

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

OFFICER-INVOLVED SHOOTING – 035-16

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

77th Street 6/10/2016

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

Officer A 8 years, 2 months.

Reason for Police Contact

An officer conducted a pat-down search of the Subject during an investigative stop. The Subject, who was armed with a handgun in his waistband, began to flee then turned back toward the officer and reached toward the handgun, resulting in an OIS.

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

Subject: Male, 31 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 subject 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 April 18, 2017.

Incident Summary

Uniformed Police Officers A and B were patrolling in a marked black and white police vehicle, equipped with a Digital In-Car Video System (DICVS). The officers were tasked with monitoring gang activity.

Officer A was not carrying his TASER. Officer B was carrying his TASER in a holster on his left hip.

Officers A and B drove through a business parking lot known to them as a location where gang members congregate. Officer A drove west into the parking lot from the east side driveway and did not see any activity in front of the businesses. However, he immediately detected a strong odor of marijuana coming from the area. The officers observed a white sports utility vehicle (SUV) stopped in the parking lot facing east toward the east driveway. Officer A stopped his vehicle next to the SUV on his driver's side, as the odor of marijuana grew stronger. Officer A believed that the SUV was the possible source of the odor of marijuana. The officers observed the occupants of the SUV as a female driver, Witness A, the right front passenger, the Subject; and the right rear passenger, Witness B. Officers A and B observed Witness B wearing a baseball cap known to be gang attire and decided to make contact with him.

According to Officer A, he believed he broadcast his location (Code Six) via the police radio. However, upon review of the radio frequency, Officer A's broadcast was not captured.

Officer A exited his vehicle to conduct a narcotic investigation and told Witness A to turn off the engine of the SUV. Officer B exited the police vehicle and deployed to the right rear passenger side of the white SUV as Officer A made contact with Witness A.

Officer A said that as he pulled alongside the vehicle, the odor of marijuana grew stronger. Officer B did not smell the marijuana until he exited the police vehicle. There was no discussion about the odor while the officers were still in their vehicle.

According to Witness A, the officer driving engaged her in a conversation while he was still in the police vehicle and told her they wanted to search her car, to which she replied, "Okay."

As Officer A approached the driver's side of the SUV, he observed Witness B's hands down by his ankles, near the floorboard of the passenger seat, and believed that Witness B was trying to conceal an item. Officer A ordered Witness B to keep his hands on his lap. Both officers observed a green medical marijuana container in plain view located in the backside pocket attached to the right front passenger seat, directly in front of Witness B's seat.

Note: The investigation determined there was no marijuana in the green container. However, three other containers containing marijuana were

subsequently located and recovered from inside the SUV. There was no evidence to support that the individuals were smoking marijuana when the contact was initiated. The odor of marijuana was also prevalent later during a search of the vehicle by FID investigators.

Officer A engaged the occupants in conversation and told them that he could smell the odor of marijuana and observed the marijuana container. The Subject responded by telling Officer A that he had a medical marijuana card. Officers A and B asked the Subject and Witness B if there were any weapons in the vehicle and both denied there were. According to Officer A, the Subject seemed nervous and avoided eye contact. Officer A believed, based on his experience, that the Subject's demeanor was consistent with someone who was wanted for a crime or was trying to conceal something.

According to Officer A, he made eye contact with Officer B and nodded, indicating that he wanted the occupants taken out of the vehicle. Officer A then walked around the front of the SUV, while watching the occupants inside, as he repositioned himself adjacent to the right front passenger door. Officer B ordered Witness B out of the vehicle. As Witness B exited the vehicle, Officers A and B observed a folding knife in Witness B's waistband. Officer B handcuffed Witness B and removed the knife from Witness B's waistband.

Officer A opened the right passenger door and ordered the Subject out of the SUV. Officer A told the Subject to turn toward the SUV and place his hands behind his back, and he complied. According to Officer A, based on the odor of marijuana, the marijuana container, knowledge of the area, and the weapon on Witness B, he decided to conduct a pat-down search on the Subject. Officer A grabbed the Subject's fingers, which were interlaced together, with his left hand and searched the front right side of the Subject's waistband with his right hand. He immediately felt a hard object that he momentarily thought was a cell phone case. According to Officer A, as he continued to search the Subject's front waistband, he realized that the object was, in fact, a gun. Officer A moved his hand back toward the gun, at which time the Subject broke free from Officer A's grip and turned to his left, away from Officer A.

As described by Officer A, the Subject broke free of his grip and attempted to turn towards him. The Subject ran approximately four to five feet in between two vehicles towards a wall and, as he was running, bladed his body toward Officer A, with his hand moving toward the location of the handgun in his waistband.

Note: Video from a surveillance camera shows that the Subject turned to the left and began to run from the officers. Officer A can be seen drawing his duty weapon with his right hand as soon as the Subject ran past him. The Subject appeared to be trying to run between two parked cars, but he ran into the car parked on the right side, striking the car with his right shoulder, causing his body to turn to the right as described by Officer A.

Officer A unholstered his pistol and fired four rounds in a southeasterly direction from a two-handed shooting position from a distance of approximately eight feet. The Subject was struck by the gunfire and collapsed to the ground onto his left side. The Subject continued to move his arms, and Officer A observed the butt of the Subject's gun protruding through his shirt from his waistband. Officer A held the Subject at gunpoint and ordered him not to move. Officer B heard the gunshots, dropped Witness B's knife to the ground, and unholstered his pistol.

Officer A immediately broadcast a "Shots fired, officer needs help" call.

Officer A verified that Officer B was okay and asked for the whereabouts of Witness B, as he did not see him in the area. Witness B had walked to the north side of the parking lot after the gunfire. Witness A exited the SUV screaming and crying and walked to the front of Officer A's vehicle. Officer B holstered his pistol, located Witness B, walked him back to the rear of the SUV, and placed him on his knees. Meanwhile, a group of approximately 10 people began gathering in the parking lot. Officer A broadcast a request for a rescue ambulance.

According to Officers A and B, the crowd became hostile and aggressive, and were yelling and screaming at them. Based on the actions of the crowd, Officer B was concerned that the crowd would move directly toward them, so he unholstered his pistol and ordered the crowd to back up, away from them.

Additional uniformed Police Officers arrived at the scene. Officer C unholstered his firearm and covered the Subject with his firearm while Officers A and D approached the Subject. Officer A holstered his pistol and handcuffed the Subject. The Subject continued to move his hands behind his back. Believing the Subject's hands were in close proximity to the gun in his waistband, Officer A removed the gun from the right side of the Subject's waistband and secured it in the trunk of his police vehicle. Officers B and C then holstered their pistols.

Numerous additional officers responded to the scene to assist. Officer D broadcast that the Subject was in custody. Officer D noticed that Officer E had gloves in his hands and asked him to search the Subject. The search was conducted and no additional weapons were recovered.

Uniformed Sergeant A next arrived at scene. Sergeant A identified Officers A and B as the involved officers and separated and monitored the officers. Uniformed Sergeant B arrived at the scene as well. Sergeant A then obtained a Public Safety Statement (PSS) from Officer A, and Sergeant B obtained a PSS from Officer B.

Uniformed Sergeant C arrived at the scene and became the Incident Commander (IC).

Los Angeles Fire Department (LAFD) personnel responded to the scene and began basic life support, which consisted of cardiopulmonary resuscitation (CPR), to the Subject. The Subject was transported to the hospital for further medical treatment. The

Subject made no statements while being transported in the RA. The Subject succumbed to his injuries at the hospital.

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 Administrative Disapproval.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

- In its analysis of this incident, the BOPC noted the following tactical considerations:
 1. **Tactical Communication/Tactical Planning** (Substantial Deviation – Officers A and B)

Officers A and B did not effectively communicate their observations or actions with one another on multiple occasions throughout the incident.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, the officers' lack of planning and inability to effectively communicate with one another during this incident placed the officers at a significant tactical disadvantage.

Based upon the totality of the circumstances, the BOPC determined that Officers A and B's lack of communication and planning with each other throughout this incident was a substantial deviation, without justification, from approved Department tactical training.

2. Code Six (Substantial Deviation – Officers A and B)

Officers A and B did not advise Communications Division (CD) of their Code Six location.

The purpose of going Code Six is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel. Traffic stops can be dangerous, the identity and actions of a person stopped is often unknown, and as in this case, their actions can be unpredictable.

In this case, Officers A and B elected to conduct an investigative stop on Witness A, the Subject, and Witness B, whom they believed were gang members in possession of narcotics.

In this case, the officers were not faced with a rapidly unfolding tactical situation and had sufficient time to broadcast their Code Six location, as well as any other relevant information prior to initiating their investigation.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's decision not to advise CD of their Code Six location was a substantial deviation, without justification, from approved Department tactical training.

3. Contact and Cover (Substantial Deviation – Officer A)

Officer A did not wait for his partner to finish searching Witness B before making contact with the Subject and searching him.

Operational success is based on the ability of officers to effectively establish designated roles and communicate during critical incidents. Officers improve overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

Based on the totality of the circumstances, the BOPC determined that Officer A's actions were a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:
 1. **Tactical Vehicle Deployment** – The investigation revealed that Officer A stopped his police vehicle next to the SUV, facing in the opposite direction during the incident. Officer A is reminded that tactical vehicle deployment and positioning can provide a tactical advantage during police contacts.
 2. **Additional Unit Request** – The investigation revealed that Officers A and B did not request an additional unit before making contact with three occupants inside a vehicle during their investigation. Officers A and B are reminded when dealing with multiple occupants inside of a vehicle, and when having them exit, to further the investigation, additional resources can be tactically advantageous.
 3. **Maintaining Control of Suspect(s)** – The investigation revealed Witnesses A and B walked away from the officers following the OIS. Officers A and B are reminded of the importance of maintaining control of their suspect(s) during the entirety of their investigation.

These topics will be discussed at 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.

In conducting an objective assessment of this case, the BOPC found that the tactics utilized by Officers A and B substantially and unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

Each tactical incident also 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 the officer's individual actions that took place during this incident.

B. Drawing and Exhibiting

- According to Officer A, he felt a handgun in the Subject's waistband during a search of the Subject. The Subject broke free and began to turn toward him. Believing that the Subject was going to arm himself with the gun, Officer A drew his service pistol.

According to Officer B, he observed Officer A draw and fire his service pistol. Believing that a deadly force situation had just occurred, he drew his service pistol to assess the situation.

According to Officer B, he observed that a crowd of approximately 10 people had formed and were yelling and surrounding the officers. He believed the crowd consisted of possible gang members who could possibly be armed with guns and drew his service a second time because he believed the situation could escalate to the point of deadly force.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

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

C. Lethal Use of Force

- **Officer A** – (pistol, four rounds)

According to Officer A, he observed the Subject turn his body toward him and also observed the Subject's hand moving toward where he last knew the Subject's weapon to be. Believing that the Subject was going to take that gun out and use it to kill him, he fired three to four rounds at the Subject to stop his actions.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury and therefore, the lethal use of force would be objectively reasonable.

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