

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

OFFICER-INVOLVED SHOOTING – 090-11

Division **Date** **Duty-On (X) Off ()** **Uniform-Yes (X) No ()**

North Hollywood 10/09/11

Officer(s) Involved in Use of Force **Length of Service**

Officer A 2 years, 8 months

Officer B 3 years, 8 months

Reason for Police Contact

As officers responded to a radio call of a man with a rifle, the subject pointed his rifle at the officers, resulting in an officer-involved shooting.

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

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 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 August 7, 2012.

Incident Summary

The Subject telephoned Communications Division (CD) on three separate occasions to report a man with a rifle who had attempted to shoot someone.

Note: The investigation revealed that the Subject was calling the police on himself.

On the night of the incident, the Subject told several people that he had called the police and that he was going to end his life. He also told people that he was waiting for the police to come and kill him.

Officers responding to the first two calls from the Subject to CD were unable to locate the Subject. Officers A and B responded to the third call and they, too, were initially unsuccessful in locating the Subject. As Officers A and B were clearing the call, however, they were flagged down by Witness A, who directed the officers to the Subject. The Subject was on the sidewalk and the officers observed him to be concealing a rifle behind his back.

The officers stopped their police vehicle and Officer B (passenger) exited the police vehicle, unholstered his service pistol, and gave the Subject commands to drop his gun. Simultaneously, Officer A (driver) unholstered his service pistol, exited the vehicle, and also gave the Subject commands to drop his gun.

The Subject turned and faced the officers, then pointed rifle in their direction. Officers A and B, fearing that the Subject was going to shoot them, fired a total of four rounds at the Subject – Officer A fired three rounds and Office B fired one round – striking the Subject in the upper body. The Subject dropped his rifle and fell to the ground.

The officers requested an ambulance, which responded to the scene and transported the Subject to a local hospital where the Subject died of his injuries.

The investigation revealed that the Subject's rifle was a pellet rifle.

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 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. Preservation of Evidence

In this instance the officers safely approached the Subject to take him into custody. Officer Ramirez observed various family members who were in the immediate area and had observed the OIS. The family members were visibly upset and began to approach the officers. Officer Ramirez was concerned that the family members would advance toward them and attempt to take possession of the rifle. Officer Ramirez instructed Officer Izquierdo to secure the rifle, thus eliminating the possibility of a confrontation involving the rifle. Officer Izquierdo grabbed the rifle on the stock, moved it south and placed it on the grass with the rifle muzzle pointing in a safe direction. Optimally, preservation of evidence is paramount; nevertheless, in this case, moving the rifle from the location was appropriate.

In conclusion, the BOPC found that Officers A and B's decision to move the rifle did not substantially or unjustifiably deviate from approved Department tactical training.

2. Handcuffing

In this instance, Officers A, B, C, and D approached the Subject at the culmination of the OIS and intended to handcuff him and complete a cursory search for additional weapons. Officer B believed that the Subject had succumbed to his injuries and no longer posed a threat. Consequently, the officers determined that handcuffing was unnecessary and Officer B completed a cursory search for additional weapons. The principal reason for handcuffing is to maintain control of the individual and to minimize the possibility of a situation

escalating to a point that would necessitate using a higher level of force or restraint. Therefore, the decision to use restraining procedures and devices depends on individual circumstances and the officer's assessment. Based on the totality of the circumstances, the BOPC found that it was reasonable for the officers not to handcuff the Subject.

In conclusion, the officers' decision to leave the Subject unsecured did not substantially and unjustifiably 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, the officers were directed to the Subject and could clearly see that he was hiding a rifle behind his back. Subsequently, both officers drew their respective pistols and ordered the Subject to drop the rifle.

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 had escalated 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, 3 rounds)
- **Officer B** (pistol, 1 round)

In this instance, according to Officer A, the Subject manipulated his rifle during which time it appeared as if he was loading it. He stood upright and began to lift the muzzle of the rifle in an upward direction toward Officer A. Officer A, to stop the threat, raised his service pistol and fired two consecutive rounds at the Subject. Officer A, who remained conscious of his background, assessed after the second

round. Subsequently, he observed that the Subject had continued to raise the muzzle of the rifle towards him. Consequently, Officer A fired one additional round which caused the Subject to fall to the ground with the rifle lying adjacent to him.

According to Officer B, the Subject appeared to make eye contact with Officer B and without hesitation raised the muzzle of the rifle in his direction. Officer B estimated the Subject had raised the muzzle of the rifle approximately three quarters of the way up prior to Officer B firing one round from his service pistol. The Subject subsequently took one step back and collapsed to the ground. The rifle fell from the Subject's hand and landed within arm's reach.

An officer with similar training and experience as Officers A and B would reasonably believe that the actions of the Subject represented an imminent threat of serious bodily injury or death and the use of lethal force would be a reasonable option.

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