

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

OFFICER-INVOLVED SHOOTING – 042-17

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Harbor	6/6/17		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	15 years, 9 months
Officer B	8 years

Reason for Police Contact

Officers responded to a call of a male armed with a handgun. Officers arrived at the scene and issued commands for the Subject to drop the handgun. The Subject did not comply with the officers' commands and pointed his weapon at them, resulting in an officer-involved shooting (OIS).

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 20 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 10, 2018.

Incident Summary

Witness A reported she had observed a male, the Subject, enter the restaurant where she was working. According to Witness A, the Subject was holding a green plastic toy/water gun, was talking to himself, and appeared to be angry. The Subject walked directly to the soda fountain machine, took ice from the dispenser, and began throwing it around the restaurant. The Subject filled the water gun with both water and soda and proceeded to point and squirt the water gun throughout the restaurant. According to Witness A, she asked the Subject to leave the restaurant, at which time he yelled, "You cannot kick me out, [expletive] you." A brief time later, the Subject exited the restaurant and walked away. Witness A had no additional contact with the Subject.

Note: Witness A's statement was given to the police one week after the OIS occurred. At the time of the OIS, the officers involved in this incident did not have any of the information Witness A provided in her statement, including that the gun the Subject was seen holding was a green plastic toy/water gun.

Approximately 25 minutes after leaving the restaurant, Witness B stated that he observed the Subject walking on the sidewalk at a brisk pace. Witness B stated that the Subject appeared to be very angry and was talking to himself while holding a handgun in his right hand. Witness B said that the Subject's finger was on the trigger, and he was making no attempt to conceal the handgun. According to Witness B, it appeared that the Subject was intent on killing someone. Witness B called 9-1-1 to report his observations.

During Witness B's conversation with the 9-1-1 operator, he was asked if he could describe the gun. Witness B told the operator that it was dark outside when he saw the Subject and that he could not describe the weapon, other than it being a pistol that the Subject was holding in his hand. During his subsequent interview with investigators, Witness B reiterated that it was dark, so he couldn't describe the color or size of the handgun, except to say it was "not big", and that the Subject was carrying it in his right hand. Witness B did not know the handgun was actually a toy/water pistol.

Communications Division (CD) issued an emergency (Code Three) "415 man with a gun" broadcast to responding units, providing the Subject's location and description.

Police Officers A and B heard the radio call and happened to be in the area. Although they were not the unit assigned to the call, Officer A advised CD that they would back-up the assigned unit, and they responded to the call as well. Both officers activated their Body-Worn Video (BWV).

Police Officers C and D were assigned the call, and, accordingly, advised CD that they would handle the call and responded to the location Code Three. Both officers activated their BWV.

Within two minutes, Officer A broadcast that the officers had arrived at the location (Code-Six). Immediately following Officer A's broadcast, Officer D broadcast that they were also Code-Six in the area.

Sergeant A also advised CD that he was en route to the call.

Officers A and B were driving in one direction while Officers C and D were driving the other direction when the two units crossed paths. The officers slowed their police vehicles as they passed each other and communicated that no activity had been observed.

Officer D requested that CD contact the person reporting (PR) and obtain an updated location for the Subject. Communications Division advised the officers that the Subject was last seen walking toward a market.

According to Officer B, he was driving the police vehicle at approximately five to ten miles per hour and activated his lights to alert other vehicles of his presence. Both he and Officer A had their windows down and were looking for the PR, any possible suspect(s), and/or potential witnesses. As they proceeded, the officers observed the Subject walking on the sidewalk in front of an apartment building. The carport and walkways of the building were secured by a black wrought iron fence.

In their subsequent statements to investigators, neither Officer A nor B specified how far away from them the Subject was when they first saw him. However, Officer B stated, "We were in the No. 1 lane [...], still at the same 5 to 10 miles an hour. I see off to my right a male, dark clothing, possibly between the age of 20 to 30. He's [...] walking - - there's two vehicles parked on the sidewalk - - oh, I'm sorry - - on the - - the curb, against the curb. So, I can't really see what it - - if he has anything in his hands. And as we, like, move forward - - as we're moving forward closer to him, we're probably almost parallel."

Officer B noted that the Subject matched the description of the suspect provided by CD. Both officers stated that the Subject was yelling, but the words were unintelligible. Officer B stated, "Maybe, to the right," referring to the Subject. According to Officer A, the Subject stopped, turned toward his (the Subject's) left, and faced the officers as they approached in their vehicle. The Subject looked in the officers' direction and yelled, "What's up?" followed by "What the [expletive]?"

According to Witness C, the Subject stated, "Leave me alone. Leave me alone." to the officers. Witness C further stated that it was very dark outside, and he was unable to see any of the Subject's movements.

Officer A observed what he described as a light-colored semiautomatic pistol in the Subject's right hand. According to Officer A, the Subject was holding the gun in a close contact position at waist level and was moving the gun from side to side (left to right). Officer A indicated he yelled, "Oh [expletive], partner, gun!"

Officer A stated that as he saw the firearm, the Subject was still yelling, and, “he’s got the gun at his waist and he’s aiming it. He’s aiming it. It looked like he’s aiming it at me, at my partner.”

According to Officer B, he heard Officer A’s announcement and simultaneously observed the Subject holding what he described as a black semiautomatic handgun in his left hand. Officer B observed the Subject raise the gun, extended and pointed in the officers’ direction. According to Officer B, he knew he would not have enough time to exit the vehicle if the Subject began shooting at him. Therefore, Officer B unholstered his pistol with his right hand while seated in the vehicle, with intentions of firing through the windshield if necessary.

Using his left hand, Officer B quickly turned the steering wheel toward the right and stopped diagonally, with the front of the police vehicle pointed toward the Subject. According to Officer B, he positioned the vehicle in this manner to provide cover for himself and his partner while they performed a felony stop on the Subject. Officer B stopped the vehicle and believed he placed it into park. Both officers exited the vehicle and took cover behind their respective vehicle doors.

Note: Officer B told investigators that he believed he used his right hand to place the vehicle into park, while holding his pistol in the same hand. Per Officer B’s BWV, he did not place the vehicle into park and did not make any overt movements to do so.

According to Witness D, the police vehicle slowed down, then reversed a short distance prior to the OIS.

Upon exiting the vehicle, Officer B utilized the driver’s side door as cover, held his pistol in a two-handed shooting position, pointed at the Subject. Officer B ordered the Subject to drop the gun, but he (the Subject) did not comply with the command. According to Officer B, the Subject raised the gun a second time, with the muzzle pointed toward him and his partner.

Simultaneously, Officer A utilized the passenger side door as cover and unholstered his pistol with his right hand. Officer A, while holding his pistol in a two-handed shooting position, pointed his pistol at the Subject and ordered the Subject to drop the gun. The Subject did not comply with the command.

Officers A and B believed that the Subject was pointing a pistol at them and was intent on killing them. In defense of their lives, Officers A and B fired their pistols at the Subject. Officer A fired four rounds at the Subject from an approximate distance of 30 feet. Officer B fired seven rounds at the Subject, from an approximate distance of 29 feet. The Subject was struck by gunfire and immediately fell to the ground.

As determined by a review of the officers' BWV, from the moment Officer B stated, "Maybe, to the right" to the sound of the first gunshot was approximately seven seconds. During that seven-second timeframe, the officers communicated their observations with one another, stopped and exited their vehicle, unholstered their pistols, and issued commands to the Subject.

Immediately following the OIS, the officers noticed that their vehicle was rolling toward the Subject, who was lying on the sidewalk. Officer B holstered his pistol and attempted to step into the vehicle, as it was rolling, to apply the brakes. Officer B was unsuccessful and believed he may have inadvertently stepped on the brake pedal and accelerator simultaneously.

The police vehicle rolled up the driveway and pushed the Subject's body a short distance before the front bumper of the vehicle collided with the wrought iron fence and came to a stop. Not knowing the Subject's condition and if he was still armed, Officer B unholstered his pistol and backed away from the vehicle.

Meanwhile, within seconds of the OIS, Officer A alerted Officer B that the vehicle was not in park. While walking alongside the passenger side of the vehicle as it rolled, Officer A tripped over the lip of the driveway. Officer A fell, striking his right elbow on the concrete. Officer A immediately stood up and broadcast a "help" call, advising that shots had been fired.

Officers C and D, and Sergeant A, were in the area when they heard multiple shots fired.

Officer C responded and arrived at the scene within seconds of the OIS. Upon arrival, Officer C observed Officers A and B in the street with their guns drawn. Officer C parked his police vehicle close to Officers A and B's vehicle. Officers C and D exited their police vehicle and took cover behind their respective vehicle doors.

Officer A observed Officers C and D arrive at the scene and directed Officer B to redeploy for cover behind his and Officer B's police vehicle. Officer A sought cover behind the passenger side door, and Officer B took cover behind the driver's side door. Officer A immediately informed Officers C and D that the Subject was underneath his police vehicle. Officers C and D unholstered their pistols.

Officers C and D held their pistols in two-handed, low-ready positions. Both officers had their weapons' muzzles pointed toward Officers A and B's police vehicle. The officers were unable to see the Subject from this location. Officer D turned on the passenger side spotlight and illuminated the police vehicle/driveway area.

Sergeant A arrived at the scene, parking his vehicle close to the OIS scene, diagonally, with the front of his vehicle pointed with the headlights illuminating the Subject. Sergeant A unholstered his pistol, which he held in a two-handed, low ready position and sought cover alongside of his vehicle. According to Sergeant A, he observed that

the Subject was not moving or making any sounds and appeared to be deceased. Sergeant A advised the officers that the Subject was “down” and requested a Rescue Ambulance (RA) for the Subject. Believing the Subject was no longer a threat, Sergeant A holstered his pistol.

Officer A advised Officer D that he was injured and required an RA. When asked if he had been shot, Officer A stated that he was unsure what caused his injury. Officer C requested a second RA for Officer A. Officer A took cover behind a police vehicle and awaited the arrival of the RA.

After learning that Officer A was injured, Sergeant A repeated the request for a second RA. Sergeant A was aware that moving an injured person can cause additional injury or exacerbate the existing injury. Therefore, Sergeant A formulated a plan to establish an arrest team and approach the Subject once the ambulance arrived at scene. Sergeant A was unaware that Officer B was involved in the OIS and as a result, included him as part of the arrest team.

Sergeant A did not immediately identify Officer B as being one of the involved officers. A review of BWV footage depicts Sergeant A being preoccupied with the ongoing tactical situation from the moment he arrived at the scene.

Sergeant B arrived at the scene, and immediately made contact with Officer A, who was injured and leaning against a police vehicle. Sergeant B advised Sergeant A to handle the tactical portion of the incident and he would care for Officer A.

The Watch Commander, Sergeant C, responded to the scene and declared himself the Incident Commander. Upon arrival, Sergeant C checked on Officer A and ensured that an RA was requested.

Los Angeles Fire Department (LAFD) personnel arrived at the scene. With LAFD standing by, Sergeant A directed the arrest team to approach the Subject, at which time the officers determined that the Subject was not armed. Once it was safe for LAFD personnel to approach, LAFD personnel attempted to render aid to the Subject and then determined that the Subject had no signs of life and was deceased.

A RA arrived at the scene, and the paramedic/firefighters rendered aid to Officer A. He was ultimately transported to a hospital for further medical treatment. Sergeant B accompanied Officer A to the hospital. Sergeant B monitored Officer A, obtained a Public Safety Statement (PSS), and admonished him not to discuss the incident.

Sergeant A advised Sergeant C that there were two involved officers and multiple percipient officers involved in this incident. Sergeant C requested additional supervisors to assist with the monitoring responsibilities of these involved officers.

Real-Time Analysis and Critical Response (RACR) Division was notified of the Categorical Use of Force.

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 Officer A and 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. Lethal Use of Force

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

Basis for Findings

Detention

- The officers responded to a radio call of a 415 Man with a Gun. As the involved officers drove on the street, they observed the Subject standing on the sidewalk holding what appeared to be a handgun in his hand. When the officers gave the Subject commands to drop the gun, the Subject pointed the gun in their direction, resulting in an OIS. The officers' actions were appropriate and within Department policies and procedures.

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.

Tactical De-Escalation

- 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.

In this case, the involved officers were faced with a rapidly unfolding tactical situation when they observed the Subject on a sidewalk holding what appeared to be a handgun in his hand. When the officers gave the Subject commands to drop the gun, he turned toward the officers and pointed the gun in their direction.

Faced with what they believed to be an imminent threat of serious bodily injury or death, the officers utilized lethal force to stop the deadly threat.

- In its analysis of this incident, the BOPC identified the following tactical considerations:

1. Situational Awareness

The investigation revealed that Officer B exited the vehicle to engage an armed subject without placing the vehicle in park. As such, the vehicle continued to roll forward alongside Officers A and B and towards the Subject. Officer B is reminded that not placing a vehicle park can place officers and the community in danger.

2. Command and Control

Sergeant A responded, assumed the role of IC, and assessed the ongoing tactical situation. He ensured the well-being of Officer A, who was initially reported to have been struck by gunfire, and formulated a tactical plan to take the Subject into custody and get him medical treatment as soon as possible.

The BOPC noted that when the contact team approached the Subject there appeared to be some confusion amongst the officers as to their individual roles and responsibilities. Although the Subject displayed no apparent signs of life to Sergeant A, Sergeant A was reminded of the importance of ensuring that all personnel at the scene are aware of the tactical plan.

Sergeant C responded and assumed the role of IC from Sergeant A. He requested additional supervisors to the scene and ensured the involved officers were identified, separated, and monitored.

Sergeant B also responded, accompanied Officer A to the hospital, and obtained a Public Safety Statement (PSS) from him. Detective A responded and obtained a PSS from Officer B.

The actions of these supervisors were consistent with Department supervisory training and met the BOPC's expectations of field supervisors during a critical incident.

B. Drawing/Exhibiting

- According to Officer B, he heard his partner say, "Oh [expletive], Gun," observed the Subject turn around with a handgun in his left hand and immediately drew his service pistol.

According to Officer A, he observed the Subject holding a gun in his right hand, exited the vehicle, and drew his service pistol.

According to Officer B, he noticed the Subject was underneath the vehicle and was going to try and pull him out. Officer B then realized the Subject might still be armed, so he drew his service pistol for a second time.

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 that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers A and B's actions of 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 holding a handgun in his right hand and pointing the handgun in the officers' direction. Believing that the Subject was going to kill him, in defense of his life, Officer A fired four rounds from his service pistol at the Subject to stop the threat.

- **Officer B** – (pistol, seven rounds)

According to Officer B, the Subject raised the handgun in his direction. Believing the Subject was going to shoot him and his partner, he fired seven rounds from his service pistol at the Subject to stop the threat.

Based upon 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 the Subject's actions posed an imminent threat of death or serious bodily injury at the time Officers A and B fired their weapons.

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

D. Audio/Video Recordings

- **Digital In-Car Video System (DICVS)**

Officers C and D's DICVS captured Officers A and B redeploying to cover after the OIS, and the arrest team approaching the Subject. Officers A and B did not activate their DICVS.

- **Body Worn Video (BWV)**

Officers A and B's BWV was activated at the time of the incident and captured their actions before, during, and after their OIS. Their BWV cameras were intermittently obscured by their outstretched arms and vehicle door frames and therefore, only captured limited footage of the Subject's actions and body position at the time of the OIS.

The footage that was captured of the Subject was not clear enough to determine the Subject's movements at the time of the OIS. The officers' commands and some statements from the Subject were captured on the audio of the BWV. Officers C and D's BWV captured their arrival and events that occurred after the OIS.

- **Outside Video**

A surveillance camera from an apartment building in the area captured the Subject walking on the sidewalk shortly before the OIS occurred. In the video footage from that camera, the Subject is seen holding an object, similar in appearance to a handgun, in his right hand.