

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

OFFICER-INVOLVED SHOOTING – 091-11

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

Pacific 10/11/11

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

Officer A 5 years, 1 month
Officer B 11 months

Reason for Police Contact

As officers were conducting a traffic stop, the Subject exited his vehicle armed with a knife and walked toward the officers, resulting in an officer-involved shooting.

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

Subject: Male, 24 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 28, 2012.

Incident Summary

Background

On October 10, 2011, Witness A arrived at his apartment and received a telephone call from the Subject. Witness A met the Subject and they drank a bottle of wine. After finishing the wine, the Subject drove them in his vehicle to a liquor store. They purchased a half pint of Southern Comfort, drove to another location and consumed the liquor.

After drinking the bottle of Southern Comfort, they patronized two separate local bars and consumed several additional drinks of liquor. Witness A said he believed they left the last bar somewhere between 11:30 p.m. and 11:45 p.m. and drove home.

Summary

On October 11, 2011, at approximately 2:25 a.m., Officers A and B were on patrol in their Area when they observed the Subject driving in the opposite direction at a high rate of speed. Due to the cars going in separate directions, the officers could not pace the vehicle to obtain an approximate speed of travel. In an attempt to further their investigation, Officer A negotiated a U-turn and followed the Subject's vehicle.

The officers observed the Subject's vehicle turn into a parking lot. Seconds later, Officer A drove into the parking lot. According to Witness A, the Subject said, "Okay, there's the police," and advised him he was currently on probation. Officer A stopped the police vehicle in a position that gave Officer B a clear view of the Subject's rear license plate. According to Witness A, the Subject was acting paranoid and also told Witness A, "I don't want to go to jail."

Officer B ran the license plate. The officers received information that the Subject was one of the vehicle's registered owners and that the registration was valid until August 2011; however, the officers observed the registration tab on the vehicle was valid until 2012.

Officers agreed that once the Subject drove away, they would conduct a traffic stop for expired registration. After a few minutes, the Subject drove south, negotiated a quick right hand turn, and parked in a north facing parking stall. Officer A conducted a three-point turn, briefly activated the overhead emergency lights, and parked to the rear of the Subject. Officer B advised Communications Division (CD) of their Code Six status and location.

Officer B exited their patrol car and approached on the passenger's side of the Subject's vehicle. Due to the Subject's vehicle having dark tinted windows, Officer B did not observe Witness A seated in the front passenger's seat until he was a few feet away from the vehicle. Seconds later, Officer A approached the Subject and requested his driver's license, vehicle registration, and proof of insurance. According to Officer A, he

smelled alcohol emanating from inside the vehicle and asked the Subject if he had been drinking. The Subject replied, "Not really, but I do not want to blow."

Note: The Subject was referring to him not submitting to a breathalyzer examination.

The Subject provided Officer A his driver's license but he was unable to locate the vehicle's registration. While Officer B maintained his position, Officer A returned to their police vehicle and verified the Subject's personal information. The inquiry revealed the Subject was on probation for driving while under the influence with priors. Officer A signaled to Officer B and he stepped backward to the rear of the Subject's vehicle. Officer A advised him that the Subject was on probation and he was going to have him step out of the vehicle.

Officer A requested a traffic unit to their location to perform a Preliminary Alcohol Screening Test (PAST). Communications Division advised that there were no traffic units available. Officer A informed Officer B that he would conduct a Field Sobriety Test (FST) on the Subject and he walked to the trunk of their vehicle to retrieve the proper FST documents. Officer A placed the FST paperwork on the trunk of the car and walked to the Subject's door. Officer A directed the Subject to step out of the vehicle and, according to Officer A, the Subject stated, "Am I going to jail for a long time?" Officer A again asked him to step out of the vehicle.

Officer A utilized his flashlight to illuminate the Subject when he observed him retrieve a shiny item from the door's compartment area with his right hand. Officer A reacted by asking, "What is that," and the Subject replied, "It's a knife." Officer A immediately drew his service weapon with his left hand as the Subject exited his vehicle.

Officer A requested a back-up on a "415 man with a knife" as the Subject walked towards him, holding the knife his right hand. The knife had a 3-inch blade and a green handle. The blade was extended out and the Subject pointed it toward Officer A. Officer A directed the Subject to stop while simultaneously stepping back to keep distance between them.

Officer B heard his partner's gun holster unsnap and when he also heard Officer A directing the Subject to stop, he began to backup to get a better look to see what was going on. Officer B believed the situation could escalate to deadly force and therefore, drew his service weapon with his right hand.

After walking a short distance, the Subject went down on both knees, and then used his left hand to make the sign of the cross across his chest. After a few seconds, he stood up and began to walk toward the officers. According to Officer B, he directed the Subject to get on his knees. Officer A requested the incident be upgraded from a back-up to a help call and CD immediately broadcast the upgraded information.

Simultaneously, Officer A also held down the emergency button on his radio. The officers were approximately 8 to 10 feet apart as they continued to step back. Both officers continued to step back, passing the open doors of their patrol vehicle while directing the Subject to stop and drop the knife. The Subject refused to comply and continued to advance towards them. The Subject advanced approximately thirty feet toward the officers, paused, and removed his shirts, exposing his bare chest. The Subject yelled, "Go ahead and shoot me," as he continued to advance toward the officers while swinging the knife parallel to the ground and from side to side in a hooking motion. Officers directed the Subject to drop the knife several times as they continued to re-deploy in a southerly direction.

As the officers continued to step back, Officer B stopped in the street. Officer A also stopped in the street, in a vehicle turn lane. According to Officer A, he now had two separate tactical concerns. The first was the issue of possibly being stabbed by the Subject. The second concern would be him being struck by a vehicle. The Subject had advanced approximately 105 feet and had begun to increase his pace as he closed the distance between him and the officers. Officer A, in fear of being stabbed, raised his weapon and fired one round in a northwesterly direction from an approximate distance of twelve to fifteen feet. The round struck the Subject in the stomach, causing him to drop the knife and fall onto the ground. Communications Division broadcast a help call and that shots had been fired.

The officers requested an ambulance for the Subject and he was transported by ambulance to the hospital.

The knife was recovered at the scene and booked as evidence.

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:

- Suspect Armed With Edged Weapons

In this instance, the Subject, who was armed with a knife, exited the vehicle and advanced upon Officer A, and ultimately Officer B, causing them to tactically re-deploy southbound through the parking lot. Officers A and B continually ordered the Subject to drop the knife as they re-deployed.

It was not only reasonable for Officers A and B to re-deploy rearward in order to gain distance between them and the Subject, it was commendable. Officers A and B showed great restraint and the highest level of reverence for life, giving the Subject every opportunity to comply with their orders. In addition, Officers A and B's re-deployment acquired more time for responding units to arrive, which could have allowed for additional tactical options, had they actually arrived prior to the OIS. Once Officer A believed that it was no longer safe to move rearward, he appropriately made a critical tactical decision to fire his service pistol to stop the Subject's actions.

In conclusion, the BOPC found Officers A and B's tactics did not substantially deviate from approved Department tactical training.

- The BOPC additionally considered the following:
 - Equipment

In this instance, although Officers A and B left their PR-24 batons and the TASER inside of the police vehicle, it would not have been tactically safe for the officers to utilize either of these options against the Subject, who was armed with a knife. The effective range of the TASER is 0 to 21 feet, which would have been too close of a distance between the Subject and the officers. However, Officers A and B are to be reminded that the immediate availability of additional

equipment affords additional tactical and force options, should they become necessary. This topic was discussed during the Tactical Debrief.

- Simultaneous Commands (Non-conflicting)

The investigation revealed that Officers A and B gave simultaneous commands to the Subject to stop and drop the knife. Although these commands were non-conflicting, Officers A and B are to be reminded of the potential confusion that can occur when issuing simultaneous commands. This topic was discussed during the Tactical Debrief.

- Tactical Communication

Officers A and B stated during their interview with investigators that they briefly discussed tactics at their start of watch. However, prior to the shooting, they resorted to their academy training. It may have been prudent for the officers to have had a more in-depth discussion due to this being the first time that they had worked together. This topic was discussed during the Tactical Debrief.

- Less-Lethal

Although Officers A and B requested back-up and then help, it would have been tactically prudent for them to request a beanbag shotgun as a less-lethal force option for a subject armed with a knife. This topic was discussed during the Tactical Debrief.

- Vehicle Stop Tactics

Although Officers A and B followed Department policy and protocol during their detention of the Subject, it may have been prudent for Officers A and B to request that the Subject roll down the windows, which were tinted, to afford a better view into the vehicle. 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, 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

- Officers A and B conducted a traffic stop on the Subject for a traffic violation. Upon exiting his vehicle, the Subject armed himself with a knife. After Officer A verified that the Subject had a knife in his hand, he realized that the situation had escalated to the point where deadly force may be justified and drew his service pistol.

Upon hearing Officer A's holster unsnap and Officer A ordering the Subject to stop, Officer B, believing that the situation had risen to the point where deadly force may be justified, drew his service pistol.

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, 1 round)

In this instance, the Subject failed to comply with Officers A and B's continuous verbal commands to stop and drop the knife. The Subject continued his deliberate walk toward the officers while holding a knife in his right hand. As the Subject approached the officers, he stated, "*Just kill me.*" Officers A and B continued to redeploy until they were in traffic lanes. Officers A and B were unable to redeploy any further due to the fact that they believed that they would get struck by vehicular traffic.

The fact that Officers A and B could potentially be struck by a vehicle in conjunction with the Subject's continued advance toward them with a knife in hand, Officer A fired one round from his service pistol from a distance of approximately 12 to 15 feet to stop the Subject's actions.

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

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