

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

OFFICER-INVOLVED SHOOTING – 104-13

Division **Date** **Duty-On (X) Off ()** **Uniform-Yes (X) No ()**

77th Street 12/27/13

Officer(s) Involved in Use of Force **Length of Service**

Officer A 8 years, 5 months

Reason for Police Contact

Officers were in the backyard of the residence searching for a suspect when the Subject exited his front door armed with a handgun and an officer-involved shooting ensued.

Suspect **Deceased () Wounded (X)** **Non-Hit ()**

Subject: Male, 30 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 December 9, 2014.

Incident Summary

Communications Division (CD) broadcast information received from Witness A, "Possible burglary from motor vehicle subject, PR [person reporting] heard a car alarm and observed someone running up her driveway, a male, dark clothing, last seen going toward the back." A short time later, Witness A called CD, updating them that she heard someone at her west side window.

CD broadcast information received from Witness B, "Prowler complaint [at a residence], subject is a male, 5-9, dark complexion, short hair, wearing a blue T-shirt, was last seen jumping over the PR's back fence, ran into the neighbor's backyard."

Several Patrol Division units heard the broadcasts and began responding to the area of the radio call. Sergeant A was responding to the radio call and observed a possible male with a similar description as the subject described in the radio call. He stopped his car, rolled down his passenger door window and attempted to communicate with the male. The male ignored him and continued walking north on the west sidewalk. Sergeant A put his vehicle in reverse to stay with the male; however, the male began running north.

The male grabbed his front waistband as he turned west and continued running along the south sidewalk. The male ran south down a driveway out of Sergeant A's sight. Sergeant A broadcast his location and requested additional units to assist in containing the male.

The Air Unit arrived at the location and began coordinating a perimeter. Officers A and B responded to the area in response to Sergeant A's broadcast. Officer B was the driver of their police vehicle and Officer A was the passenger. Officers A and B met with Sergeant A, who directed them to the Command Post (CP). The officers assisted at the CP.

Sergeant A directed Officers A and B to conduct a follow-up, outside the perimeter, to the residence of the radio call to verify a crime had occurred. While en route to the location, Officers A and B discussed their tactics regarding contacting the PR and checking the location for a possible subject.

Officer A advised CD over the radio they were at the residence. Officer B knocked on the front door and the officers made contact with Witnesses A and B. Witness A confirmed she called the police and stated the male had been in her backyard, knocking on her window and trying to gain entry into her residence. She provided a description of the male, which matched CD broadcasts, and directed both officers through her residence and into her backyard to determine if there was evidence of a burglary. Once in the backyard, Witness A directed the officers to the window where the male had knocked.

Note: Witness A did not advise the officers that her sister, Witness B, and nephew, the Subject, resided in the detached garage located in her

backyard, nor did the officers inquire whether there was anyone in the garage.

Officers A and B scanned the backyard and observed a bright exterior light located above the front door of the detached garage facing west and two lights located on the north side (rear) of the front residence which illuminated most of the backyard. Officers A and B utilized their hand-held flashlights to check the dark areas of the backyard.

Officer A observed a wooden basement bulkhead door on the north side of the residence and advised Officer B he was going to clear it. Officer A unholstered his pistol with his right hand. While holding his flashlight in his left hand, Officer A lifted the wooden door with his left hand and called out in a loud and clear voice, "LAPD!" Officer B took control of the basement door and held it open while Officer A walked down a few steps and viewed the basement area. Officer A cleared the basement, holstered his pistol and exited the basement, closing the door behind him.

Officers A and B continued their check of the backyard and looked along the east fence. The fence was lined with barbed wire and did not appear to have been tampered with. The officers then moved toward the middle of the backyard and the detached garage. The officers checked a small metal shed located in the northwest corner of the yard and observed that its door was closed with a wire wrapped around its handle securing it closed. Officer A then walked north toward the northern part of the yard behind the detached garage, announced, "LAPD, Police," and ordered anybody in the area, to make themselves known. Officer A waited for a response, and after receiving none, he conducted a visual search of the area.

After the officers cleared the back of the detached garage, the officers focused their attention on the two windows and the door on the west side of the detached garage. Officer A utilized his flashlight to inspect the windows and search for any fingerprints or any evidence of tampering. He also checked to see if the windows were ajar. He did not see any damage around the windows or the door and could not see inside the structure due to the curtains covering the windows. He also observed the inner door and the outer metal security screen door were closed and did not hear anything to indicate anyone was inside.

After completing their search of the backyard, the officers began walking south on the walkway toward the driveway of the front residence. Officer B was south of Officer A when Officer A heard a noise coming from inside the detached garage. The noise sounded like someone moving around. He informed Officer B of the noise and directed him to make contact with Witness A and ask her if anyone resided there. Officer A monitored the detached garage while Officer B approached and knocked on the back door of the front residence.

Officer A was aware that the male that ran from Sergeant A was last seen running south and was described as possibly being armed. He wasn't sure if the perimeter was established quick enough to contain the male and had some concern the male could have escaped the perimeter.

The Subject, who was with Witness B inside the converted detached garage, was alerted to a noise outside when Witness B said, "You hear that? You hear that?" The Subject armed himself with his mother's revolver in his right hand and walked to the door. His intent was to open the door and look outside to ensure no one was trying to break into his or Witness A's house.

While waiting for his partner to speak with Witness A, Officer A stood adjacent to the west wall of the garage, approximately 10 feet south of the side garage door. Without warning the outer metal security screen door opened very quickly from north to south, stopping halfway through the arc. The Subject stepped outside and stood facing west with the metal security screen door between him and Officer A. Looking through the metal security screen door, Officer A had a clear view of the Subject as he stood under the exterior overhead light.

As the Subject stood behind the metal security screen door, he held his right arm extended backward. Officer A saw a chrome revolver in his right hand. Believing the Subject was the outstanding male and seeing he was armed with a handgun, Officer A unholstered his pistol.

The Subject looked and also turned his body south toward Officer A. As the Subject turned his body he transitioned the right hand from the rear of his body to the front of his body. Now facing Officer A, the Subject raised his right hand, with the revolver in it, toward Officer A. Believing the Subject was going to shoot him, Officer A aimed his pistol at the Subject's center body mass and fired two rounds in a northerly direction, while he stated, "Police."

The Subject was struck in the right elbow by the gunfire. He stepped back into the detached garage and threw the revolver onto the floor to his right as he fell to his knees.

Officer B, who was standing at the rear door of the front house, heard a gunshot. He turned in the direction of Officer A as a second gunshot was fired. He saw Officer A standing south of the metal security screen door and he did not observe Officer A fire his pistol. Officer B unholstered his pistol. He walked toward Officer A and pointed his pistol toward the window of the detached garage.

Officer A verbally ordered the Subject to come outside. The Subject stated, "Hey, officer, I'm not armed. I'm not armed." He complied with Officer A's orders and stepped outside and lay down on the ground on his left side and said, "Sorry sir. I didn't mean to use it."

Officer B broadcast an "Officer needs help." Approximately 30 seconds later he broadcast a request for additional units, a supervisor and a rescue ambulance (RA) for a male with a gunshot wound to the arm.

While Officer B covered the Subject, Officer A walked west of the Subject and observed a gunshot wound to the Subject's right elbow area. He then stepped approximately a

foot inside the threshold of the detached garage door and observed that Witness B was the only person in the detached garage, standing in front of a bed, located a few feet from the door along the east wall. Witness B stated, "My boy's been shot." Officer A also observed a holster and a revolver lying on the floor approximately five feet from the front door and approximately two feet south of Witness B. The revolver and holster were approximately one or two feet apart from each other. Officer A holstered his pistol and directed Witness B, who was already walking toward the front door, to step toward Officer B. Witness B was frantic, and Officer A attempted to calm her down.

According to Officer A, Witness B stated she told the Subject not to go outside and that the revolver was registered to her. The Subject kept telling Officer A that he "[expletive] up" and should not have gone outside. Officer A made the determination that the Subject was not the prowler suspect and did not handcuff him. Officer B holstered his pistol.

Sergeant A arrived, walked to the rear of the location and observed the Subject and Officers A and B. Sergeant A separated Officers A and B. Sergeant A obtained a Public Safety Statement (PSS) from Officer A and requested additional supervisors at scene for separation and monitoring purposes.

Note: The search for Sergeant A's male was completed by other LAPD personnel with negative results.

A Los Angeles Fire Department (LAFD) RA arrived at the scene and transported the Subject to the hospital. Officer C rode in the back of the RA with the Subject. While being transported, the Subject spontaneously stated to Officer C that when he exited his residence with the gun, and one of the officers shot him. He further stated that he understood why the officer shot him.

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 a Tactical Debrief.

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 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. Preliminary Investigation/Conducting a Search

Officers A and B interviewed Witness A before conducting a search of her backyard regarding the possible crime that occurred. During the officers' interview with Witness A, they did not inquire about the possible existence of other persons in the backyard before beginning their search.

Following Sergeant A's direction, Officers A and B responded to the location where the radio call originated to verify if a crime had occurred. The officers conducted their preliminary criminal investigation and gathered information from Witness A. While the BOPC appreciated the efforts made by the officers to conduct a thorough preliminary investigation and search, the BOPC would have preferred that Officers A and B inquired during their questioning of Witness A, whether anyone was in the backyard. In particular, since it appeared there were physical indicators that the garage was converted into a residence. Although, Officers A and B's search of the backyard was systematic, announced their presence and they communicated their actions between each other throughout the search, the search of the garage was limited to the outer area.

In conclusion, in accordance with the BOPC's expectation that an officer conduct a thorough search for a subject within a specified area, it was evident under this particular situation that the officers attempted to inquire further with Witness A regarding the possible occupancy of the garage area. Accordingly, based on the totality of these circumstances, the officers' actions were not a substantial deviation from Department tactical training.

2. Use of Cover

When the Subject exited the detached garage, Officer A engaged him from a distance of approximately nine feet without the benefit of cover.

According to Officer A, upon hearing the noise inside the garage, Officer A maintained sight of the garage door and two windows when the Subject opened the garage door. Officer A did not have time to get to cover, before having to react to what he believed was an armed subject. This resulted in placing Officer A in a situation where he was forced to focus his attention on the Subject. Although the southwest corner of the garage would have provided Officer A with ample cover, it was located a short distance behind him. Therefore, any further attempt to redeploy would have required Officer A to divert his attention from the Subject, who was armed with a handgun. Department tactical training allows for officer safety concerns to take precedence over seeking cover.

In conclusion, given these circumstances, the BOPC determined that Officer A's decision to maintain his position and address the unexpected deadly threat did not represent a substantial deviation from approved Department tactical training. These topics were to be discussed during 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.

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 found Officer A and B's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- Officers A and B responded to the residence to verify if a crime occurred. After conferring with Witness A, the officers conducted a search of the premises to ensure a subject had not secreted himself somewhere on the property.

As Officer A prepared to search the property, believing he may encounter a felony subject who may be an armed suspect, he drew his service pistol. Satisfied that the subject was no longer at the location, Officers A and B began to walk toward the front of the property.

Officer A then heard a noise come from inside the garage. As he monitored the door and windows on the west side of the garage, he observed the Subject exit the garage door armed with a handgun, resulting in Officer A drawing his service pistol due to fearing that a subject may be inside.

Simultaneously, Officer B was at the rear door of the front residence, knocking in an attempt to inquire with Witness A regarding the garage possibly being occupied. As Officer B knocked on the rear door, he heard a gunshot emanate behind him and he subsequently 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 in each case 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 B's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- Officer A responded to Sergeant A's broadcast of a person possibly armed with a gun fleeing the area. With sufficient personnel assigned to the perimeter, Officers A and B responded to the residence to verify if a crime had occurred. Although the residence was located outside of the perimeter, Officer A did not presume the subject was contained within the perimeter.

After completing a systematic search of the rear property, Officers A and B began to walk toward the front of the property. When the Subject opened the garage door, and emerged armed with a handgun, Officer A believed the Subject to be "the guy of interest."

Regarding his decision to discharge his service pistol, Officer A stated, "...he [the Subject] came outside with the gun and this all happened fairly quick but he was...looking in the yard...he looks in a southbound direction...towards exactly where I'm standing...I could see him clearly through the screen door. So my assumption was he could clearly see me standing there...So now he's directly facing me. And while he does that, the gun comes from behind his back, around to the front as he transitions his body...And then the gun comes up...higher than what we consider like a low-ready...At that time without a doubt in my mind at that time, I thought that he now saw me and was going to engage me with a firearm...Meaning, he was going to engage me and start shooting at me."

In response, Officer A fired two rounds at the Subject.

While the circumstances of this case are tragic in that a resident was shot during a search for a felony subject, based on the totality of these 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 and therefore the use of lethal force would be reasonable in this situation and is consistent with Department policy and tactical training.

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