

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

OFFICER-INVOLVED SHOOTING – 037-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Southeast	04/27/11		
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Involved Officer(s)	Length of Service
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Officer A	4 years, 10 months
Officer B	4 years, 6 months

Reason for Police Contact

Officers responded to a “shots fired” radio call. Upon entering the residence, they encountered a suspect armed with a shotgun and a knife, resulting in an officer-involved shooting.

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 47 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 March 20, 2012.

Incident Summary

Officers A and B responded to a "shots fired" radio call. Additionally, Officers C and D advised Communications Division (CD) that they would also respond. Prior to the arrival of the patrol vehicles, an air unit arrived over the location, which was determined to be a residence, and advised the responding officers that there was a female, later identified as Witness A, to the rear of the residence.

Officers A and B arrived and notified CD of their location and status. The officers approached the residence on foot and encountered Witness A, who had walked to the front gate when she saw the officers. According to Officer A, Witness A told him that the Subject was working on the floors in the residence, using a tool that made a noise that could be mistaken for a gunshot. Meanwhile, according to Officer B, he contacted Witness B, and she related to him that she believed the Subject had fired a shotgun from within his residence.

Officers C and D arrived at the scene and notified CD of their location and status. Officers A and B returned to the front of the location and advised Officers C and D of the information that they had thus far. Officer A asked Witness A to call the Subject out of the residence so they could talk to him. Witness A went to the front of the house and called for the Subject, but received no response. Officer A also asked Witness A to secure her dogs. Witness A then went to the side of the residence, called for the Subject, but again received no response.

After Witness A had received no response from inside the house, she told the officers that she did not have a key, and started walking quickly to the rear of the house. Officer B recalled telling Officer A that they should follow her, and then confirmed with Officers C and D that they would watch the front of the residence. Officers A and B entered the front gate of the residence and followed Witness A as she turned the corner to the rear of the house. By the time the officers got to the rear, Witness A entered the residence leaving the back door open.

Officer B entered the residence through the rear door first, followed by Officer A. According to Officer B, he repeatedly identified himself as a Los Angeles police officer and, receiving no response, continued into the kitchen area and then down a hallway. At the end of the hallway, in a threshold of a bedroom, Officer B observed the Subject with Witness A talking to him. Additionally, there was another female, later identified as Witness C, who was in the hallway blocking his path.

Upon observing Officer B, Witness A, who up to that point had been very calm, and Witness C started yelling and became hysterical. According to Officer B, at that point he could not tell what it was, but noticed that the Subject had something in his hands. As Officer B moved forward down the hallway, he unholstered his pistol. According to Officer B, Witness C was in his face yelling at him and as he pushed her aside, he was then able to see that the Subject was holding a shotgun. Officer B ordered the Subject to drop the gun and Witness C positioned herself directly in front of him.

Meanwhile, according to Officer A, he never lost sight of Officer B, following him into the kitchen and then down the hallway. According to Officer A, he then observed the Subject holding the shotgun, in what appeared to be a one-handed grip with the barrel open, and it appeared that the Subject was possibly loading the shotgun. Officer A recalled that the Subject was holding the shotgun in his right hand and Officer A could not see his left hand. Officer A ordered the Subject several times to drop the shotgun, but the Subject ignored the commands. Officer A recalled that he ordered Witness A and Witness C to get out of the way; however, both refused to leave the area.

The Subject and Witness A went into the bedroom as Witness C remained in front of Officer B and refused to move. Officer B holstered his pistol and put Witness C in a wrist lock. Witness C told him that she would leave and Officer B was subsequently able to guide her out of the way. By this time, Officers C and D had entered the residence and subsequently drew their pistols.

Officer B drew his pistol again and looked into the bedroom, observing that the Subject and Witness A were wrestling with the shotgun. The Subject tried to raise the shotgun and Witness A kept grabbing onto the barrel and pushing it down. Officer B believed that the Subject was trying to raise the shotgun to point it in the officers' direction. Officer B kept ordering Witness A to leave the room, but she ignored him. At one point, Witness A grabbed the barrel of the shotgun, pushed it down on the bed and she tried to sit on the barrel to hold it down. According to Officer B, when Witness A did that he believed he would not have a better opportunity to disarm the Subject, without harming Witness A. Officer B then holstered his pistol and tackled the Subject.

Meanwhile, according to Officer A, he observed the Subject and Witness A walking backward into the bedroom. Officer A feared that the Subject was going to attempt to close the bedroom door and that there would be a potential for a hostage situation, and that he might harm Witness A. Officer A then observed Officer B run into the bedroom and grab the Subject in an attempt to restrain him. According to Officer A, when he observed Officer B run into the bedroom, Officer A holstered his pistol and followed Officer B. Officers A and B then engaged in a struggle with the Subject in an attempt to gain control of his weapon.

As the officers struggled to gain control of the Subject and the shotgun, they noticed that the Subject had now armed himself with a large knife. Officer C entered the room and assisted in trying to take the shotgun away from the Subject. Officer A held the Subject's wrists to prevent him from stabbing the officers. In an effort to force the Subject to release his weapons, Officer B struck the Subject several times with his fist; however, the blows proved ineffective. Officer A told Officer B that he was losing his grip on the Subject's wrist that held the knife. Officers A and B feared that either themselves or their partner were about to be stabbed by the Subject. In response to this deadly threat, almost simultaneous, Officers A and B used their pistols and they each fired one round at the Subject.

An ambulance was requested for the Subject. The Subject was pronounced dead at the scene.

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 Officers A, B, C and D's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

The BOPC found Officers A and B's use of non-lethal force to be in policy.

D. Lethal Use of Force

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

Basis for Findings

A. Tactics

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

1. Threat Assessments During Investigations

In this instance, Officers A and B both had a sense when they approached the house that everything seemed kind of normal. The airship advised that Witness A was in the rear of the house. When Officer B contacted her and asked if she heard any gunshots, she informed him that the Subject was working on the floors of the house and that the loud noise was from the construction.

Additionally, Officer B stated in his interview that in his past experiences, legitimate gunshot radio calls would generally produce multiple "Shots Fired" calls.

In assessing this incident, the BOPC was concerned with the officers' apparent lack of situational awareness and degree of threat assessment based on the Subject's possible involvement in a shooting and their failure to control Witness A and prevent her from entering the residence. However, officers working in the field are forced to make difficult decisions each day and must do so based on the facts known to them at the time. They are expected to take actions with sufficient latitude and discretion, based on their training and past experience.

Here, based on their statements, Officers A and B's individual threat assessment and their tactical decision making was based on the fact that there were no additional radio calls, as well as their assessment of the "calm demeanor" of the involved parties. As a result, Witness A was allowed to approach the house and eventually made entry through the rear door.

Police officers are expected to make individual decisions and act in concert with their partner in developing a tactical plan based on the facts at hand. Also, each officer involved in this or other tactical situations may take entirely different approaches and those actions must be assessed individually and objectively.

Consequently, based on the totality of the circumstances, the BOPC found that the actions of Officers A and B did not substantially deviate from approved Department tactical training.

2. Scene Management

In this instance, the BOPC was concerned that although the officers had reason to believe that there may have been an armed subject inside the residence, Witness A was able to enter the residence prior to it being cleared for potential threats.

Here, the officers' actions were based on their interpretations of the on-scene investigation and their individual discretion.

Although it would have been prudent for the officers to communicate more effectively with one another and assert more command and control of the scene, the BOPC found their actions did not represent a substantial deviation from approved Department tactical training.

3. Tackling an Armed Suspect

The BOPC realized that Officer B was not involved in a team takedown; however, this standard applies to initiating physical contact with an armed suspect as a general principle and is consistent with Department training.

In this case, Officer B's actions substantially deviated from approved Department tactical training. However, officers are afforded a wide breadth of discretion in solving often complex situations in dynamic critical circumstances. While officers

are expected to understand and apply tactical considerations, the BOPC expects them to take the reasonable action when necessary based on the facts and circumstances facing them at the time.

Moreover, Officer B took action in order to protect Witness A. This is in fact consistent with a Department Core Value of Reverence for Human Life, which states in part "Reverence for human life is the primary consideration in developing tactics; as well as the Department's Use of Force Policy which reinforces that tenant." Here, Officer B watched Witness A struggling to control the gun with her legs and her bodyweight. At one point, he saw Witness A push the barrel of the shotgun toward the ground and attempt to sit on the gun. Officer B found himself in a highly dynamic situation and acted according to the above considerations.

Although lethal force would have been objectively reasonable based on the circumstances present, Officer B identified an opportunity to control the Subject without utilizing that option. These efforts were commendable and consistent with the BOPC's expectations.

Accordingly, while the actions taken by Officer B were unconventional and substantially deviated from approved Department tactical training, the BOPC found the deviation was justified under these unique circumstances.

- 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, allowing for event specific discretion by involved officers. This incident clearly exemplified that concept. Nevertheless, each tactical incident inherently results in considerations for individual and organizational improvement.

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

B. Drawing/Exhibiting

- Officer A

Officer A drew his pistol twice during this incident. The first drawing occurred as Officer A followed Officer B and Witness A into the residence.

In this instance, though Officers A and B had not conclusively determined whether they were dealing with a shooting suspect or a neighbor dispute, Officer A recognized the potential that the situation could escalate and drew his pistol. The BOPC determined that another officer with similar training and experience and faced with similar circumstances, would reasonably believe that the situation may escalate to the point where deadly force may be justified.

Once inside the residence, the situation quickly deteriorated when the Subject armed himself with a shotgun. Seizing an opportunity to control the shotgun, Officer B charged the Subject. As Officer B grabbed the Subject, Officer A holstered his pistol and went to aid his partner. Observing that the Subject was holding a knife in his right hand, Officer A grabbed the Subject's left arm to prevent him from using it as a weapon; but during the ensuing struggle, Officer A felt his grip slipping from the Subject's arm. Fearing that once he lost his grip, the Subject would use the knife to attack him and his partner, Officer A drew his pistol a second time.

Given the circumstances, the BOPC determined that another officer with similar training and experience would reasonably believe that the situation had escalated to the point where deadly force may be justified.

Officer B

After following Witness A into the residence, Officer B observed that she and the Subject were involved in a heated discussion. Though Officer B did not have a clear view of the Subject, the dramatic change in Witness A's demeanor gave him concern. Prior to entering the residence, Officer B conducted his investigation based on the assumption that he was dealing with a neighbor dispute rather than a shooting at an inhabited dwelling; this assumption was based, in part, by Witness A's calm demeanor. However, after observing the dramatic change in Witness A's demeanor, Officer B reevaluated this assumption.

In this instance, given the nature of the radio call, the physical evidence, and the abrupt change in Witness A's demeanor, the BOPC determined that another officer with similar training and experience would reasonably believe that the situation had escalated to the point where deadly force may be justified.

Officer C

As the situation inside the residence quickly deteriorated, Officer A requested for Officers C and D to come inside. Upon entering the residence, Officer C observed Officers B and A struggling with the Subject in an attempt to control the shotgun. In an effort to assist his fellow officers, Officer C grabbed the barrel of the shotgun. However, despite his efforts to control the shotgun, the barrel began to rise. Fearing for his safety, Officer C drew his pistol.

Based on the totality of the circumstances, the BOPC determined that another officer with similar training and experience would reasonably believe that the situation had escalated to the point where deadly force may be justified.

Officer D

Officer D responded to Officer A's request to enter the residence and drew his pistol just prior to entering the residence.

Given the nature of the original radio call, coupled with the physical evidence that a gunshot may have been fired prior to their arrival on scene, Officer D recognized the potential that the situation could escalate and drew his service pistol.

The BOPC determined that another officer with similar training and experience and faced with similar circumstances, would reasonably believe that the situation may escalate to the point where deadly force may be justified.

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

C. Non-Lethal Use of Force

- Officer B – Physical Force, Firm Grip.

As Witness A began to struggle with the Subject for possession of the shotgun, Officer B noted that Witness C purposely placed herself in between him and the suspect.

Based on the ongoing struggle between the Subject and Witness A to control the shotgun and Witness C's attempt to block Officer B from interceding, the BOPC found that Officer B's use of non-lethal force was objectively reasonable to overcome Witness C's active resistance.

Officers A and B – Physical Force, Punches, Elbow Strikes.

After Witness C moved out of Officer B's path, Officer B observed an opportunity to control the Subject without utilizing lethal force. Seizing this opportunity, Officer B charged the Subject. While Officer B struggled with the Subject for the shotgun, Officer B observed that Officer A was struggling to control the Subject's left arm/hand in which the Subject held a large knife. Observing that Officer C had entered the room and was assisting with controlling the shotgun, Officer B released his right hand from the shotgun and utilized his clenched right fist to punch the Subject six to 15 times along the right side of his face. In response to the punches, the Subject lowered his head. Officer B then brought his right elbow over the top of the Subject's head and delivered five to 15 elbow strikes to the top left portion of the Subject's head.

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

D. Lethal Use of Force

- In this instance, the officers attempted to disarm the Subject who was in possession of a shotgun and knife. The Subject resisted and was able to maintain possession of both weapons. As the struggle continued, Officer A began to lose his grip of the

arm/hand in which the Subject held the knife. Fearing that they were both about to be stabbed, Officers A and B each fired one round at the Subject from their pistols.

Here, after the officers had exhausted all available means to gain the Subject's compliance, the Subject still failed to comply and appeared intent on injuring the officers. Once Officer A began to lose his grip on the arm/hand that held the knife, both officers feared that they and/or their partner would be stabbed.

Based on the totality of the circumstances, an officer with similar training and experience and faced with a similar incident would reasonably believe that the Subject posed a threat of serious bodily injury or death, and that the use of lethal force would be justified.

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