

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

OFFICER-INVOLVED SHOOTING – 088-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes () No (X)
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	12 years, 3 months
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Reason for Police Contact

As plainclothes officers were conducting a pre-planned operation, suspects started shooting at them, resulting in an officer-involved shooting.

Subject(s)	Deceased () Wounded (X) Non-Hit ()
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Subject 1: Female, 21 years of age (injured).
Subject 2: Male, 20 years of age (not injured).
Subject 3: Male, 17 years of age (not injured).
Subject 4: Male, 17 years of age (not injured).
Subject 5: Male, 16 years of age (not injured).
Subject 6: Male, 16 years of age (not injured).

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 September 11, 2012.

Incident Summary

Plainclothes Officers A and B were conducting a pre-planned operation in an area to look for narcotics activity. The plan called for Officer A to use his radio to contact the designated chase/arrest units if any narcotics activity occurred. Detective A would then coordinate and direct the chase/arrest units to take the appropriate enforcement action. The chase units consisted of plainclothes officers, who were deployed in unmarked vehicles, and uniformed officers, who were deployed in marked black and white police vehicles. The personnel assigned to the operation were instructed to monitor the base frequency and use a tactical frequency to communicate during the operation.

The assigned personnel proceeded to the location. Officer A parked their vehicle along the south curb. Officer A then turned off the engine and moved to the rear of the vehicle where he joined Officer B and positioned himself on the left side. Officer A advised all personnel involved in the operation that they were operational.

A short time later, Officers A and B observed three individuals exit an apartment building and walk west on the south sidewalk toward their vehicle.

According to Officer A, as the three individuals walked past the officers' vehicle, another vehicle drove east, stopped, and double parked in the roadway to the rear of the officers' vehicle with the engine running and the headlights on. Officer A was concerned that the headlights of the vehicle were illuminating the interior of their vehicle and the officers were being silhouetted.

Officers A and B observed three subjects exit the vehicle and proceed toward the individuals who were on the south sidewalk, just west of the officers' vehicle. A verbal altercation ensued; however, the officers were not able to discern the content of the conversation. The officers then turned and took kneeling positions on the rear seat to better monitor the activities of the two groups of individuals. As Officer A scanned the area and looked in a southwesterly direction, he observed an individual, subsequently identified as Subject 3, standing next to a palm tree and holding a shotgun with the muzzle pointed toward the ground. Officer A then glanced in a northwesterly direction and observed two additional individuals standing side-by-side on the street to the right rear of the vehicle and to the left rear of an unoccupied vehicle that was parked along the south curb of the roadway. The individual standing near the rear of the vehicle lifted his shirt and Officer A observed what appeared to be a shiny/silver weapon in his waistband. At this time, Officer A, fearing an armed confrontation, drew his pistol and directed Officer B to request back up.

Officer B attempted to broadcast a help call but had difficulty operating his radio equipment. Officer B tried to switch back to the base frequency but he was unable to switch the radio frequency and dropped his radio.

Almost simultaneously, Officer A heard two rapid gunshots and observed muzzle flash. Officer A believed that he was being shot at by the individual who was standing to the left rear of the parked vehicle and south of the individual who had lifted his shirt and

displayed the possible weapon in his waistband. Officer A fired at the subjects. One or two of the subjects then shot at the officers with shotguns. As a result, both Officers A and B sustained pellet wounds to their eyes. Officer A was able to observe two of the subjects and believed they were going to continue shooting at them and he fired again. The subjects re-entered their vehicle and started to back-up slowly and then made a slow turning movement. Officer A believed that the subjects were going to shoot at them again and, fearing for his life and his partner's life, fired at the subjects in the vehicle. The subjects in the vehicle were able to flee the scene.

Note: The investigation concluded that two subjects, utilizing two separate shotguns, had fired a total of five rounds during this incident. The investigation also concluded that the officers' vehicle was struck at least three times by shotgun fire.

Officer B activated his radio and advised all personnel that shots were fired and that officers needed help. A rescue ambulance (RA) was requested for the officers and both officers were transported to the hospital where they were treated for their injuries.

Subject 4 was detained at the scene and Subject 3 was detained by responding officers as he tried to flee the scene. A follow-up investigation resulted in the apprehension of Subject 1, who was wounded as she drove the subjects' vehicle, along with Subjects 2, 5, and 6.

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 firearm 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 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. Lethal Use of Force

The BOPC found Officer A'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 consideration:

1. Tactical Communications, Radio Broadcasts

In this instance, Officer B attempted to broadcast a help call but had difficulty operating his radio equipment.

Officers A and B were involved in a pre-planned operation. A tactical frequency was designated for the operation with direction given for all personnel to also monitor the base frequency. Therefore, it was not necessary to switch from the pre-authorized tactical frequency and broadcast on the base frequency. A broadcast on the pre-designated tactical frequency would have provided the personnel assigned to the operation with the necessary information to properly respond with the identified communication officers delegated to rebroadcast the information on the base frequency as delineated in the tactical plan.

Given the rapidly unfolding events that took place in the moments prior to the shooting, it is understandable that Officer B would have had difficulty manipulating his radio, causing a short delay in requesting help. Therefore, the BOPC found that his actions did not substantially 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, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident.

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

B. Drawing/Exhibiting

- In this instance, Officers A and B were conducting an operation when Officer A observed Subject 3 standing next to a palm tree and holding a shotgun in his right hand. Officer B then glanced in a northwesterly direction and observed two additional individuals standing side-by-side on the street to the right rear of a vehicle

and to the left rear of an unoccupied vehicle that was parked along the south curb of the roadway. The individual standing near the rear of the vehicle lifted his shirt and Officer A observed what appeared to be a shiny/silver weapon in his waistband. At that time, Officer A, fearing an armed confrontation, drew his service pistol.

After Officer A drew his service pistol, Officer B heard gunshots and then observed Officer A return fire in the subjects' direction. Believing that the situation had escalated to the point where deadly force may be justified, Officer B drew his service pistol.

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

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

C. Lethal Use of Force

- **Officer A** (pistol, a total of 24 rounds in three separate sequences of fire)

First Sequence of Fire

In this instance, Officer A observed three subjects exit a vehicle and proceed toward individuals, who were on the sidewalk, just west of his position in the van. As Officer A scanned the area he observed Subject 3 standing next to a palm tree on the south parkway of Leeward Avenue holding a shotgun in his right hand. Officer A then glanced in a northwesterly direction and observed two additional individuals standing side-by-side on the street to the right rear of a vehicle. At this time, Officer A observed one of these individuals lift his shirt and Officer A observed what appeared to be a shiny/silver weapon in his waistband. At this time, Officer A, fearing an armed confrontation, drew his pistol. Almost simultaneously, Officer A heard two rapid gunshots and observed muzzle flash. Believing that he and his partner were being shot at, Officer A returned fire.

Second Sequence of Fire

At or near the conclusion of Officer A's first sequence of fire, the officers' van was struck by shotgun fire that caused injury to both officers.

Upon being struck by shotgun fire, Officer A reasonably assumed that the shotgun fire came from the subject whom he had seen standing next to the palm tree and holding a shotgun. When Officer A could not locate that subject, Officer A returned his attention to the subjects who were standing to the rear of the vehicle. Believing that these subjects still posed an immediate threat, Officer A fired in defense of his life and the life of his partner.

In this instance, Officer A perceived that he and his partner were being targeted by separate subjects who were utilizing separate fields of fire. Believing that this was a coordinated attack, Officer A assumed that the subjects who were standing to the rear of the vehicle would continue to fire into the van.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances would reasonably believe that the subjects represented an imminent threat of death of serious bodily injury and that the use of lethal force would be reasonable in order to stop his actions.

Third Sequence of Fire

After the second sequence of fire, Officer A's service pistol went out of battery and Officer A conducted an out of battery reload. After reloading, Officer A scanned the area for the subjects but did not see them. Officer A then observed that the vehicle was maneuvering at a slow rate of speed. Believing that the shooting subjects had reentered their vehicle and were going to continue to fire at him and his partner from inside their moving vehicle, Officer A fired 10 rounds in defense of his life and the life of his partner.

In giving consideration to the third sequence of fire, the BOPC took into account the movement of the vehicle following Officer A's second sequence of fire. The BOPC also took into account the events that transpired prior to the third sequence as well as Officer A's state of mind at the time he fired his final rounds. Given the nature of the operation, coupled with Officer A's belief that he and his partner may have been identified and the apparent coordinated attack on their vehicle; a reasonable officer would conclude that the subjects' intent was to kill police officers. Most importantly, the decision to use lethal force was based on the reasonable belief that the occupants inside the vehicle posed the immediate threat, not a presumptive belief that the vehicle itself constituted the threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances would reasonably believe that the subjects, while seated inside their vehicle, represented an imminent threat of death of serious bodily injury and that the use of lethal force would be reasonable. As such, the BOPC also found that Officer A had justification to fire at the subjects' moving vehicle.

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