

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

OFFICER-INVOLVED SHOOTING – 019-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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77 th Street	03/03/11		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	6 years, 4 months
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Reason for Police Contact

Officers were attempting to initiate a pedestrian stop when the Subject drove up behind them and began yelling and honking at the officers and the Subject told the officers he had a gun.

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 41 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 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 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 January 31, 2012.

Incident Summary

At an unknown time on the date of the incident, Witness 1 received a telephone call from the Subject. The Subject became aggressive on the telephone. According to Witness 1, the Subject had recently begun using Ecstasy. The Subject's behavior became unpredictable and he would throw things around the house, curse, and no longer cared about life.

Meanwhile, Officers A and B were in full uniform and driving a marked black and white hybrid police vehicle. While patrolling several gang neighborhoods in the division, Officers A and B observed a pedestrian in the street whom they were going to stop for a violation of being a pedestrian in a roadway.

As the officers pulled up alongside the pedestrian, their attention was diverted toward the rear of their vehicle where the Subject pulled up in a car and parked. The Subject honked his horn and yelled at the officers. The Subject cursed at the officers and said he had a gun. Officer A exited the police vehicle and drew his pistol. Officer B repositioned the police vehicle, exited and drew his pistol.

As Officer B repositioned the police vehicle, Officer A observed the Subject exit his car with an aluminum can in his left hand. The Subject began to yell and curse at the officers and threatened to kill them. The Subject pulled out a gun, pointed it in Officer A's direction, waved it in the air, and threw it on top of the roof of his vehicle.

Officer A retrieved the police rifle from the trunk of the police vehicle and loaded it.

Officers A and B repeatedly told the Subject to put his hands up and get down on his knees, but the Subject did not comply.

The Subject walked back and forth between his own car and the police vehicle, said he had another gun and was either going to kill the officers or they were going to kill him (the Subject). Officer B went to the trunk of the police vehicle to get the TASER; however, it could not be located and Officer B returned to the driver's side of the police vehicle.

Meanwhile, Officer A continued to direct the Subject to put his hands up and get on his knees. The Subject refused, said he had a gun, asked if the officers were going to kill him (the Subject), and said that he was going to kill Officer A. Simultaneously, the Subject walked toward Officer A who took two to three steps back so the Subject was unable to grab the rifle. The Subject walked in a sideways manner with his shoulder bladed and his right hand in his pocket. The Subject began to pull his hand out of his pocket and Officer A thought he saw the butt of a handgun. Officer A fired five rounds from the rifle at the Subject.

The Subject died as a result of his injuries. The Subject's gun was recovered from the roof of his car.

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/Holstering of a revolver 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 a tactical debrief.

B. Drawing/Exhibiting

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

C. Use of Force

The BOPC found Officer A's use of lethal force to be in policy.

Basis for Findings

Tactics

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

1. Pedestrian contacts

In this instance, the BOPC was concerned that the officers did not strive to maintain a tactical advantage and deploy in a manner that affords them the highest level of safety because they initially made contact with the pedestrian while remaining seated inside the police vehicle. However, in some cases, contact with pedestrians while seated inside the police vehicle may be accomplished while maintaining some degree of advantage.

Video of the incident showed that Officer B did not drive next to the pedestrian, but drove at an inward angle toward the sidewalk placing the pedestrian close to the front passenger side quarter panel of the police vehicle. This afforded the officers a

position which allowed them to see the pedestrian's actions, while providing appropriate cover.

The BOPC also considered the factors that led up to the pedestrian stop. Here, the officers had no information that would cause them to believe that the pedestrian posed a threat to their safety. Additionally, a portion of their intent was to simply check on the welfare of the pedestrian. Also, due to the Subject's approach from the rear, the officers were unable to effectively complete the pedestrian stop.

In conclusion, the BOPC determined that based on the totality of the circumstances, the officers' actions did not substantially deviate from approved Department tactical training.

2. Tactical/vehicle deployment

When the Subject pulled up behind the police vehicle and exited with a handgun, Officer B elected to reposition the police vehicle in order to gain a tactical advantage. This action temporarily left Officer A standing in the street without cover while splitting his attention between the pedestrian and an armed suspect.

In this case, Officer B decided to reposition the car after the Subject had thrown the gun on to the roof of the car. Consequently, the momentary tactical disadvantage created was mitigated to some degree as the Subject was not in possession of the gun. The BOPC was aware that Officer B's actions reduced the cover available to Officer A. However, it is important to realize that in each critical police encounter, tactics are dynamic and fluid in nature, so no single standard can apply to all situations. In fact, the BOPC was pleased that Officer B had the frame of mind to recognize that their initial positioning placed them in a tactical disadvantage, and that he immediately made a decision to move the vehicle in order to improve that advantage and create cover. Also, the fact that Officer B effectively communicated with his partner prior to taking action during this rapidly evolving tactical incident is commendable.

The BOPC determined that Officer B's repositioning of the police vehicle did not substantially and unjustifiably deviate from approved Department tactical training.

- 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. Each tactical incident inherently results in considerations for improvement. In this instance, although there were identified areas for improvement, the tactical considerations neither individually nor collectively "unjustifiably and substantially deviated from approved Department tactical training."

A Tactical Debrief is the appropriate mechanism for the involved personnel to evaluate the events and actions that took place during this incident and assess the identified tactical considerations to better handle a similar incident in the future.

In conclusion, the BOPC found Officers A and B's tactics to warrant a tactical debrief.

Drawing/Exhibiting

- **Officer A**

Handgun

The Subject cursed at the officers and said he had a gun. In this instance, based on the Subject's actions and comments, Officer A had a reasonable belief that the situation may escalate to the point where deadly force may be justified.

Police Rifle

After the Subject threw the gun onto the roof of his vehicle and stated that he had a second gun, Officer A had a reasonable belief that the Subject was armed with another handgun and that he might return to his vehicle to use it as cover.

Officer A had a reasonable belief that the situation may escalate to the point where deadly force may be justified.

Officer B

Officer B observed the Subject exit his vehicle and throw a handgun. To obtain a better tactical position, Officer B repositioned the police vehicle, then exited, took cover behind the open driver's side door, and believing that the situation may escalate to the point where deadly force may be justified, drew his pistol.

In conclusion, the BOPC found that Officers A's and B's drawing and exhibition of a firearm to be in policy.

Use of Force

- In this instance, the Subject initiated contact with the officers, brandished a handgun and threatened to kill them. Officers A and B repeatedly ordered the Subject to put his hands up and to get down on his knees. The Subject refused, stated he had another gun and closed the distance between him and Officer A with his hands in his pants pockets.

Officer A took two to three steps backward to create distance between the Subject and the barrel of his rifle. Once the Subject reached the police vehicle door, Officer

A observed him pull what appeared to be the butt of a handgun from his right front pants pocket.

In reviewing Officer A's decision to utilize lethal force, the BOPC assessed the reasonableness of Officer A's perception that the Subject had a second firearm. The investigation revealed that the Subject advised the officers that he had a handgun, displayed it and threw it onto the roof of his vehicle, then stated that he had another handgun. The Subject threatened to kill the officers as he reached into his pants pocket and advanced toward Officer A. Based on the totality of the circumstances, an officer with similar training and experience would reasonably believe that the Subject was attempting to retrieve another handgun and use it upon the officers to cause serious bodily injury or death.

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