

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

OFFICER-INVOLVED SHOOTING – 025-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Pacific	03/17/11		
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Officer(s) Involved in Use of Force	Length of Service
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Sergeant A	22 years, 6 months
Officer A	17 years, 6 months

Reason for Police Contact

Officers responded to a radio call and were confronted by an armed suspect who was holding a victim hostage, resulting in an officer-involved shooting.

Subject(s)	Deceased () Wounded (X) Non-Hit ()
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Subject: Male, 38 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.

In accordance with state law, divulging the identity of police officers in public reports is prohibited, so the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on February 28, 2012.

Incident Summary

While on the way to a restaurant, the Victim noticed that the Subject, who was a diagnosed schizophrenic with bipolar disorder, was in possession of a handgun. Once at the restaurant, the Victim called 9-1-1 from the bathroom and said she was being held hostage by a man with a gun.

Communications Division (CD) broadcast the information and Officers A and B responded to the location. Meanwhile, Sergeant A, who had been parked in the area of the restaurant, also responded.

Sergeant A arrived first and saw the Subject and the Victim exit the restaurant and rapidly walk toward a parked vehicle. Sergeant A drove toward them, intending to make contact. Sergeant A stopped, and the Subject turned toward Sergeant A's police vehicle. The Subject then grabbed the Victim and placed her between him and the police vehicle, while placing his left arm around her neck. He then forced the Victim to the opposite side of the parked vehicle.

As Sergeant A took cover behind his police vehicle, he saw that the Subject was holding a pistol in his right hand. Sergeant A drew his own pistol and ordered the Subject to drop his gun; however, the Subject did not comply. Sergeant A then re-holstered his handgun and transitioned to his shotgun.

Meanwhile, Officers A and B arrived and parked their police vehicle in the intersection. The Subject then pulled the Victim down and out of Sergeant A's sight. Sergeant A heard a gunshot and believed the Subject had shot the Victim. Unbeknownst to Sergeant A, the Victim had not been shot. According to the Victim, she grabbed the Subject's pistol and it discharged, without causing any injuries.

The Subject started to run and Sergeant A fired his shotgun at the Subject to prevent him from escaping. The Subject was maneuvering around a parked car at the time Sergeant A fired, and he continued to run after Sergeant A fired. Sergeant A chambered another round and started to chase the Subject. As the Subject ran, Sergeant A heard a metallic sound hitting the pavement and believed the Subject discarded his weapon.

Meanwhile, as Officer A chased the Subject he recalled seeing a black object in the Subject's hand. Officer A also observed the Subject turn as if he was pointing a weapon toward Sergeant A and as though the Subject were reaching back to shoot. In Officer A fired one round from his shotgun at the Subject. Sergeant A, and Officers A and B then chased the Subject on foot, and a second OIS occurred, involving Officer A. Additional officers arrived and Officer's B, C and E unholstered their weapons.

Officers C, D, and F took the Subject into custody using non-lethal force. The Subject sustained a minor scalp injury during the incident.

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 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 Sergeant A along with Officers A, B, C, D, E, and F's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Sergeant A along with Officers A, B, C, and E's drawing and exhibition of a firearm to be in policy.

C. Non-Lethal Use of Force

The BOPC found Officers C, D, and F's use of non-lethal force to be in policy.

D. Lethal Use of Force

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

A. Tactics

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

1. Tactical Deployment/Threat Awareness

In this instance, Sergeant A approached the restaurant and observed the Subject exit the restaurant with the Victim following close behind. Sergeant A approached the Subject and positioned his vehicle approximately 15 to 20 feet east of their location.

Although, Sergeant A placed the police vehicle in a position which allowed him to utilize it for cover, this action put himself and his vehicle in a position that was in view of the occupants of the restaurant. As Sergeant A was unsure that the

Subject was the suspect and the possibility existed that the suspect was potentially inside the restaurant, this deployment placed Sergeant A at a tactical disadvantage.

In evaluating Sergeant A's actions, the BOPC considered that although Sergeant A's deployment of his vehicle may have placed him at a tactical disadvantage, he was working with limited information and was attempting to gain additional intelligence related to the suspect from CD. Additionally, the clothing description provided by CD led Sergeant A to believe that the Subject might be the suspect. At this point in the incident, based on his limited information, it was reasonable for Sergeant A to focus his attention on the Subject rather than on potential threats from the restaurant.

In conclusion, the BOPC found Sergeant A's tactics do not represent a substantial and unjustified deviation from approved Department tactical training.

2. Requesting Back-Up

In this instance, Sergeant A did not request back-up or help upon observing the Subject grab the Victim around her upper torso and hold her hostage at gunpoint. Although officers may be expected to request a back-up or help when confronted with an armed suspect, Sergeant A, alone and dealing with a rapidly unfolding tactical situation requiring his undivided attention, was already aware that Officers A and B were responding Code-3 from a short distance away. When he heard the approaching sirens, Sergeant A appropriately provided pertinent information by broadcasting the current details.

In conclusion, as the purpose of a back-up request is to ensure the response of additional resources to address a tactical situation, it was unnecessary for Sergeant A to request a back-up or help under these circumstances as he was already aware that another unit was responding Code-3. Furthermore, given the rapidly unfolding nature of the incident, it would have been unreasonable to expect him to do so while dealing with the immediate threat at hand.

Therefore, Sergeant A not broadcasting a back-up or help request does not represent a substantial and unjustified deviation from approved Department tactical training.

3. Foot Pursuit of an Armed Suspect

In this situation, the Subject ran southbound with Sergeant A along with Officers A and B pursuing him. Though chasing an armed suspect is inherently dangerous, in this instance, it does not appear that Sergeant A and Officers A and B attempted to close the distance with the Subject. As additional units arrived, Sergeant A and Officer A directed them toward the Subject. The actions of Sergeant A and Officers A and B were consistent with a foot pursuit in a containment mode rather than that of apprehension.

In conclusion, the BOPC found that Sergeant A, Officer A and Officer B's decision to pursue the Subject did not substantially and unjustifiably deviate from approved Department tactical training.

4. Shotgun Manipulations

In this instance, Sergeant A and Officer A pursued the Subject on foot while holding their shotgun with the safety in the off position. Sergeant A and Officer A were correct in their decision not to re-engage the safety on their shotguns while they continued to pursue the Subject on foot. At this point in the incident, the threat posed by the Subject had not yet been neutralized and it was appropriate to leave the safety in the off position.

In conclusion, the BOPC found the actions of Sergeant A and Officer A related to the shotgun safety did not substantially and unjustifiably deviate from approved Department tactical training.

5. Physical Contact with Armed Suspect

In this instance, Officer C was attempting to take the Subject, whom he believed to be armed, into custody by utilizing his bodyweight to control the Subject's movements and physical force on the Subject's left arm in an effort to prevent him from gaining access to his waistband.

Though making contact with a possibly armed suspect is inherently dangerous, in this instance, at the time contact was made, the officers were faced with a non-compliant suspect with no weapons in his hands. Additionally, based on his previous actions and the officer's belief that he may still be armed, the Subject continued to represent a threat to the community and could not be allowed to have access to additional community members.

In conclusion, based on the totality of the circumstances, the BOPC found that Officers C and D acted appropriately when they made physical contact with the Subject and that their actions did not substantially and unjustifiably deviate from approved Department tactical training by doing so.

- 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 individually or collectively unjustifiably or substantially deviated from approved Department tactical training.

In conclusion, the BOPC found Sergeant A along with Officers A, B, C, D, E, and F's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- In this instance, Sergeant A responded to a domestic violence incident. Upon his arrival, Sergeant A made contact with the Subject at which time the Subject produced a handgun. Fearing the situation would escalate to where deadly force would become necessary, Sergeant A drew his service pistol. Believing he would have better accuracy, Sergeant A transitioned to his shotgun.

Officers A and B requested CD assign them the radio call. Upon Officer A and B's arrival, Sergeant A broadcast that the Subject was armed with a handgun and holding the Victim hostage. Based on that information and fearing the situation may escalate to where lethal force may become necessary, Officers A and B drew their service pistols. Officer A then transitioned to a shotgun.

Believing the Subject was attempting to carjack a vehicle, Officer C drew his service pistol.

Later, Officer C was utilizing his bodyweight and physical force to control the Subject's movement at the termination of the foot pursuit. Believing the Subject was attempting to reach for his waistband in an effort to arm himself, Officer C maintained control of the Subject's left hand with his left hand and fearing the situation may escalate where deadly force may become necessary, he drew his service pistol with his right hand and pointed it at the Subject's back.

In evaluating the involved officers drawing and exhibition of a firearm, the BOPC determined that each of the involved officers was confronting the Subject who they believed was armed with a handgun. Another officer with similar training and experience would believe that when confronting an armed suspect, there is a substantial risk of the situation escalating to the point where lethal force was justified.

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

C. Non-Lethal Use of Force

- In this instance, officers were attempting to take the Subject into custody at the termination of the foot pursuit. The Subject did not comply with the officers' lawful commands to stop and submit to arrest. As a result of the Subject's actions, Officers C, D, and F used a combination of force types including bodyweight, a firm grip, and physical force to affect the arrest of the Subject.

In this situation, Officers C, D, and F used reasonable force options to take the Subject into custody. The use of bodyweight, a firm grip, and physical force under these circumstances was objectively reasonable, appropriate based on the level of resistance by the Subject, and within Department guidelines.

In conclusion, the BOPC found Officers C, D, and F's use of non-lethal force to be in policy.

D. Lethal Use of Force

- **Sergeant A** (shotgun, one round)

In this instance, Sergeant A responded to a radio call that developed into a hostage situation. Upon his arrival, Sergeant A made contact with the Subject at which time the Subject grabbed the Victim around her upper torso, drew her close to his body, and produced a handgun. Sergeant A initially drew his service pistol but transitioned to his shotgun, which he believed would give him better accuracy. The Subject utilized the Victim as a shield in order to facilitate his escape. The Subject then pushed the Victim south alongside a vehicle in the parking lot and out of sight of Sergeant A. The Victim, in an effort to escape, began to struggle with the Subject. The struggle caused both the Victim and the Subject to fall to the ground at which time the Subject's handgun discharged one round. The Subject stood and ran southbound from their location while the Victim lay motionless on the ground.

Sergeant A raised the shotgun and discharged one round at the Subject.

Department policy permits officers to utilize lethal force to "Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed."

Based on his observations, Sergeant A reasonably believed that the Subject had just shot the Victim and was fleeing toward additional potential victims while armed with a handgun and that the Subject represented an immediate threat to the community if his apprehension was delayed. Additionally, Sergeant A demonstrated his concern for the community by discharging his shotgun in a manner that minimized the risk to bystanders.

Therefore, the decision by Sergeant A to use lethal force was objectively reasonable and consistent with Department policy.

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

- **Officer A** (shotgun, one round)

Officer A ran after the Subject whom he believed was still armed with a handgun.

The Subject then turned and with his right hand pointed an object that Officer A perceived was a handgun at Sergeant A. Believing the Subject was going to shoot and in fear for Sergeant A's life, Officer A fired one shotgun round at the Subject.

The BOPC noted that this was a dynamic and fast moving tactical situation during which the Subject's pistol had already been fired. The BOPC determined that an officer with similar training and experience would reasonably believe that the Subject's act of taking the Victim hostage at gun point and pointing of a (reasonably perceived) handgun at Sergeant A would cause Officer A to reasonably believe that the Subject posed an imminent threat of death or serious bodily injury. Therefore, the decision by Officer A to use lethal force in defense of Sergeant A's life was objectively reasonable and consistent with Department policy.

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