

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

OFFICER-INVOLVED SHOOTING – 008-18

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Harbor	1/27/18		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	22 years, 4 months
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Reason for Police Contact

Officers responded to a juvenile group radio call at a park. While checking the area, the Subject suddenly stepped off his bicycle, simulated removing a pistol from his waistband, and obtained a shooting stance with his hands pointed toward the officers. The officers perceived a deadly threat at which time an officer-involved shooting (OIS) occurred.

Subject	Deceased ()	Wounded ()	Non-Hit (X)
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Subject: Male, 19 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 the Department is currently legally prohibited from 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 January 22, 2019.

Incident Summary

Uniformed Police Officers A and B responded to a juvenile group radio call at a recreation center. The comments of the call indicated that there were three juveniles wearing blue clothing, sitting on a park bench, smoking marijuana, and drinking alcohol.

The officers were in proximity of the recreation center when Officer A observed the Subject riding a bicycle towards him on the sidewalk.

According to Officer A, the Subject crossed diagonally in front of the police vehicle to the sidewalk. Officer A momentarily lost sight of the Subject because his view was obstructed by the vehicles parked along the curb. The Subject then re-appeared near one end of the park, rode his bicycle across the street to the sidewalk, and rode in a circle. All the while, the Subject stared at the officers.

Officer A perceived that the Subject was very interested in the officers, which caught his attention. He knew the park to be frequented by gang members with guns and drug activity and felt it prudent to keep an eye on the Subject.

The Subject rode his bicycle on the sidewalk and then into the street. Officer A described that the Subject was aggressively riding fast and toward them with an angry expression.

As the Subject reached the center of the street, he turned and quickly rode toward the officers, which influenced Officer B to begin to stop the police vehicle to avert hitting the Subject. The Subject then suddenly stopped, straddled his bicycle, lifted his shirt with his left hand, and reached into his front waistband with his right hand.

According to Officer A, he observed a dark object as the Subject removed his right hand from his waistband. Officer A described that the Subject pointed his right hand straight out and used his left hand to cup his right hand as if holding a pistol in a two-handed shooting stance.

Believing that the Subject was about to shoot at himself or his partner, Officer A drew his service pistol with his right hand, utilized a seated single-handed shooting position, aimed at the Subject's center body mass, and fired two rounds at the Subject through the windshield of the police vehicle.

According to Officer B, he placed the police vehicle in park as the Subject got off his bicycle. Meanwhile, he heard two shots and drew his service pistol because he believed the Subject had a handgun, and he needed to protect himself from the perceived threat.

The Subject was interviewed and admitted he simulated pointing a gun at the officers. The Subject stated, "I'm the one that was reacting [acting] as if I had a gun on me. And that's when the officers fired." When asked what he thought was going to happen when

he simulated pointing a handgun at the police, the Subject replied, "They shoot me because they feel threatened for their life, Sir."

Officer B then unbuckled his seatbelt, exited the driver's side of his vehicle and took cover behind his ballistic door. Officer A exited the police vehicle and directed Officer B to broadcast a help call.

Officer B broadcast the help call and notified CD that shots had been fired. Officer B requested that responding officers arrive from one end of the street to avoid a crossfire situation.

According to Officer A, the Subject continued to move his arms and was not listening to their commands when he heard Witness A near the sidewalk and out of his view yelling and screaming. This caused Officer A concern for the potential of an additional suspect and/or possible ambush, which influenced him to move to the rear passenger side of the police vehicle. According to Officer A, he communicated to his partner that there was an additional individual and advised him that he was going to move.

Officer A observed Witness A, who was standing in the park adjacent to the sidewalk with his hands in the air. According to Officer A, Witness A was following his directions so he holstered his service pistol and handcuffed him without incident.

This decision was made because Witness A was compliant, and Officer A wanted to control him so he could transition back to assist Officer B with the Subject. However, additional personnel arrived and were assisting Officer B as Witness A was being handcuffed.

As Witness A tried to walk toward the area where officers were taking the Subject into custody, Officer A used physical force as he held onto Witness A's left arm and directed him to the ground in a seated position.

As Officer B remained focused on the Subject from behind the cover of his ballistic door, Officers C and D responded from one end of the street. Officer D navigated the officers' response and admittedly misunderstood the broadcast from Officer B. Officers C and D immediately identified their error and communicated regarding the potential crossfire.

Officer D deployed his patrol rifle, exited the police vehicle, and moved to the sidewalk. Officer C exited the driver's door and proceeded to the rear of his police vehicle as he also moved to the sidewalk. Officer C drew his service pistol when he reached the sidewalk. Officers C and D then proceeded on the sidewalk with the benefit of the cover provided by the vehicles parked on the curb.

Sergeant A responded to the scene and took control as Incident Commander (IC). The Subject was then taken into custody without incident. Sergeants B and C responded to the scene, and obtained PSS' from Officers A and B respectively.

Officer E transported the Subject to the police station. While en route, the Subject stated that it wasn't the officer's fault and that he acted as if he had a gun. Once at the police station, the Subject demonstrated how he simulated pointing a gun at the officers, which was captured on the surveillance camera located inside the holding cell.

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). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC found Officer A's tactics to warrant an Administrative Disapproval and Officer B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

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

D. Lethal Use of Force

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

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of

individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Use of Force Policy, Los Angeles Police Department Manual.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in Graham v. Connor, 490 U.S. 386 (1989), that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject’s actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force.

(Use of Force Policy, Los Angeles Police Department Manual.)

An officer’s decision to draw or exhibit a firearm should be based on the tactical situation and the officer’s reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. Tactical de-escalation does not require that an

officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so. (Tactical De-Escalation Techniques, October 2016.)

- During its review of the incident, the BOPC considered the following:

1. Tactical Communication

Officer B broadcasted a Help Call directing units to respond from south of the OIS.

As a result of some confusion over Officer B's broadcast, Officers C and D initially responded from the north of the OIS, placing themselves downrange from the OIS location. Additionally, while CD was attempting to request the phonetic pronunciation a second time of the location, Sergeant B advised CD to hold the frequency, resulting in CD discontinuing their attempt to clarify the appropriate cross street.

Based on the totality of the circumstances, the BOPC determined that while identified as an area for improvement, Officer B's actions were not a substantial deviation from approved Department tactical training.

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

Officer A initiated contact and physically restrained Witness A, who was a second possible ambush suspect without the benefit of a cover officer.

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.

In this case, although Witness A was compliant, Officer A placed himself at a tactical disadvantage and took an unnecessary risk by contacting and physically restraining him without waiting for additional resources.

Based on the totality of the circumstances, the BOPC determined that Officer A's decision to initiate contact and physically restrain a possibly armed suspect without the benefit of a cover officer was a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:
 1. Holding Drink in Left Hand and Service Pistol in Right Hand

The investigation revealed that Officer A drew his service pistol with his right hand and was involved in an OIS while holding a drink in his left hand. Officer A is reminded of the importance of being prepared for tactical situations arising while investigating radio calls and to keep his hands free when conducting field investigations.

2. Non-Conflicting Simultaneous Commands

The investigation revealed that several officers gave simultaneous commands to the Subject during the incident. Although the commands were non-conflicting, the officers are reminded that simultaneous commands can sometimes lead to confusion and non-compliance by the suspect.

3. Less-Lethal Force Options

The investigation revealed that there were no designated less-lethal cover officers as part of the arrest team when approaching the Subject to take him into custody. Although not required, the BOPC would have preferred that a less-lethal force option be deployed in the event the Subject posed a situation where the deployment of a less-lethal force option was appropriate.

4. Firearm Safety Rules

The investigation revealed that while approaching the Subject as part of the arrest team, Officer B allowed the muzzle of his service pistol to momentarily cover additional officers who assisted with taking the Subject into custody. Officer B was to be reminded to not violate the Department's Basic Firearm Safety Rules.

These topics were to be discussed at the Tactical Debrief.

The BOPC found Officer A's tactics to warrant an Administrative Disapproval and Officer B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- According to Officer A, he and Officer B were driving their vehicle at approximately 5-10 miles per hour, when the Subject crossed back to the sidewalk from the other side of the road. The Subject rode in a circle while watching the officers. The Subject then bolted out between two parked cars and immediately turned toward the officers. The Subject rode directly at them, jumped off the pedals and straddled his bicycle. The Subject lifted his shirt with his left hand and grabbed his waistband with his right hand. Officer A then observed a dark object, as the Subject brought his hands up very quickly and punched out into a shooting stance with his left hand cupped under his right hand. Believing that the Subject had a gun and was going to kill him and Officer B, Officer A drew his service pistol.

According to Officer B, he first observed the Subject approximately 30 to 40 feet away from them. The Subject rode his bicycle from the sidewalk to the street, in between cars, and then rode fast and aggressively towards them. The Subject got off his bike, took a couple steps towards them, and took a shooting stance. Officer B slowed the vehicle and put it in park as he simultaneously heard shots fired. He observed the Subject immediately go to the ground in a prone position. Officer B unbuckled his seatbelt and exited the vehicle. Officer B assumed a position of cover behind his driver's side ballistic door panel and drew his service pistol.

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. Non-Lethal Use of Force

- **Officer A** – Firm grips, takedown

According to Officer A, when he started walking Witness A to the curb area, Witness A tried to pull away and started yelling at the Subject. Officer A used both of his hands on Witness A's left bicep and applied downward pressure to put Witness A on the ground into a seated position.

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 believe that this same application of non-lethal force would be reasonable to prevent Witness A's escape.

Therefore, the BOPC found Officer A's non-lethal use of force to be in policy.

D. Lethal Use of Force

- **Officer A** – (Pistol, 2 rounds)

According to Officer A, he believed the Subject had a gun and was going to kill himself and Officer B. Officer A drew his service pistol and fired two rounds from his service pistol at the Subject from approximately 25 feet.

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

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

