

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

OFFICER-INVOLVED SHOOTING – 058-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Southwest	06/22/11		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	3 years, 4 months
Officer B	2 years, 6 months
Officer C	2 years, 8 months
Officer F	16 years, 6 months
Officer G	11 years, 1 month

Reason for Police Contact

Witnesses called 911 to report an incident involving a domestic dispute, indicating that a male was threatening to kill a young female. Officers responded to the location, and an OIS occurred.

Subject	Deceased (X) Wounded () Non-Hit ()
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Subject: Male, 45 years.	
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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 May 15, 2012.

Incident Summary

Officers responded to a radio call regarding the Subject attempting to forcibly enter a room where Victim A was locked in. The Subject had assaulted Victim A and another person and was threatening to kill her as he attempted to enter the room.

Witness A telephonically contacted Communications Division (CD) via 911 and advised the Police Service Representative (PSR) that Victim A was in the window of the location and was requesting help because someone was trying to kill her with a knife.

CD initiated the following radio broadcast, “[...] possible ADW in progress [...] Weapon is a knife.” Officers A and B acknowledged the call for service. CD advised all units to stand by and that Officers A and B were responding.

Shortly thereafter, Officers C and D indicated that they would respond and function as a backup unit to the primary officers. An Air Unit contacted CD and advised that they would respond to the scene as well. CD further broadcast the comments of the call, relating that the victim had indicated that someone was trying to kill her with a knife.

Witness B contacted CD and advised the PSR that Witness C had advised that the Subject was drunk and trying to force his way into the room. In addition, Witness C stated that the Subject was trying to “beat up” Witness D and Victim A.

Officer B advised CD via radio that he and his partner had arrived in the area. The Air Unit advised that they were overheard as well.

Upon arrival, Officer A parked their police vehicle at an intersection to the rear of the apartment complex. Sergeant A arrived at the scene and parked his marked black and white police vehicle to the rear of Officers A and B’s vehicle. Sergeant A advised CD that he had arrived, while Officers A and B subsequently entered the apartment complex followed by Sergeant A.

In response to the call for service that was generated by Witness B, CD initiated the following radio broadcast, stating that the Subject was attempting to get into the room for Victim A and Witness D and provided a description.

In the interim, Officers A and B were directed by several unidentified individuals to the correct apartment building. While en route to the front of the building, the officers observed Victim A in the second story rear window of the apartment, and it appeared that she was preparing to jump. As Officers A and B continued toward the front of the apartment building, Officer A directed Victim A not to jump. She complied but remained in the window. The officers continued to the front of the building where they ascended an exterior staircase, located at the center of the building, that provided access to the

second level exterior porch/walkway of the garden style apartment building. Officers A and B then proceeded to the front door of the identified apartment.

Officer A knocked on the door, verbally identified themselves as police officers, and ordered the occupant(s) to open the door. A male individual from within the apartment shouted, "Fuck you... you guys are not coming in... go away..." Officer A then heard an unidentified female scream, "Please help." Officers A and B were joined by Sergeant A, who directed Officer A to force entry into the apartment. Officer A, just prior to breaching the front door, activated his radio and requested a backup.

Officers C and D arrived at the scene. Officer C advised CD via the Mobile Digital Computer (MDC) that he and Officer D had arrived at the location. Officer D parked his police vehicle at the same corner as the other vehicles. Officers C and D exited their vehicle and entered the apartment complex. Officers E and F arrived on-scene, parked their marked black and white police vehicle, and entered the apartment complex as well.

As Officer B stood by in a guarding/covering capacity, Officer A attempted to force entry into the apartment by kicking the front door, but was unsuccessful. Sergeant A contacted CD and requested entry tools consisting of a hook and ram. In addition, the Air Unit advised CD to make a request for the Fire Department, indicating that the victim was up on the second floor at the window.

CD telephonically contacted Los Angeles City Fire Department (LAFD) Operations Control Division (OCD) and advised the LAFD operator that the victim (Victim A) was preparing to jump from a second story window. OCD began dispatching Fire Department personnel to the scene for what was described as a jumper incident.

Sergeant A advised CD that the officers would need a TASER. As Officer C proceeded toward the apartment building where the incident was occurring, he unholstered his TASER and with the less-lethal device in hand, continued toward the location.

Note: According to Sergeant A, in addition to requesting a TASER device he also requested a Bean Bag Shotgun (BBS). A review of the CD audio recording of the Area radio frequency revealed that the request for the BBS was not captured.

During this time, the officers were provided with a key to the location. Officer A subsequently unlocked the deadbolt and door knob lock to the front door; however, he was still unable to open the door. Officer A then kicked the front door approximately two or three times and the door opened. Officers A and B observed the Subject standing in the living room of the apartment in close proximity to the front door, holding a knife in each hand. The Subject's hands were extended out in front of him, fists clenched and the blades of the weapon pointing upwards, in the officers' direction.

Officers A and B and Sergeant A, fearing an armed confrontation with the knife-wielding subject, drew their service pistols and ordered the Subject to drop the knives. Officer A

was on the side of the porch/walkway next to the exterior wall of the building, Officer B was to the right of Officer A and next to the iron railing of the porch/walkway, and Sergeant A was to the rear of Officers A and B. Officer A issued the verbal commands in Spanish, and Officer B and Sergeant A gave commands in English.

The Subject did not comply and exited the apartment. As the Subject advanced toward the officers and sergeant with the blades of the knives pointed in their direction, he repeatedly shouted, in English and Spanish, words to the effect of, "Fuck you," and "Go away." As Officers A and B and Sergeant A redeployed rearward, they continued to order the Subject to drop the knives, but to no avail.

Note: According to Witness C, he thought the Subject was trying to go "into" the officers. According to Witness D, the Subject did not listen when the officers told him to put the knife down. Witness D also indicated that the officers may have thought he was going to strike them with the knife.

Officer C ascended the exterior staircase to the second level porch/walkway, approached Sergeant A from the rear and advised him that he was equipped with a TASER device. Simultaneously, Officer D, after observing the Subject holding a knife in his right hand and fearing a confrontation with the armed subject, drew his Glock service pistol. Officer D assumed a covering position on the stairway.

Meanwhile, Officers F and G arrived at the front of the apartment building. As Officers F and G ascended the exterior staircase, they observed the Subject standing on the second level porch/walkway, holding a knife in each hand. The Subject was holding the knives in front of his upper torso while making a downward slashing/stabbing motion. Officers F and G, fearing a confrontation with a knife-wielding subject, drew their respective service pistols. Officer F assumed a covering position on the side of the staircase, and Officer G assumed a covering position to his rear on the fifth and sixth steps from the second level landing. While deployed on the stairway, Officer F repeatedly ordered the Subject in Spanish to drop the knives; however, he did not comply.

Sergeant A directed Officer C to deploy the TASER device. Officer C moved between Officers A and B on the porch/walkway and discharged the TASER darts at the armed subject's mid-torso area from a distance of approximately eight to 10 feet. Officer C believed that the darts impacted the Subject, who was wearing "baggy" clothing, on the chest and right thigh area. There were three activations, each lasting approximately three to five seconds in duration. The less-lethal device was ineffective, and the Subject advanced toward the deployed officers and sergeant. Officer C subsequently redeployed to the rear of Officers A and B and Sergeant A. At one point, Sergeant A, aware that Officers A and B were in front of him with their service pistols drawn and covering the subject, holstered his pistol. Throughout this time, the assembled officers and sergeant repeatedly ordered the subject to drop the knives; however, he did not comply.

At one point during the confrontation, the Subject advanced toward the officers and placed the tips of the knife blades against his chest, as if he was preparing to stab himself. In response, Officers A and B and Sergeant A redeployed rearward. Throughout this time, the Subject continued to shout profanities in English and Spanish, saying that he wanted to die, and that he wanted the officers to shoot and kill him.

According to Witness A, the officers continuously told the Subject to calm down and lower the two knives, but he looked like he was willing to cause harm or die and confronted the officers more. Witness C also indicated that the Subject got too close to the officers and it looked as if the Subject wanted to attack them.

Officer D asked Sergeant A if he should retrieve a BBS from his police vehicle. Sergeant A replied in the affirmative and Officer D ran back to his police vehicle to obtain the weapon.

Officer D arrived at his police vehicle, obtained a BBS from the trunk, and re-entered the complex en route to the apartment building. Sergeant B arrived on scene, though he did not advise CD that he had arrived at the location because he did not want to interfere with the radio broadcasts that were being generated.

In the meantime, as Officers A and B and Sergeant A redeployed rearward, they continued to order the Subject, in English and Spanish, to drop the knives. The Subject did not comply and continued to advance toward the officers and sergeant while holding the knives with the blades pointed toward them in a threatening manner. While redeploying down the porch/walkway, Officers A and B and Sergeant A traversed the landing at the top of the exterior staircase where Officers F and G were positioned.

Officer A indicated that one of his main concerns was avoiding a crossfire situation, given that he didn't know which way the Subject was going to go – either towards the officers positioned at the stairwell or towards Officers A and B, who were at the top of the landing.

Officer B observed the Subject point the knives at the officers and start walking towards them. He closed the distance. Officer B fired his weapon to prevent himself and his partner from serious bodily injury or death because he was in fear for his life that the Subject was going to stab him with the knife. The officers could not continue to back up and could not create any more distance. Officer B felt as though he had to fire his weapon to prevent the Subject from stabbing the officers. Officer B fired five rounds in rapid succession at the Subject from a distance of approximately 13 feet.

According to Officer A, as he was administering commands, the Subject continued to advance and got closer to the officers in the stairwell. Officer A believed that the Subject was either going to harm the officers in the stairwell or charge the officers positioned on the walkway. The Subject began to walk faster and faster, and Officer A fired four rounds in rapid succession. As Officer A fired the fourth round, the Subject

began to hunch down and go to the ground, with the knives still in his hands. Officer A fired his rounds from a distance of approximately 13 feet.

According to Officer F, the Subject advanced in his direction, and, based on his look, his demeanor, the way he was yelling, in addition to his own position on the stairway, Officer F believed that he was going to get hurt. Officer F believed that the Subject was going to stab Officer F or push him, such that he would have fallen down the stairs and gotten hurt. Officer F fired five rounds in rapid succession from his semiautomatic service pistol at the Subject's upper torso and center body mass from a distance of approximately four feet.

According to Officer G, as the Subject was coming closer and not paying attention to the officers' commands, the subject continued to say, "I'm going to kill myself. You're going to have to kill me." Officer G observed the Subject ignoring the officers' commands while jabbing himself and walking forward with the blades pointing forward again. It came to a point where the Subject got so close that Officer G felt as though his life was in danger and if he did not react, he was going to be hurt, possibly killed, in addition to the other officers. Officer G fired one round from his semiautomatic pistol at the armed subject from a distance of approximately eight feet.

Note: According to Witnesses H and I, when the officers fired their rounds, the Subject was still moving forward towards them. According to Witness J, the Subject was continuously walking towards the officers.

As a result of the OIS, the Subject fell onto the deck of the porch in close proximity to the landing at the top of the exterior staircase. The Subject fell onto his right side in a fetal position with his back against the exterior wall of the building, the top of his head facing east, and his feet west. Sergeant A, advised CD, "[S]hots fired. I am going to need an RA unit for a male [...], approximately 35 years, conscious, and breathing."

Sergeant B did not witness the OIS; however, he heard a volley of approximately eight to 10 gunshots. After the OIS, Sergeant B ascended the exterior staircase, and subsequently observed the Subject, who was obviously incapacitated, lying on the second level staircase landing. The sergeant advised that the Subject had a large knife in his right hand and a smaller steak knife was on the ground near his leg.

As Officer F covered the incapacitated subject, Officers A, B and G proceeded to the open front door of the Subject's apartment, entered, and began to clear the apartment for any additional subjects and in search of Victim A, whom they had previously observed in the rear bedroom window of the apartment.

Once it was determined that the Subject was incapacitated and no longer a threat, Sergeant B instructed Officer F to holster his service pistol. Officer F decocked and holstered his pistol. The subject was not handcuffed.

As Officers A, B, and G, entered the apartment with their service pistols drawn, they repeatedly identified themselves as police officers by shouting, "LAPD." In addition, Officer A repeatedly ordered any potential occupant(s) to, "Come out with your hands up." Upon entry, the officers conducted a systematic search of the living room/kitchen area with negative results. Officer A heard someone on the other side of a bedroom door screaming, "Please help me. Please help me." The officers subsequently located Victim A in the bedroom. Once the bedroom was cleared, Officer B holstered his service pistol and Officer G decocked and holstered his pistol. Officers A and B conducted a brief interview with Victim A and determined that during the early stages of the confrontation, the Subject punched her about the face/head with his fists.

Officer B contacted CD and requested an additional Rescue Ambulance for Victim A.

LAFD personnel contacted and examined the Subject. Prior to the examination, Firefighter/Paramedic A removed a knife from one of the Subject's hands and placed it on the deck. The firefighter/paramedics determined that the Subject had sustained multiple gunshot wounds and there were no signs of life. Firefighter/Paramedic B determined death of the Subject.

Scientific Investigation Division Firearms Analysis Unit (FAU) personnel recovered two household kitchen knives from the deck of the second level porch/walkway in close proximity to the remains of the Subject. One of the knives had a four inch blade and the blade of the other knife was seven and one half inches in length.

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 unanimously made the following findings.

A. Tactics

The BOPC found Sergeant A's tactics, along with those of Officers A, B, C, F and G, tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Sergeant A's and Officers A, B, F and G's drawing and exhibiting of a firearm to be in policy.

C. Less-Lethal Use of Force

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

D. Lethal Use of Force

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

Basis for Findings

A. Tactics

- In its analysis of this incident, the BOPC identified the following tactical considerations:
 1. Subjects armed with edged weapons

In this instance, the Subject was advancing toward the officers and Sergeant A while armed with two knives. Sergeant A directed Officer C to deploy a TASER. The TASER had no effect and the Subject kept advancing toward the officers while pointing the knives at them. As the Subject continued toward the officers, the officers believed their lives and the lives of their partners were in danger resulting in a use of lethal force.

When evaluating the actions of the involved personnel, the BOPC took into account several factors which impacted their decisions. First, due to the layout of the walkway and the positioning of the apartment, the involved personnel had no cover and were re-deploying rearward in an attempt to maintain a safe distance from the Subject. Additionally, the Subject was not effectively contained.

After taking into consideration the totality of the circumstances, the BOPC determined that the involved personnel's actions were appropriate. Although they were aware of the dangers associated with subjects armed with knives, the officers remained vigilant while they attempted to maintain a safe distance from the Subject and prevent him from re-entering the apartment. Additionally, although there were several times where the use of lethal force would have been reasonable, the officers demonstrated a reverence for human life by utilizing extensive verbalization and less-lethal force options before resorting to the use of lethal force.

In conclusion, the involved personnel's actions while dealing with a subject armed with knives did not represent a substantial deviation from approved Department tactical training. Nevertheless, this topic was discussed in the Tactical Debrief.

2. Handcuffing

In this instance, the Subject was not handcuffed and was still armed with a knife when Los Angeles Fire Department (LAFD) personnel arrived and attempted to treat him.

When evaluating the decision not to handcuff the Subject following the OIS, the BOPC considered Sergeant A's statements that the Subject appeared not to have any life in him.

Although most subjects are immediately handcuffed following an OIS, current Department standards allow the involved personnel to make the decision to handcuff as determined by the nature of each situation as perceived by the officer. Therefore, Sergeant A's decision not to handcuff the Subject did not substantially deviate from approved Department tactical training. Nevertheless, since instances have occurred where subjects were believed to be incapacitated and have regained consciousness, this topic was 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. In this instance, the tactical considerations neither individually nor collectively "unjustifiably or substantially deviated from approved Department tactical training."

In conclusion, a Tactical Debrief is the appropriate mechanism for the significantly 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.

The BOPC found that Sergeant A, along with Officers A, B, C, F and G's tactics warranted a Tactical Debrief.

B. Drawing/Exhibiting

- Sergeant A

Sergeant A initially stated he was with Officers A and B at the front door of the apartment and drew his service pistol while taking a covering position as Officer A attempted to breach the front door. When asked why he drew his service pistol,

Sergeant A indicated that the comments of the radio call indicated that officers had a man who was possibly in possession of a knife and a female who felt as though her life was in jeopardy.

Although the exact time when Sergeant A drew his service pistol is unclear, based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience while faced with similar circumstances as described by Sergeant A would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Sergeant A's drawing and exhibiting of a firearm to be in policy.

- Officers A and B

Officers A and B approached the front door of the apartment and identified themselves as police officers. The officers ordered the occupants out of the apartment. The Subject shouted at the officers, *"Fuck You... You guys are not coming in... Go away."* Officer A then heard a female scream, *"Help. Help me, please. Help me!"* Once the door was kicked open, the Subject was observed to be armed with two knives standing near the doorway causing Officers A and B to draw their service pistols.

The BOPC determined that officers with similar training and experience while faced with similar circumstances would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, Officer A and B's drawing and exhibiting of a firearm were found to be in policy.

- Officers F and G

As Officers F and G got closer to the stairway leading to the second story, the officers observed the Subject armed with a knife in each hand and felt as though the incident could escalate to the point where the use of deadly force may be justified.

The BOPC determined that officers with similar training and experience while faced with similar circumstances would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, Officers F and G's drawing and exhibiting of a firearm were found to be in policy.

Note: In addition to the above listed employees, there were additional personnel that drew or exhibited firearms during the incident. This drawing/exhibiting was appropriate and requires no specific findings or action in regard to these officers.

C. Less-Lethal Use of Force

- Sergeant A directed Officer C to deploy the TASER, and Officer C stepped up between Officers A and B and pointed the TASER at the Subject, who had been unresponsive to officer commands to put his knives down and continuously moved towards the officers. Officer C discharged the TASER and observed one of the darts strike the Subject in the chest area, but the other dart struck the Subject's waist area. The TASER had no effect, and Officer C activated the TASER two additional times, which also had no effect on the Subject. As the Subject kept advancing on the officers, Officer C re-deployed behind Officers A, B and Sergeant A.

Based on the totality of the circumstances, an officer with similar training and experience would reasonably believe that it was unsafe to approach within contact range of the Subject and that the application of less-lethal force would be a reasonable option in order to protect themselves from the threat presented by the Subject.

The BOPC found Officers C's application of less-lethal force and Sergeant A's direction to utilize less-lethal force to be objectively reasonable and in policy.

D. Lethal Use of Force

- In this instance, the Subject failed to comply with Officer A's commands and continued to walk toward him while armed with a knife in each hand. Officer A redeployed toward the rear of the landing and next to the stairwell. Officer A kept backing up as the Subject refused to comply with his orders to drop the knife in both English and Spanish. The Subject continued advancing closer and closer, and got closer to the officers in the stairwell. Officer A fired four rounds in succession from a distance of approximately 13 feet.

Officer B indicated that the Subject closed the distance, and Officer B fired his weapon to prevent him and his partner from serious bodily injury or death because he was in fear for his life that the Subject was going to stab him with the knife. Additionally, Officer B felt the Subject was closing the distance and he could not back up any further. Officer B fired five rounds from a distance of approximately 13 feet.

Officer F was on the stairwell when he observed the Subject armed with a knife in each hand and advancing toward Officers A and B. Officer F recalled that based on the way the Subject looked, his demeanor, and the way he was yelling, Officer F felt as though he was going to get hurt. Officer F fired four rounds from a distance of approximately four feet.

Officer G was on the stairwell and observed the Subject ignoring all the commands to drop the knife as he continued to advance on the officers. Officer G recalled that the Subject got so close that Officer G felt as though his life was in danger and if he did not react, he was going to be hurt or possibly killed, in addition to his partners.

The Subject continued advancing on the officers and closing the distance. Officer G fired one round from a distance of approximately 8 feet.

Officers with similar training and experience as the involved personnel would reasonably believe that the Subject's actions of advancing toward them while armed with knives in both hands represented an imminent threat of serious bodily injury or death and that the use of lethal force would be a reasonable option.

Therefore, the BOPC found Officers A, B, F and G's use of lethal force to be objectively reasonable and in policy.