

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

OFFICER-INVOLVED SHOOTING – 094-11

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Olympic	10/22/11		
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Officers(s) Involved in Use of Force	Length of Service
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Officer A	11 years, 4 months
Officer B	2 years, 5 months
Officer C	2 years, 1 month

Reason for Police Contact

After arriving at an “ADW in progress” radio call, the officers observed the Subject attacking the Victim with a machete, resulting in an officer-involved shooting.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 28 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 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 August 21, 2012.

Incident Summary

The owner and an employee of a taco truck were preparing to close for the night, while the Victim sat finishing his meal.

The Victim was unaware that a male, later identified as the Subject, had walked up behind him. Upon stopping behind the Victim, the Subject withdrew a machete and without any warning, attacked the Victim. The Victim stood up and attempted to move away from the Subject; however, the Subject moved with the Victim and pinned him against a cinder block wall. The Subject continued his assault of the Victim by slashing and stabbing him in the arms and upper torso.

The Subject left the Victim bloodied and lethargic on the sidewalk as he entered the taco truck and started the engine. He returned to the Victim and dragged him into the truck. The Subject then drove away, striking a street light pole along the south curb, before striking several parked cars, further down the block.

Several witnesses saw the attack and called the police. Officers were then dispatched to the scene by Communications Division (CD), as was an ambulance. Officers A and D notified CD they would respond.

Officer D stopped and parked the police vehicle in the center of the street, facing toward the taco truck, and he requested back up. Officers A and D exited their vehicle and unholstered their weapons. As the officers walked around the back of the taco truck to the sidewalk, their attention was directed to the Subject and the Victim, who were fighting over the machete. Officer D upgraded the call to a help call and requested a beanbag and TASER.

Both officers saw that the Victim was covered in blood with numerous cuts to his chest, stomach and arms and was grasping the blade of the machete. The Subject, who was lying in the Victim's lap, held the handle of the machete and appeared to have a physical advantage over the Victim.

Officer A took a position of cover behind a small tree near the doorway of the truck. Officer D positioned himself to the right of Officer A and began giving verbal commands. Neither the Subject nor the Victim complied with his commands. The Subject then pretended to be the victim, creating additional confusion.

As this was occurring, several other officers arrived, including Officers B and C. Within seconds the officers formed a semi-circle around the open entryway of the taco truck. Officer D organized the officers into an arrest team with the following assignments: Officer A was tasked with lethal force; Officer B was armed with a TASER; and Officer C was armed with a beanbag shotgun.

Officer D continued to give commands to the Subject and Victim. The commands were primarily given in English; however, commands were also repeated in Spanish.

Officer D still could not determine whether the Subject or the Victim was the aggressor, as they continued to struggle over the machete. The Subject slipped further down the Victim's legs exposing the Victim's chest. Officer D directed Officer B to deploy the TASER at the Victim.

Officer B discharged the TASER, striking the Victim in the torso. The TASER had little effect and the Victim maintained his grasp of the machete. Officers continued to give verbal commands and again they were ignored. Officer B activated the TASER a second time, causing the Victim to release the machete.

The machete fell between the Victim and the Subject, with the handle closer to the Subject. With the officers continuing to deliver verbal commands, the Subject grabbed the handle of the machete. The Subject then began thrusting the machete into the Victim's chest. In defense of the Victim, Officer A fired three rounds from his pistol at the Subject striking him in the torso.

After Officer A's third round was fired, the Subject stopped assaulting the Victim, but still held the machete with his hand raised toward the Victim in a threatening manner. Officer C advised Officer D he could fire the beanbag shotgun at the machete and knock it from the Subject's hand. Officer D directed Officer D to fire the beanbag shotgun at the Subject, which Officer D did, successfully knocking the machete out of the Subject's hand.

Meanwhile, the Victim began to get up and reach toward the machete. Officer B, fearing the Victim was attempting to arm himself with the machete, activated the TASER again and the Victim stopped trying to take possession of the machete. Officers detained the Subject and the Victim without further incident, eventually releasing the Victim and arresting the Subject. Both were taken to the hospital and treated for their injuries.

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 Officers A, B, C and D's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

The BOPC found Officers A and D's drawing and exhibition of a firearm to be in policy.

C. Less-Lethal Use of Force

The BOPC found Officers B and C's use of less-lethal force to be in policy.

D. Lethal Use of Force

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

Basis for Findings

A. Tactics

- 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, B, C and D's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

- In this instance, Officers A and D received information from CD that a male suspect was attacking another male with a machete. Upon their arrival, Officers A and D observed the taco truck shaking and heard noise emanating from within it, as if a struggle were ongoing inside. Additionally, two witnesses advised the officers of the attack. Based on the totality of the circumstances, Officers A and D believed that the situation may escalate to the point where deadly force may be justified and drew their respective service pistols.

The BOPC determined that an officer with similar training and experience as Officers A and D 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.

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

C. Less-Lethal Use of Force

- **Officer B** – Three TASER activations.

In this instance, Officer B observed the Victim and the Subject struggling over the machete inside of the taco truck. Not knowing who the actual aggressor was, and realizing that the Victim appeared to be gaining control of the machete, Officer B discharged the TASER at the Victim to stop his actions and end the struggle with the Subject. Officer B activated the TASER (with darts embedded) two more times as the Victim attempted to again acquire the machete.

Here, although the Victim was later determined to be the victim, at the time Officer B initially discharged the TASER, the Victim appeared to have more control of the machete and Officer B believed that he may attempt to stab the Subject.

In conclusion, the BOPC determined that an officer with similar training and experience as Officer B and faced with similar circumstances would reasonably believe that it would be unsafe to approach the Victim and the Subject while they struggled over possession of the machete.

Additionally, the same officer would reasonably believe that the Victim's actions as portrayed by Officer B represented an imminent threat of serious bodily injury or death and that the use of less-lethal force would be reasonable.

Therefore, the BOPC determined Officer B's use of less-lethal force was objectively reasonable and within Department policy.

Officer C – Beanbag Shotgun, one sock round.

In this instance, Officer C observed the Victim and the Subject struggling over the machete inside of the truck. Once the Subject gained control of the machete, Officer C advised Officer D that he could knock the machete from the Subject's hand. Officer D directed him to fire the beanbag shotgun at the Subject's hand to remove the machete. Officer C did so, discharging one sock round, effectively removing it from the Subject's hand.

In this case, the BOPC determined that while Department-approved deployment of the beanbag shotgun is not normally intended to remove weapons from suspect's control, in this instance, Officer C's assessment, communication and use of the beanbag shotgun for this purpose was appropriate and effective.

An officer with similar training and experience as Officer C and faced with similar circumstances, would reasonably believe that it was unsafe to approach the Subject and that the use of the beanbag shotgun as a less-lethal force option would be reasonable in order to disarm the Subject and effect an arrest.

Therefore, the BOPC determined Officer C's use of less-lethal force was objectively reasonable and within Department policy.

In conclusion, the BOPC found Officers B and C's use of less-lethal force to be in policy.

D. Lethal Use of Force

- In this instance, Officer A observed the Subject continuing to struggle with the Victim over possession of the machete. At one point, the Subject gained possession of the machete and began to stab the Victim. In response, Officer A fired three rounds at the Subject to stop his actions.

An officer with similar training and experience as Officer A would reasonably believe that the Subject's actions of stabbing the Victim represented an imminent threat of serious bodily injury or death and the use of lethal force would be a reasonable option. The BOPC determined Officer A's use of lethal force was objectively reasonable and within Department policy.

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