

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

OFFICER-INVOLVED SHOOTING – 013-18

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Mission	2/26/18		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	1 year, 3 months
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Reason for Police Contact

Officers responded to a radio call of an Attempted Suicide at the Subject’s residence. As officers approached the residence, the Subject opened the garage door and exited while holding a two-foot long, pointed metal rod. The Subject advanced toward one of the officers with the pointed metal rod extended toward the officer, resulting in an officer-involved shooting (OIS).

Suspect	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 22 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 February 5, 2019.

Incident Summary

The Subject called 911, Communications Division (CD), and stated that he was at his residence, he had a handgun and a knife, and he was going to shoot himself. He further stated that his mother was asleep in the residence and he was also in possession of a sword. CD broadcast the call as an attempted suicide and stated that the person reporting (PR) was armed with a handgun and a knife.

Officers A and B advised CD that they would respond. CD confirmed with Officers A and B that they had a beanbag shotgun with them.

Officers A and B had been assigned as partners for approximately three months; Officer A was a probationer, and Officer B was his Field Training Officer (FTO). They had previously discussed tactics with regard to contact and cover, and had discussed scenarios regarding armed suspects.

Officers C, D, E, and F advised CD they would also respond to the residence to back-up the primary unit.

Officer A activated his emergency equipment and responded with lights and sirens (Code Three) to the location. A review of Body Worn Video (BWV) captured Officer B reading the comments of the call as they responded to the location, and advising Officer A that the Subject was armed with a sword and a gun. As they continued to respond to the call, Officer B explained to Officer A that they were not going to take any chances and that they would deal with the threat first. Officer B further advised that one officer should take on the role of contact and the other officer should take on the role of cover, although he did not designate who would take on which role.

Upon arrival at the location, Officer A parked the officers' police vehicle behind Officers C and D, who had arrived shortly before them. The Officers parked several houses away from the location.

As Officers A and B exited their police vehicle, Officer B told Officer A to take the TASER.

Officer B began to walk toward the location and directed Officers C and D to get a beanbag shotgun. Nothing further was said to Officers C and D at that time by Officer B. Officer B unholstered his service pistol and held it down to his right side with one hand as he walked toward a tree, located in front of the Subject's residence.

Review of the officers' BWV showed that Officers A and B deployed behind a tree located on the parkway of the Subject's residence. Officer B conferred with Officer A and verified they were at the correct location. Officer A recognized the location from a previous call for service and informed Officer B that he had previously responded to the location and was familiar with the Subject.

Officer B replied that he was not going to take any chances. According to Officer B, he identified two points of cover – a large tree and a concrete block mailbox located on the parkway near the curb, close to the driveway.

The garage door of the residence began to open. Officer B directed Officer A to stay at the tree for cover as he redeployed to the mailbox.

At the same time, the Subject ducked under the garage door and stepped into the driveway holding a pointed metal rod, approximately two feet in length, in his right hand, and a white cloth in his left hand. It was later determined that the white cloth in the Subject's hand was covering a can opener.

The Subject held the metal rod with the tip pointed down and walked down the driveway, toward Officer B. The Subject walked slowly along the driver's side of a vehicle parked in the driveway. Officer B remained behind the mailbox for cover and held his service pistol in a two-handed, low-ready position. BWV shows that Officer B gave the Subject commands for the Subject to show him his hands. The Subject did not comply and continued to walk toward Officer B. Officer B immediately shouted, to the Subject, "Drop it! Drop it."

Officer C told Officer D to move up when the Subject exited the garage. Officer D chambered one beanbag round and ran up to the right side of Officer A.

At the same time, Officers E and F arrived at the scene. Officer E was the driver and parked their police vehicle near the Subject's residence.

Officers E and F exited their vehicle, and Officer E unholstered his TASER. Officer E ran on the sidewalk toward the tree that Officer A was standing near and pointed his TASER at the Subject. Simultaneously, Officer F unholstered his TASER and ran in the middle of the street behind Officers C and D, in the direction of the Subject.

The Subject briefly stopped near the driver's side rear door of the vehicle parked in the driveway after Officer B gave him three separate commands to drop the weapon. The Subject paused, looked in Officer B's direction, then looked toward Officer A. Officer B again shouted for the Subject to, "Drop it." The Subject looked in Officer B's direction and suddenly began to move quickly toward him with the tip of the metal rod held in a 45-degree angle toward Officer B. Officer B again shouted, "Drop it!" as he moved backwards to redeploy.

Simultaneously, Officer E advised the other officers he had a TASER as he ran toward the tree that Officer A was using as cover. As Officer E reached the side of the tree, he discharged the TASER toward the Subject. The TASER darts did not make contact with the Subject. According to Officer E, due to the exigency of the situation he was unable to give the Subject a warning.

Officer D took a position slightly in front of Officer A and to his right out of his line of fire with the beanbag shotgun. Officer D fired the beanbag shotgun at the Subject twice, missing on both occasions.

Fearing the Subject was about to stab Officer B with the pointed metal rod, Officer A, from a right-hand shooting position, fired one round at the Subject in order to prevent Serious Bodily Injury (SBI) or death to Officer B. The Subject immediately fell to the ground.

Officer B immediately requested a Rescue Ambulance (RA) for the Subject. After the OIS, Officers E and F holstered their TASERS and unholstered their service pistols.

According to D, he was directed to secure his beanbag shotgun. Officer D walked to his vehicle, downloaded the beanbag shotgun and secured it in the shotgun rack. He then returned to the officers who were standing by to conduct a search of the residence. Officer D unholstered his pistol and was designated as the point officer on the entry team.

Sergeant A arrived at scene and was briefed by Officer B. Officer B informed Sergeant A that Officer A had discharged his weapon and advised him that the residence had not been cleared. Sergeant A assumed the role of Incident Commander (IC) at this time.

Officer B directed the officers to handcuff the Subject. Officer F holstered his pistol and approached the Subject, as Officers A and B held their pistols in a two-handed, low- ready position to cover the Subject as the officers approached to handcuff him. The pointed metal rod was still near the Subject's hand. Officer F picked up the pointed metal rod and tossed it so that he would not be harmed while handcuffing the Subject. Sergeant A was managing the handcuffing and kicked the pointed metal rod away from the officers. Officer F turned the Subject to his right side and handcuffed him. Officers A and B then holstered their pistols.

Sergeant B arrived at the scene and met with Sergeant A. Sergeant A briefed Sergeant B regarding the circumstances of the OIS. Sergeant B then obtained a Public Safety Statement from Officer A and monitored him. Sergeant B took on the role as IC.

Sergeant A assembled a search team to ascertain if there were any victims in the residence due to the comments of the call. The search team contacted the Subject's mother, who had been asleep and established that she was unharmed.

Los Angeles Fire Department personnel arrived at the location and pronounced the Subject as deceased at the scene.

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 Officers A, C, D, E, and F 's tactics to warrant a Tactical Debrief and Officer B's tactics to warrant an Administrative Disapproval.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Officers 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. Utilization of Cover

Officer B moved from a position of cover behind a large tree to another position of cover at the concrete block mailbox in front of the Subject's residence.

The utilization of cover coupled with distance enables an officer to confront an armed suspect while simultaneously minimizing the officers' exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options.

In this case, Officer B moved closer to the residence, while knowing the comments of the radio call indicated the Subject was armed with a handgun, a knife, and a sword. While the concrete block mailbox afforded Officer B cover, it is preferred that Officer B assume a position of cover at a greater distance from the location, thus increasing his tactical advantage.

2. Tactical Plan/Communication

Prior to their arrival at the call location, Officers A and B (a probationer and Field Training Officer, respectively) had been provided with the information that the Subject was in possession of a handgun, a knife, and a sword, and that he intended to shoot himself. The available evidence establishes that the officers did not develop an effective plan based on the information known to them. While en route to the call, Officer B advised Officer A that they were "not going to take any chances," and that they would "handle the threat first and broadcast later." Officer B further advised Officer A to "take his time" and that one of them would be contact and one would be cover. Officer B did not indicate, however, who would be the contact officer or who would be the cover officer; nor was there any further discussion as to what actions the officers might take to handle the call.

When Officers A and B arrived at the call, another unit was already present. The officers on scene had, between them, sufficient resources to mount a coordinated approach to the residence, including the deployment of less-lethal options and lethal cover. Based on the information the officers had received, they were responding to a potentially high-risk situation. The formulation of a plan by which they would coordinate and effect their approach to the situation facing them would have been both preferable and consistent with Department tactical training.

Upon his arrival at the scene, Officer B told Officer A to take the TASER, and he then directed the first unit on scene (Officers C and D) to "grab the beanbag." No further attempts to plan or coordinate the officers' response occurred. Officer B then walked toward the Subject's residence. By walking ahead of the other officers and ultimately assuming a position in close proximity to the residence, Officer B gave up available distance.

Officer B's actions of approaching the residence ahead of other on-scene officers and without effective coordination, placed him at a significant tactical disadvantage. A result of this disadvantage was realized when the Subject emerged from the residence, and Officer B rapidly found himself exposed to the threat presented by the Subject while the beanbag-equipped officer was not yet in a position to effectively engage with his less-lethal weapon.

The BOPC noted that while Officer B's sense of urgency to ensure the safety of the Subject and the occupant within the residence was reasonable, he did so at the expense of formulating a coordinated response with the additional officers that responded. In its review of this matter, the BOPC did not identify evidence to justify Officer B's decision to forgo coordination with the other officers. Rather, the information provided to the officers regarding the nature of the call underscored the need to follow de-escalation training by communicating with other on-scene officers to plan a coordinated approach, thereby maximizing the potential tactical advantage provided by available resources.

Officers B's above-described failures to effectively plan, communicate, and coordinate with on-scene resources before approaching the residence constituted a substantial deviation, without justification, from the Department's tactical training.

- The BOPC also considered the following:

1. 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 were reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

2. TASER Target Areas/Optimal Range

The investigation revealed that Officer E aimed at the Subject's center mass area when he discharged the TASER from approximately 19 feet. Officer E was to be reminded that the optimal TASER target areas are the navel or belt-line and the optimal range for the TASER is 7-15 feet.

3. Preservation of Evidence

The investigation revealed that Officer D downloaded the beanbag shotgun instead of leaving it in the condition it was, post-OIS. It is preferred that weapon systems utilized be left undisturbed until FID investigators can properly document and process the scene.

4. Situational Awareness

A review of Officer D's BWV, following the OIS, captured Officer C with his hands in his pants pockets, standing between Officers A and D. The expectation of a Field Training Officer at the scene of a critical incident is to provide command and control through direction and leadership. In this case, the Subject had not been handcuffed or searched and was possibly still a threat. Furthermore, the residence had not been cleared or secured. Officer C was reminded of the importance of maintaining situational awareness and a position of advantage until the scene has been stabilized.

- 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 also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

The BOPC found Officers A, C, D, E, and F 's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- According to Officer A, based on the radio call involving weapons and mental illness, Officer A drew his service pistol as he approached the target location because he believed the situation could escalate to the point where he may need to use deadly force.

According to Officer B, he moved from cover to cover towards the location and drew his service pistol based on the comments of the call indicating the Subject had weapons.

According to Officer C, he drew his service pistol based on the comments of the call indicating the Subject was armed with a gun and a sword.

According to Officer E, he drew his service pistol based on the comments of the call indicating the Subject was armed with a gun.

According to Officer F, he drew his service pistol based on the Subject's close proximity to the edged weapon and his observation that the Subject was still breathing and moving.

Based on the totality of the circumstances, the BOPC determined, that an officer with similar training and experience as Officers A, B, C, E, and F, 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, B, C, E, and F's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force¹

- **Officer A** – (pistol, one round)

According to Officer A, the Subject raised the sharp, pointed, double-edged type sword and pointed it towards Officer B. The Subject ran towards Officer B as Officer B backpedaled away from him. Officer A heard the pop of the TASER along with a beanbag shotgun being fired. The Subject continued to run toward Officer B and came within approximately three feet of him. Observing that the less-lethal force options did not stop the Subject's actions and in fear for Officer B's safety, Officer A fired one round from his service pistol at the Subject to stop the lethal threat.

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 of force to be in policy.

¹ Officers E and F both discharged less-lethal weapons during this incident. Based on the fact that both officers' discharges missed the Subject, the BOPC did not adopt any findings relating to the use of less-lethal force. Based on the Subject's immediately threatening actions at the time the TASER and beanbag shotgun were discharged, the BOPC believes that the officers' decisions to employ less-lethal force were consistent with Department policy.