

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

OFFICER-INVOLVED SHOOTING – 098-13

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Devonshire	11/25/13		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	11 years, 4 months
Officer K	7 years, 5 months

Reason for Police Contact

Officers responded to a “shots fired” radio call coming from a residence. The officers were confronted by an armed subject, and an officer-involved shooting ensued.

Suspect	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 72 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 suspect 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 14, 2014.

Incident Summary

Witness A was standing outside on his front porch when he heard three gunshots coming from a house directly across the street. He then observed his neighbor, the Subject, who resided at that location, running from the front yard to the backyard. Believing the Subject had just fired a firearm, Witness A called Witness B, who lived next door to the Subject, to ask if he had heard the gunfire. Witness B confirmed that he too had heard the gunshots and observed the Subject running to his backyard with an unknown object in each hand.

Witness A called 911 and told the emergency operator that he believed his neighbor had just fired a gun. Witness A further stated that a few years ago, the same neighbor had barricaded himself in his residence with a gun and was possibly mentally unstable.

Communications Division (CD) broadcast, "Shots fired just occurred at [location], PR heard three shots fired and saw his neighbor at the location running from the front of his residence to the rear. Subject is a male, 60-70 years old, NFD. Subject suffers from unknown mental illness."

Officers A and B arrived at the location and advised CD. The officers parked several houses west of the target location, on the north side of the street. Based on the comments of the call that the subject had fired a gun, the officers decided to deploy their rifles. Officers A and B exited their vehicle and retrieved their rifles from the trunk. Officers A and B walked east on the north sidewalk toward the Subject's residence and positioned themselves on the southwest corner of the property.

Within moments, Air Support Officers C and D arrived over the location. As Officer C piloted the aircraft, Officer D utilized the spotlight to illuminate the area over the Subject's residence. Officer D broadcast to the ground units that he observed an open sliding glass door to the rear of the target location but did not see any activity.

Officers E and F arrived on the east side of the location. Officer F removed his shotgun from the shotgun rack in his police vehicle. He then loaded a round into the chamber. He held the shotgun in his right hand at a downward angle as he approached the target location. Also arriving were Officers G and H.

Sergeant A arrived at the location and became the incident commander (IC). Sergeant A assessed the tactical situation, and formulated and initiated a plan to establish containment around the location. Once containment was established, Sergeant A physically checked the integrity of the perimeter. Sergeant A saw the west side of the property line was covered with heavy foliage which obstructed their view of the Subject's residence. The north side of the location led to a canyon which was inaccessible to the officers. He determined that Witness B's backyard would provide them with a better vantage point.

Witness B allowed Officers E and F to go through his house to his backyard. Officer E advised Sergeant A that he looked into the Subject's backyard and verified there was an open glass door and observed no movement.

Sergeant A requested two additional units. Officers A and B heard Sergeant A's request, responded to his location and met with him in the backyard. Officers G and H relieved Officers A and B at their location. The following additional officers also responded to Sergeant A's location: Officers I, J, K and L. Officer K retrieved his rifle from the trunk.

Once Officers A, B, F, I, J, K, and L were gathered in the backyard, Sergeant A designated Officer E as the team leader. Officer E positioned the officers along the block wall that separated the Subject and Witness B's properties. The officers were standing in a raised planter area that was elevated above the Subject's backyard.

Officers A and K, still armed with their rifles, positioned themselves along the wall which afforded them a direct and unobstructed view of the sliding glass door. Officer B, armed with his rifle, went to the south portion of the wall and covered the window on the east side of the Subject's residence. Officer F, armed with his shotgun, deployed next to Officer A on the wall. Officer L arrived to the backyard and immediately realized that Officer K needed his helmet. Officer L went to his vehicle, retrieved the helmet, and returned to the backyard to give it to Officer K. Officer L then maintained the role as the communications officer.

Officers C and D continued to orbit over the property as they checked for any movement. Officer C hovered the helicopter north of the property in order to shine their spotlight directly into the Subject's house and have a constant view of the open door.

Sergeant A instructed Officer E to verbally call the Subject out of his residence and surrender. Several announcements were made, and the Subject did not respond. Officer D utilized the public address (PA) system from the helicopter to direct the Subject out of his house and surrender but he still did not respond.

The officers then observed the interior light of the bedroom with the open sliding glass door turn on and then off. The Subject then approached the sliding glass door and looked outside in the direction of the officers east of him. Officer E identified himself as LAPD and told him to exit his residence. The Subject ignored the command and went back into his residence. The Subject placed his head out the door again and with his left hand pointed his middle finger at the officers and went back inside.

Moments later, the Subject reappeared at the open sliding glass door with a rifle in his left hand pointed downward. The Subject then went back into the house out of the officers' view. The Subject continued to move within the residence and at one point armed himself with a handgun. The Subject was now armed with the rifle in his left hand and a handgun in his right hand. Officer D broadcast his observations to the officers.

Within moments, the officers heard a muffled sound, possibly a gunshot, coming from the interior of the house. Sergeant A verified that the officers were not injured and broadcast, "Possible shots fired."

The Subject then walked to the sliding glass window with the rifle in his left hand and momentarily raised it in the direction of the officers. The Subject then placed the handgun he held in his right hand on the floor and began to load the rifle with ammunition he was picking up from the floor just inside of the sliding glass door. Based on the Subject's refusal to exit the location and surrender, Sergeant A determined that the officers were dealing with a barricaded subject.

Sergeant B arrived at scene and was advised of the situation by Sergeant A. Sergeant B was instructed to begin evacuating the residents, notify Metropolitan Division, Special Weapons and Tactics (SWAT), and establish a command post (CP). Officer D then contacted Metropolitan Division.

The officers monitored the Subject's activity and observed him inside the house moving around. The Subject walked to the opened sliding glass door. The Subject faced the officers with the right side of his body concealed by the sliding glass door, which was partially covered with dark curtains. According to Officer D, he believed the Subject raised the rifle with his left hand and fired the weapon in the direction of the officers east of him.

Note: Two expended cartridge cases were later recovered from an end table that was in front of the sliding glass door of the bedroom the Subject was in. One of the cartridge cases was determined to have been fired from the Subject's pistol and the other from his rifle.

Simultaneously, Officer A, with his rifle light activated, observed the Subject's left hand with a gun start to point in his direction. Officer A, believing he was about to be shot, fired one round from his rifle from a standing right shoulder shooting position from a distance of 43 feet in a westerly direction. The round impacted the sliding glass door to the left of the Subject and shattered. Officer A immediately yelled out to the officers that he had fired.

The Subject fell to the floor inside the house and was lying on his back, not moving. The Subject began to move his arms and legs, took a kneeling position and rose to his feet. According to Officer D, the Subject appeared to be picking up ammunition again and reloading the rifle. Officer D broadcast his observations to the officers.

As Officer A heard that the Subject was reloading the rifle, he took a step back and crouched down behind the wall because he was not wearing a helmet. Officer K approached Officer A and told him that he would take over his position. Officer K observed the Subject at the sliding glass door as he peeked his head out of the door a couple of times and looked in the direction of the officers. Officer K believed that the Subject was trying to acquire them as a target. Officer D broadcast to the officers that

the Subject was at the sliding glass door with a weapon in a barricade position and possibly waiting for them to come through the door.

Officers D and E then observed the Subject standing at the doorway as he raised the rifle in the direction of the officers. Officer K, believing the Subject was attempting to acquire a position to shoot the officers, fired one round from his rifle in a westerly direction from a standing right shoulder shooting position from a distance of 38 feet.

The Subject was struck in the head, collapsed onto his knees into a seated position at the threshold of the sliding glass door and then slumped over. His legs were inside the house while his upper body was outside. The Subject still had the handgun and rifle next to his body. Officer K activated his rifle light and maintained his rifle pointed at the Subject.

Sergeant A formulated a plan and established an arrest team to take the Subject into custody and search his residence. Officer B was the point officer and would be the first one over the wall, followed by Officers A, E, F, J, L, and Sergeant A and Officer K. Once the officers were over the wall, they used the east side of the Subject's residence as cover.

Sergeant A assigned Officers A and B to cover the sliding glass door with their rifles. Officers F and K covered the Subject while Officers E and J approached him. Officer E grabbed the Subject's left arm while Officer J grabbed the Subject's right arm and they pulled him away from the doorway. Officer E searched the Subject for weapons and none were found. Officer J handcuffed the Subject with the assistance of Officer E. Officers F covered the Subject while Officer K covered the backyard.

Before Sergeant A began the search of the residence, he utilized a building search mirror and cleared the remaining glass from the door. Officer K pulled the curtains off the door to get a clear view of the interior of the residence.

Sergeant A broadcast that the residence was cleared and no other subjects or victims were located. The LAFD personnel at the scene responded to the Subject's location and rendered medical treatment. The Subject did not respond to treatment and was determined dead.

Sergeant C arrived at the location after the OIS. He met with Sergeant A, who advised him that an Officer-Involved Shooting (OIS) had occurred and he identified Officers A and K as the involved officers and other officers as percipient witnesses. Sergeant C became the IC and obtained the Public Safety Statements (PSS) from both officers.

Sergeant C spoke to Officers A and K separately. They both stated that they each fired one round, and the Subject was injured. Sergeant C advised them not to discuss the incident and they would be assigned to Sergeant B to be monitored.

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 Sergeant A and Officers A and K's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Officers A and K'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. Effective Encounters with Mentally Ill Persons

Sergeant A, along with Officers A and K, responded to a man with a gun radio call. Additionally, the comments of the call indicated that the subject suffered from an unknown mental illness.

The success of a tactical operation hinges on the officer's assessment of numerous factors. Moreover, officers must exercise patience while dealing with subjects that suffer from mental illness. In this circumstance, Sergeant A arrived at the location and immediately established containment around the Subject's residence. Additionally, Officers D and E attempted to establish dialogue with the Subject via the public address (PA) system. To that end, all attempts to call the Subject out of the residence were unsuccessful. Soon thereafter, Officer D was able to observe the Subject inside the residence armed with a rifle and

handgun. As a result, the primary concern of the tactical operation became the overall safety of the officers and the surrounding community.

During the BOPC's evaluation of this incident, the BOPC took into consideration that the Subject was possibly suffering from mental illness. Additionally, the BOPC assessed their actions relative to encounters with persons suffering from mental illness. Lastly, the BOPC acknowledged that the officers utilized repeated attempts to establish dialogue via verbal commands. As such, the BOPC determined although Sergeant A, along with Officers A and K, did not determine the Subject's mental status, their actions were reasonable based on the circumstances.

The BOPC determined based on the totality of the circumstances, the officers' actions did not represent a substantial deviation from approved Department tactical training. Nevertheless, a discussion of Effective Encounters with Mentally Ill Persons and options when doing so, would be beneficial for the involved personnel. Therefore, the BOPC will direct that this topic be discussed during the Tactical Debrief.

2. Command and Control

Sergeant A utilized exceptional Command and Control while planning and directing the tactical response involving a man with a gun radio call. The success of a tactical operation hinges on effective leadership. The Incident Commander directs the tactical response and therefore oversees the operational objectives and ensures a successful resolution to the tactical incident. In this circumstance, the BOPC conducted an analysis and review of the Command and Control aspects regarding Sergeant A's performance throughout the incident. Based on the investigation, Sergeant A accomplished the following:

- Assessed the tactical situation and formulated a plan to establish containment around the location;
- Directed Officers E and F to the rear yard which provided a clear vantage point of the Subject's residence with cover;
- Requested two additional units to the location;
- Designated Officer E as the team leader of the tactical operation;
- Instructed Sergeant B to begin evacuations of surrounding residents, notify SWAT and establish a command post;
- Formulated a plan and established an arrest team to take the Subject into custody and search his residence;
- Prior to searching the residence, utilized a building search mirror and cleared the remaining broken glass from the rear sliding door; and,
- Established a tactical plan that effectively reduced the possibility of a multi-shooter tactical resolution.

In conclusion, the BOPC considered the dynamic and evolving nature of this incident, and understands that often supervisors are placed in a situation that

requires them to take immediate action, therefore becoming directly involved. From the onset of Sergeant A's arrival until the culmination of the incident, Sergeant A took overall command and control of the incident.

Sergeant A's actions are an example of the BOPC's expectations of any supervisor involved in a critical incident. Therefore, the BOPC will direct the topic of Command and Control will be a topic of discussion 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 that 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 found Sergeant A and Officer A and K's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- Officers A and K were responding to a radio call of "shots fired" just occurred. Officers A and K arrived at the location, exited their police vehicle, and believed they would encounter a subject that was possibly armed. Consequently, Officers A and K exhibited their police rifles.

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

C. Lethal Use of Force

- **Officer A** – (pistol, one round)

Officer A observed the Subject inside his residence look outside in the officers' direction and return into the residence several times. Officer A subsequently observed the Subject point a handgun in his direction. Consequently, Officer A fired one round from his police rifle at the Subject.

- **Officer K** – (pistol, one round)

Officer K took a position of cover behind the wall and observed the Subject. Officer K recalled, "That's where I observed him the first time peeking around the corner with a weapon in his hand, looked like a handgun." Officer K observed the Subject point and fire a weapon in the officers' direction and surmised that he was armed and fully intended on attempting to harm the officers. Officer K continued, "So when I saw the gun pop out, that's when I saw the muzzle flash coming towards officers."

Immediately following Officer A's OIS, Officer K observed that Officer A was not wearing his ballistic helmet. Consequently, Officer K, who was wearing his ballistic helmet, transitioned into Officer A's position to minimize the potential danger to him. Officer K recalled, "Yeah. Due to the - the previous incident of when I saw the muzzle flash coming at officers, I knew that he was armed with at least a handgun. The airship had been broadcasting. The other officers had said that - - that he was armed so I was 100 belief that he was armed and was trying to do harm to officers."

Moments later, Officer K observed the Subject at the sliding glass door as he peeked his head out several times while looking in the officers' direction. At this time, Officer K heard Officer D broadcast that the Subject was possibly reloading and armed with a weapon in his hand. Officer K believed the Subject was attempting to acquire an officer as a target again. Fearing the Subject was attempting to acquire a position to shoot at the officers, Officer K discharged one round from his police rifle at the Subject. Officer K recalled, "I believe that he had a weapon in his hand and that he was peeking out of his door. We call it like turkey necking to get position on where officers were in either his yard or the yard where we were standing so that he could try and target us to fire. He turkey necked about two or three times and I think he was on about the third time that he had done that is when I fired my rifle."

Officer K continued, "I believe that he was, that he was trying to acquire any one of us as a target and I fired to defend and any of my partners from being killed or injured."

The BOPC determined that it was objectively reasonable for Officers A and K to believe that the Subject's actions of pointing a handgun (or rifle) in the direction of the officers, presented an imminent threat of death or serious bodily injury. Accordingly an officer with similar training and experience under like circumstances would reasonably perceive the manner in which the Subject pointed his handgun at the officers was consistent with a subject preparing to shoot. Therefore, the lethal use of force was objectively reasonable and within Department policy.

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