

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

OFFICER-INVOLVED SHOOTING 047-07

Division Date Duty-On (X) Off () Uniform-Yes () No (X)
Foothill 05/16/2007

Officer(s) Involved in Use of Force Length of Service
Officer C 17 years, 4 months

Reason for Police Contact

Officers received a radio call regarding a fire being set in a church and a man injured with a sword.

Subject Deceased (X) Wounded () Non-Hit ()

Subject: Male, 42 years of age.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate the 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 and addenda items); the 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 February 2, 2008.

Incident Summary

A number of fixed surveillance cameras positioned on a church property captured footage of a Subject carrying a sword on church grounds, and show him entering an open door of a bungalow.

Inside the bungalow, seven church parishioners were conducting a music rehearsal. Victim A was seated on a stool behind a drum set when the Subject entered unannounced and unobserved. The Subject, without raised his sword high in the air and attempted to strike Victim A on the head, but Victim A used his right forearm to shield his head from the blow. The sword landed on Victim A's right forearm, causing a minor laceration. Surveillance footage captured Victim A and the other six parishioners running out of the south door of the bungalow and fleeing toward the adjacent church office bungalow. The parishioners locked themselves inside the office and dialed the 911 operator.

The Subject exited the bungalow, and a surveillance camera captured him holding a sword and carrying a rock. The Subject struck the windshield of three vehicles parked in the parking lot with the rock. The Subject returned to the open-air common area in front of the bungalow, and gathered some combustible materials that were stored in an outdoor cabinet. The Subject walked into the bungalow with these materials and set a total of eight fires on the grounds of the church.

Communications Division (CD) assigned the radio call from the church to Officer A and Officer B. The Subject had exited the bungalow and was next seen on surveillance camera as he walked toward the fence line where he had originally entered the grounds of the church. Officers A and B pursued the Subject into the park and lost sight of him in the vicinity of an underground drainage tunnel. Officers A and B secured a perimeter at the tunnel entrance and requested assistance, but Subject was never located.

Officer C and Officer D discussed the events that had occurred at the church the preceding day as they drove to the station. Both officers were attired in plain clothes, were driving an unmarked vehicle, and did not wear ballistic vests or raid jackets. When Officers C and D arrived at the station, Officer E briefed Officer C on the case. Officers C and D also met with Lieutenant A, who assisted Officers C and D in determining which areas had been searched the prior day.

Officers C and D left the station and parked on an unpaved flood control access road, near the park. The officers notified CD they were conducting a field investigation at that location and that no further assistance was required. Officer C left his radio in the vehicle because he believed Officer D would be the radio officer and because Officer C did not believe the two would be separated.

After checking several homeless encampments, the officers moved their vehicle further on the access road, passing underneath a freeway. The officers again left their vehicle and began searching a nature trail area near the freeway and a park. Officer C unholstered his pistol and announced their presence and ordered anyone within earshot to exit the freeway overpass. The officers did not receive any response, so Officer C holstered his pistol and had Officer D assisted him in climbing up into the overpass. Once on the freeway overpass, Officer C unholstered his pistol and turned on his flashlight. At the far end of the first cell, Officer C saw there was a small crawl space that led to a second cell.

Officers C and D decided to continue on and cleared three cells. Officers C and D came upon a crawl space at the far end of the third cell that was bigger than the first two crawl spaces, and at the far end of this crawl space, were two green curtains hung across the opening, blocked any view into the fourth cell. As Officer C reached for the curtains, he used his flashlight to push the curtain on his left out of the way and attempted to illuminate the fourth cell. Officer C pushed the second curtain aside with his left hand, and a large knife or what was perceived to be a large knife, come down through the curtain, but was not injured and did not feel anything sharp touching his body. Officer C did see the knife go by his left eye, inches from my face and in a downward sweeping motion. Officer C observed the Subject's face suddenly appear between the two curtains and look in his direction. Officer C could see the blade of a raised machete next to the right side of the Subject's face. Officer C fired one round.

Officers C and D held their positions to see if there would be any further movement from the Subject. Officer C crept forward and nudged the Subject's foot with his flashlight, but the Subject did not respond. Officer C pulled the curtain aside and saw that the Subject was bleeding from the head. Officer C told Officer D to use his radio to request additional units and a Rescue Ambulance (RA). The officers had not updated their location.

Several units from the Area heard Officer D's radio broadcast and responded. In an attempt to further assist responding units, Officer D attached a discarded T-shirt he located in the cell to a wooden board and dangled it out of the access opening. Sergeant A arrived and met with the two officers.

The Subject was unresponsive, and LAFD personnel examined the Subject and declared him deceased.

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 Officer C and D's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer C's drawing to be in policy.

C. Use of Force

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

Basis for Findings

A. Tactics

The BOPC noted that Officers C and D took an active interest in seeking out the Subject, a wanted violent felony subject. Although Officers C and D actively sought out a violent felon that would likely have continued his aggressive actions at a later time upon innocent persons, a thorough review of this incident identified several areas of concern. Officers C and D conducted an extensive search for the Subject, who was a known armed violent felon, with no additional resources. Officers C and D were working in plainclothes and were not wearing ballistic vests or raid jackets.

Officers C and D entered the internal portion of the bridge and traversed through various crawlspaces without advising CD of their updated status and location. Once Officers C and D were on the trail and prior to entering the internal portion of the bridge, providing CD with an updated location would have been prudent. Had Officers C and D become incapacitated, it would have been extremely difficult, if not initially impossible, to locate them while inside of the bridge crawlspace.

The investigation revealed that Officer C had left his assigned radio in his police vehicle. If Officer D had become incapacitated during the course of the incident, Officer C would have been unable to contact CD.

Finally, the BOPC noted that the Subject was not handcuffed after the OIS. Although it appeared clear that The Subject was incapacitated, it would have been prudent for him to be handcuffed.

The BOPC determined that Officer C and D's tactics were severely deficient.

The BOPC found Officer C and D's tactics to warrant administrative disapproval.

B. Drawing and Exhibiting

The BOPC noted that prior to entering the access space in the bridge, Officer C reasonably believed that there was a substantial risk that the situation may escalate to the point where deadly force may be justified, drew his pistol and utilized his flashlight to look inside.

When Officer C did not hear any movement or response, he holstered his pistol and entered the interior of the bridge through the access hole. Once inside, he again drew his pistol, believing he may be confronted with armed persons.

Officer D entered the access area as Officer C remained inside with his pistol drawn. As Officer D approached an area of debris where a suspect could possibly be hiding, he believed that there was a substantial risk that the situation may escalate to the point where deadly force may be justified and drew his pistol.

The BOPC determined that Officers C and D had sufficient information to believe that the situation may escalate to the point where deadly force may become necessary.

The BOPC found Officer C and D's drawing to be in policy.

C. Use of Force

The BOPC noted that Officer C came to a portion of the bridge crawlspace that had curtains across it, preventing a view beyond that point. Officer C announced his presence and received no response. As Officer C began to move the curtain to view beyond it, a large knife slashed downward, narrowly missing his face. Officer C then observed the Subject's face with the knife raised alongside him. Fearing he was about to be attacked again, Officer C fired one round to prevent the Subject from utilizing the knife to cause him injury.

The BOPC determined that Officer C believed that the Subject presented an immediate threat of serious bodily injury or death.

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