, but knew Officer A was underneath the Subject when the shot was fired. The Subject dropped the knife, and Officer B kicked it away and assisted with handcuffing the Subject.

Officer A broadcast that shots had been fired, and requested help. A Rescue Ambulance (RA) was also requested by responding units. The Subject was treated by paramedics and transported to a local hospital for treatment.

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 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 Vehicle Deployment

Officers A and B positioned their police vehicle approximately five feet behind a vehicle that had been reported stolen and was occupied by a subject.

Positioning of a police vehicle is critical in order to provide the officers a tactical advantage should the incident escalate.

In this case, the officers observed a vehicle double parked in the roadway, queried the license plate and discovered the vehicle had been reported stolen. The officers conducted a U-turn, parked behind the stolen vehicle and decided to make contact with the subject without the assistance of additional resources. The officer's deployment of the vehicle at such a close distance unnecessarily placed them at a significant tactical disadvantage.

The BOPC determined that the officer's actions were a substantial deviation, without justification, from approved Department tactical training.

2. Tactical Communication

Officers A and B did not communicate or discuss a tactical plan with each other prior to making contact with a subject who was in a stolen vehicle.

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.

The BOPC determined that the officers' inability to effectively communicate and lack of tactical planning was a substantial deviation, without justification, from approved Department tactical training.

3. Code-Six

Officers A and B did not advise CD of their Code Six location when they exited their vehicle to make contact with a suspect who was in a stolen vehicle.

The purpose of going Code Six is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

The BOPC determined that the officers' decision to not broadcast their Code Six location was a substantial deviation, without justification, from approved Department tactical training.

4. Contact and Cover

In this case, Officer A did not wait for his partner to exit the police vehicle before making contact with the subject. Officer A was then confronted with a rapidly unfolding situation when the subject produced a knife and attacked him.

The BOPC determined that Officer A's decision to approach the subject without the benefit of a cover officer was a substantial deviation, without justification, from approved Department tactical training.

- The BOPC additionally considered the following:
 1. Taser – The investigation revealed that Officer A left his TASER inside his vehicle. Officer A is reminded that as of September 21, 2015, Operations Order No. 4, requires officers to carry a TASER and utilize a Department-approved holster unless either is unavailable.
 2. Equipment Required – The investigation revealed that Officer A did not have his Hobble Restraint Device on his person at the time of the incident. Officer A is reminded to ensure he has all of his required equipment on his person while performing field patrol duties.
- 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 in the evaluation of tactics, the BOPC found that the tactics utilized by Officers A and B substantially and

unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

B. Drawing/Exhibiting

- According to Officer A, he observed the Subject exiting from the driver's side door of a stolen vehicle. Officer A exited his police vehicle and drew his service pistol.

According to Officer B, as he exited the police vehicle he observed his partner approaching the Subject, who had exited from the stolen vehicle, and drew his service pistol.

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.

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** – Firm Grip, Punches and Knee strikes
- **Officer B** – Firm Grip.

According to Officer A, as he placed a firm grip on the Subject's left arm, the Subject pulled away and spun around. The Subject then removed a knife from his right front pocket with his right hand and swung the blade of the knife at him. Officer A used his left arm to try to block the Subject's arm and prevent the Subject from stabbing him. Officer A was then able to grab the Subject's right arm with his left hand while simultaneously yelling, partner, "He has a knife."

According to Officer B, he approached and grabbed the Subject's right arm to prevent him from stabbing Officer A. Simultaneously, Officer A used his left hand to grab onto the Subject's right hand to prevent the Subject from stabbing him. As they were struggling with the Subject, they all fell to the ground.

According to Officer A, he did not know the seriousness of the cut to his partner and felt that he needed to end the fight or he could die. Officer A began to knee and punch the Subject as hard as he could in an attempt to get the Subject away from him.

After a review of the incident and the non-lethal force used by these officers, the BOPC determined that 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.

In conclusion, 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 A – Pistol (one round)**

According to Officer A, he believed that the Subject was trying to take possession of his gun. Officer A heard his partner yelling, "I'm cut," and believed Officer B was seriously injured and needed assistance. Fearing for his life and the life of his partner, he placed his service pistol on the left side of the Subject's stomach and fired one round to stop his actions.

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.