

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

OFFICER-INVOLVED SHOOTING – 102-13

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Hollenbeck	12/25/13		
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Officers(s) Involved in Use of Force	Length of Service
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Officer A	8 years, 8 months
Officer B	6 years, 7 months

Reason for Police Contact

Officers contacted the occupants of a vehicle used in an attempted robbery. The driver of the vehicle produced a dark object and an officer-involved shooting occurred.

Subject(s)	Deceased ()	Wounded ()	Non-Hit (X)
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Subject 3: Male, 24 years of age.			
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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 Los Angeles Police Department Command Staff presented the matter to the Chief 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 November 4, 2014.

Incident Summary

Officers A and B took a police report for an attempted robbery. The victims of the attempted robbery reported that a subject attempted to steal their property, using a broken bottle as a weapon. The subject also insinuated to the victims that he had a firearm but none was seen. The subject fled in a black vehicle with distinct paper plates.

Approximately 30-40 minutes after completing their investigation, Officers A and B drove to a nearby convenience store to use the restroom. As Officer A made a right turn into the driveway, both officers observed a black vehicle with distinct paper plates, parked awkwardly across several parking stalls. They could not see anyone inside the black vehicle and believed it was empty.

Officer A then observed two males, Subjects 1 and 2, walking towards the convenience store from the direction of the black vehicle. Officer A concluded the vehicle matched that of the described attempted robbery vehicle and that Subjects 1 and 2 might be involved. Officer A shared his conclusion with Officer B.

Officer A stopped his police vehicle facing west in the driveway as Subject 2 entered the store. Subject 1 briefly remained outside and upon looking in the direction of the officers, he turned and walked into the convenience store. Officers A and B exited their vehicle. Officer A, believing Subjects 1 and 2 could be armed, unholstered his pistol as he approached the store.

While inside the store, unbeknownst to Officers A or B, Subject 1 removed a machete from his front waistband area and tucked it into his rear waistband. He then covered the machete under his pullover jacket and made his way toward the store exit.

Officer A approached the entrance of the store and pulled the front door open with his left hand and ordered Subject 1 to exit the store. As Subject 1 exited the store, Officer A stepped back, raised his pistol and pointed it at Subject 1.

Subject 1 was facing Officer A. Officer A, with his left hand against Subject 1's right shoulder, pushed him back against the wall adjacent to the door. During this movement, the machete fell from Subject 1's waistband onto the ground; however Officer A did not notice this. Simultaneously, Officer A extended his right arm forward and held his pistol near to Subject 1's upper torso. At about this time, Officer B, believing the subjects could be armed, unholstered his pistol.

Officer A ordered Subject 1 to put his hands up and turn around. Subject 1 complied. At about this time, Officer B walked to the doors of the store and ordered Subject 2 outside. While Officer A directed Subject 1 down onto his knees, Officer B directed Subject 2 to stand facing the wall to the left of Subject 1.

Officer A retrieved his handcuffs and secured Subject 1's hands behind his back and conducted a pat-down search. Before Officer B could handcuff or search Subject 2, the

officers became aware that the black vehicle was driving east through the parking lot. Neither officer was aware of the machete on the ground near the subjects.

Unbeknownst to the officers, Subject 3 had been sitting in the rear seat of the black vehicle with Witness A. Upon seeing the officers stop his friends, Subject 3 climbed into the driver's seat and drove away. He exited onto the street and drove north.

Meanwhile, Officer A told Officer B to standby with the subjects and he ran toward the black vehicle. Officer A saw the black vehicle driving past their position and believed he and his partner were about to be ambushed. As Officer A ran toward the black vehicle, Officer B retrieved his handcuffs and secured Subject 2's hands behind his back.

As he was running to intercept the black vehicle, Officer A broadcast to CD as to the officers' status and location. He unholstered his weapon and yelled at Subject 3 to stop. Officer A then pointed his pistol in the direction of the vehicle. Subject 3 stopped the black vehicle in the northbound number two lane, adjacent to Officer A, who was standing on the sidewalk.

Officer A then stepped into the roadway and with his left hand, opened the front passenger door. He ordered Subject 3 to put his hands up. Officer A then realized Witness A was seated in the rear seat. Witness A complied with Officer A's demands; however, Subject 3 refused to put his hands up, keeping them on the steering wheel, and stated, "I already pulled over. What? Are you going to shoot me?"

Officer A repeated these demands as many as 10 times. Subject 3 refused to comply, then reached toward the floorboard in front of his seat. As he turned his body towards Officer A, he quickly raised his right hand, holding a black object. Officer A believed Subject 3 had reached for a gun and, in fear for his life, fired one round from his pistol. The round missed Subject 3 as it passed through the front passenger seatback and into the rear of the center console, before exiting onto the rear floorboard. Subject 3 fled in the vehicle but was later located and taken into custody. No weapon or similar object was located.

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 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. Lethal Use of Force

The BOPC found the use of lethal force by Officer A to be out of policy.

Basis for Findings

A. Tactics

- In their analysis of this incident, the BOPC identified the following tactical considerations:

1. Code-Six Broadcast/Back-up Request

In this incident, the BOPC took into account the officers' ability to conduct a timely broadcast as to the officers' status and location. Officers A and B arrived at the location and observed a vehicle matching the vehicle described in their previous robbery investigation. Both officers observed subjects, whom they believed matched the description of the attempt robbery suspect who was reportedly armed with a weapon. Lastly, it was clear that ample time was available to conduct a broadcast indicating their location and a request for additional resources.

Based on the totality of these circumstances, the BOPC was critical of Officers A and B's failure to broadcast their Code-Six location and/or Back-up request for additional personnel. In conclusion, the BOPC believed that Officers A and B had sufficient time and opportunity to initiate an appropriate broadcast prior to the initial contact and/or during the contact with the subjects. The BOPC determined that Officers A and B's failure to broadcast their Code-Six location or back-up request substantially and unjustifiably deviated from approved Department tactical training.

2. Tactical Vehicle Deployment / Passing an Unsearched Vehicle

Officer A parked the police vehicle between the unsearched vehicle and possible armed subject(s) inside the convenience store's parking lot.

Officer A unnecessarily placed himself and Officer B at a distinct tactical disadvantage, thus compromising their safety. Furthermore, officers are trained to search a subject's vehicle to ensure no additional subjects are hiding inside.

In this case, there were two additional subjects inside the black vehicle. This placed Officers A and B at a tactical disadvantage, as they were unexpectedly confronted with multiple threats while attempting to control four subjects.

Based on the totality of these circumstances, the deployment of the police vehicle by Officer A was an unjustified and substantial deviation from approved Department tactical training, as was the officers' failure to search the subject's vehicle.

3. Utilizing Cover / Approaching Possible Armed Subjects

Officers A and B approached the convenience store while attempting to make contact with two subjects possibly armed, without the benefit of cover.

The use of cover would have allowed the officers the ability to create distance between them and the possible armed subjects thus giving the officers the opportunity to communicate with the subjects, plan tactics and call for additional resources.

The BOPC found that Officers A and B's decision to forgo cover and approach Subject 1, who was later discovered to be armed with a machete, and Subject 2, limited the officers' tactical options and unnecessarily endangered their safety.

The BOPC found that Officers A and B's decision to approach Subjects 1 and 2 without the benefit of cover, substantially and unjustifiably, deviated from approved Department tactical training.

4. Contact and Cover / Handcuffing

Officers A and B were simultaneously contacting two separate subjects, while a machete was in close proximity, without maintaining their contact and cover roles. Additionally, Officers A and B made contact with the subjects while holding their service pistols in their hands.

Officers A and B did not formulate a tactical plan prior to approaching Subjects 1 and 2. The officers further did not communicate the presence of a weapon or their roles relative to contact and cover. In this instance, Officers A and B placed themselves unnecessarily in a tactical disadvantage when both officers assumed contact roles and confronted the subjects while holding their service pistols in their hands. These actions unnecessarily compromised the safety of the officers and the subjects.

The BOPC found that Officers A and B's tactics unjustifiably and substantially deviated from approved Department tactical training.

5. Separation / Pursuing Possible Armed Subjects

Officer A did not communicate his actions to Officer B prior to attempting to conduct a stop of a possible robbery suspect who was inside a moving vehicle.

Officer A was approximately 121 feet from Officer B, who remained with Subjects 1 and 2.

Officer A, without the benefit of cover, entered the street and approached the vehicle. Officer A ordered Subject 3 to stop the vehicle and put his hands up. Subject 3 stopped the vehicle but refused to raise his hands. At the same time, Officer A observed Witness A in the rear right passenger seat.

Based on the totality of these circumstances, the BOPC found that there was no tactical advantage to be gained by Officer A leaving his partner with two subjects without notification, one un-handcuffed and both near a weapon. Officer A's response to the black vehicle unnecessarily exposed him and his partner to numerous officer safety concerns, which could have severely injured or killed one or both of the officers.

The BOPC found that Officer A's actions in this regard substantially and unjustifiably deviated from approved Department tactical training.

Based on the above-described issues, the BOPC found Officers A and B's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting

- In this instance, Officers A and B observed Subjects 1 and 2 walk away from a vehicle they believed was involved in an attempt robbery crime. The officers also concluded Subject 1 and/or Subject 2 was the subject possibly involved in the attempt robbery crime. The officers' preliminary investigation further revealed the subject was possibly armed with a handgun. Upon the officer's approach to the possible subjects, Officers A and B drew their service pistols.

The BOPC found the drawing and exhibiting of firearms by Officers A and B to be in policy.

C. Lethal Use of Force

- **Officer A** – (pistol, one round)

Officers A and B were not aware that two additional males were inside the black vehicle's back seat. As the officers were detaining Subjects 1 and 2 in front of the convenience store, Subject 3 drove away from the parking lot. According to Officer A, as the subjects drove away, he believed the subjects were positioning the vehicle to ambush the officers. Based on his conclusion, Officer A decided the best option

to prevent an ambush was to follow the vehicle on foot. Officer A subsequently ordered the vehicle to stop, and when Subject 3 complied with his demands, Officer A opened the passenger door.

After opening the passenger door, Officer A ordered Subject 3 to “put his hands up.” As Officer A was dealing with Subject 3, he discovered there was another occupant in the vehicle, Witness A, in the back seat. Officer A ordered Witness A to “put his hands up.” Witness A complied. Officer A then refocused his attention on Subject 3 and once again ordered him to “put up his hands.” Subject 3 refused to follow Officer A’s repeated orders and moved toward the floorboard and subsequently raised his hands toward his knees and lap while holding a dark object. Believing Subject 3 was about to shoot him, Officer A fired one round at him.

In this case, Officer A stopped the fleeing subject vehicle which was driven by Subject 3, who was reasonably believed to be armed. Officer A then opened the car door with one hand while holding his service pistol in a close contact position with the other hand while issuing commands to Subject 3 to raise his hands. Subject 3 did not comply with Officer A’s verbal commands and moved his hands toward the floor. Subject 3 then “came up with his hands [...] over his knees -- on his lap, while holding a black object.” Upon Subject 3 moving his hands, Officer A did not properly assess the threat prior to discharging his service pistol.

Based on the totality of these circumstances, the BOPC found that a similarly situated officer would not have used lethal force. The BOPC found that Officer A’s use of lethal force was not objectively reasonable.

The BOPC found Officer A’s use of lethal force to be out of policy.