

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

**OFFICER-INVOLVED SHOOTING – 047-17**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Van Nuys	6/19/17		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	2 years, 6 months
Officer C	10 years, 5 months

**Reason for Police Contact**

Officers responded to a domestic violence radio call. After determining the victim had been injured, the officers searched for and located the Subject. When the Subject approached the officers with a knife, they ordered him to drop the knife. The Subject continued to advance toward an officer, and an officer-involved shooting (OIS) occurred.

<b>Subject</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject: Male, 76 years old.

**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 June 5, 2018.

## **Incident Summary**

Communications Division (CD) broadcast a request for any available unit to respond to a Battery/Domestic Violence incident, and provided the location. CD also broadcast the Subject's description.

A few minutes later, a patrol unit advised CD that they were en route to the location of the incident. Officers C and D also heard the initial radio call. According to Officer C, he advised Officer D that they were going to respond and provide assistance to Officers A and B. They advised CD that they were en route to provide assistance.

Witness A, who made the initial 911 call, called again to report that the Subject had assaulted her up. While Witness A was still on the phone with CD, the officers arrived.

Officer B parked the officers' patrol vehicle on one side of the street, approximately three houses from the residence. According to Officer A, upon the officers' arrival, he utilized the Mobile Digital Computer to update their location, showing them Code Six (at scene). Both officers approached the location and saw Witness A sitting outside in front of the residence. Officer A assumed the role of contact officer and asked Witness A what happened.

According to Officer A, Witness A told him that the Subject, 76 years of age, had assaulted her. Officer A could see that Witness A had multiple red marks on her face. Officer B asked Witness A if she needed an ambulance and Witness A stated that she did not. Officer A determined that a felony crime had occurred. Witness A advised the officers that the Subject was inside the residence in their bedroom. Officer A asked Witness A if there were any weapons inside of the residence and Witness A stated there were none.

Officers A and B waited for the arrival of a backup unit before entering the location. Officer B took a position near the front door of the residence while waiting for the arrival of Officers C and D.

Upon their arrival, Officer A briefed Officers C and D on the circumstances of the crime and said that they intended to enter the residence to search for the Subject. According to Officer C, they met with Officer B who briefed them on the incident. Officer C asked if there were any weapons involved or if there were any weapons known to be inside the house. Officer C was told that there were no weapons inside the house, or none that Witness A was aware of.

The four officers formulated a plan to enter the location. Upon Officer C's request, Officer D was going to announce their presence via a knock and notice. If there was no response, Officers A and B would enter and move to the right, and Officers C and D would enter and move to the left. Witness A was directed to stand near the front sidewalk but she then requested to sit down. According to Officer B, Officer A allowed Witness A to sit down on the raised front porch. Officers A, B, C, and D all articulated that they unholstered their pistols because they had reason to

believe that the tactical situation they were involved in could escalate to a situation involving the use of deadly force.

While inside the residence searching for the Subject, the officers heard noises coming from the back bedroom. Officer A stated that he gave another announcement, and yelled out, "This is the Los Angeles Police Department. Come out with your hands up." Again, there was no response. The officers entered the bedroom but did not locate the Subject. The officers then heard additional noises coming from outside the residence. Officer A described the noises as if someone was trying to leave the location or escape. Officer B advised the other officers that he was going to go check on Witness A who was alone in front of the residence. Officer B went to the front porch area to check on Witness A. As he moved through the house to the front yard, Officer B remained unholstered and held his pistol in a low-ready position due to the possibility the Subject could be armed.

Officer B asked Witness A if she saw anything, however Witness A did not respond. Officer B walked to the side of the residence, to the area from where he believed the noises emanated. Officer B then walked along the side of the residence toward the rear yard. Officer B stated he utilized his attached tactical light on his pistol. At that time, Officers A, C, and D were still inside the residence. As he was checking the side of the residence, Officer B stated he heard a noise which sounded like it was coming from close to his location. Officer B turned around, walked out between the two houses toward the front of the residence. Officer B saw the Subject, with no shirt and wearing what appeared to be boxer shorts, straddling a three-foot high fence on the side of the neighboring front yard.

Officer B began yelling out commands for the Subject to raise his hands. Officer B believed that if he spoke loud enough, his partners would hear him and come to assist him. Officer B walked on the sidewalk, toward the Subject. The Subject was still straddling the fence with both of his hands on the fence. It appeared to Officer B that the Subject was trying to maneuver himself over the fence and into the driveway. Officer B knew his partners were nearby, and thought that if he was loud, they would respond to his location. Officer B remained in that location until his partners arrived.

Officers A, C, and D were inside the residence when they heard Officer B giving commands. According to Officer A, he ran out of the house with his pistol in his right hand. Officers C and D holstered their pistols prior to running out of the residence.

Officers A and B saw the Subject climb over the three-foot high fence and go toward the rear of the residence. However, there was an eight-foot high chain-linked fence preventing the Subject from going any further. Officers A and B reached the driveway where there was a parked vehicle in the driveway. Officer B moved along the driver's side of the vehicle. Officer A moved between the passenger side of the parked vehicle and the lower fence. According to Officer A,

the Subject was approximately 30 feet in front of him. It appeared to Officer A that the Subject was attempting to climb the chain-linked fence but was unable to.

Officer B continued to give the Subject commands to raise his hands. The Subject turned to face them, which was when Officer B saw the Subject with a knife in his right hand. Officer B advised his partner that the Subject had a knife and ordered the Subject to drop the knife several times. Officer B also yelled out, to no one in particular, to get a beanbag shotgun.

Officer A heard his partner say that the Subject had a knife and recalled Officer B giving commands for the Subject to drop the knife. Officer C stated he took a position behind Officer A at the passenger's side of the parked vehicle. Officer C saw that Officers A and B both had their pistols out. He believed there were sufficient lethal options, so he yelled out, "TASER up," or "TASER out," but was unsure of the exact verbiage. Officer D unholstered his pistol when he saw Officer B giving commands to the Subject to drop the knife. Officer D took a position of cover behind the parked vehicle in the driveway.

Officer C saw the Subject raise his right hand and hold the knife above his right shoulder, with the blade pointed down, and advance toward Officer B. He saw that the Subject was disregarding any commands to drop the knife and continued advancing on Officer B, who was still standing on the driver's side of the vehicle. Officer C recalled hearing the Subject say at least once, "Shoot me, I want to die," as he continued toward Officer B.

Officer C stated that when he unholstered his TASER, he immediately turned the safety off. At that moment, he perceived the Subject to be approximately 10 feet from Officer B and closing the distance. Officer C yelled, "TASER up. I'm going to Tase you." He recalled seeing the red laser light, directed the laser at the Subject's navel area, and activated his TASER for a five-second cycle.

**Note:** Officer C estimated he was approximately 11 feet from the Subject when he activated his TASER.

This was the first time Officer C had utilized his TASER in the field, and as it activated, he thought that the sound was very loud but did not think much of it. Officer C knew that both darts made contact with the Subject and saw him fall to the ground into a seated position against the exterior wall of the residence. Officer C stated that he observed the Subject tense up but continue to hold the knife in his right hand. Officer C gave the Subject an order not to resist and heard the Subject say he wanted to die.

From the time the Subject turned in the officers' direction from the chain link fence, Officer A stated that he continually ordered the Subject to drop the knife. Officer A stated that the Subject was holding the knife out to his right side approximately chest high with the blade closest to his thumb and the blade protruding upward.

When the Subject got to within 10 feet from Officer B, Officer A recalled hearing Officer B give the Subject commands to drop the knife or he would be shot.

The Subject continued to advance toward Officer B to an approximate distance of 5 feet. Believing that his partner's life was in danger, Officer A fired one round from his pistol from approximately 9 feet. After he fired his pistol he heard the TASER activation. Officer A saw the Subject fall to the ground and drop the knife, which lay approximately one to two feet from the Subject's hand. Once the Subject fell to the ground, the officers moved forward. Officer A, to keep the knife in its original location, placed his foot on it and waited for Officers C and D to handcuff the Subject. Once the Subject was handcuffed, Officer A holstered his pistol.

According to Officer B, as the Subject maneuvered himself over the lower fence, he moved in the driveway toward a higher, closed chain-link fence. Officer B continued to give the Subject commands to show his hands. The Subject then turned and faced Officer B. As the Subject faced him, Officer B saw the Subject holding a knife in his right hand. Officer B ordered the Subject to drop the knife multiple times. Officer B yelled out, "Get a beanbag!" According to Officer B, the Subject rapidly moved toward him with the knife raised in his right hand while telling the officers to shoot him. Officer B stated that as the Subject advanced, he had his pistol pointed at him with his finger along the frame. Officer B said that in an attempt to create distance, he backed away approximately three to four steps, but did not feel it was safe to back up any further due to the confined area he was in and the incline of the driveway as he was moving back. Officer B articulated having an imaginary line, and if the Subject crossed that imaginary line, he would shoot. Officer B yelled out, "TASER, TASER, TASER," when the Subject was approximately eight feet from him. Before the Subject reached that imaginary line, Officer B heard what he believed to be the loudest TASER activation he had ever heard. After hearing the TASER activation, Officer B saw the Subject stumble back slightly, fall to the ground, and roll over onto his stomach. Officer B approached, and when the knife was secure, Officer B holstered his pistol and assisted Officer D with handcuffing the Subject. According to Officer B, after the Subject was handcuffed, the Subject told the officers he was going to kill himself. After Officer D approached and handcuffed the Subject, Officer A commented to Officer C that he should broadcast a help call. Officer C did not understand why, and Officer A advised him that he fired his weapon.

Officer A advised CD, "Officer needs help; shots fired, [Subject] is in custody," and requested an ambulance for the Subject who was conscious and breathing and shot once in the lower torso.

Fire Department personnel responded to the scene and cut the wire to the probes which remained attached to the Subject. The Subject was then transported to a local hospital for treatment.

Sergeant A arrived and was the first supervisor at the scene. Upon his arrival, Sergeant A observed Officers C and D standing in the driveway with an elderly male who appeared to have been shot and tased.

At that time, Officer A was already standing alone across the street. He instructed Officers C and D to stand on the sidewalk and was directed to where Officer B was standing. Sergeant A brought the officers together and told them not to discuss the incident. Sergeant B arrived and assisted with monitoring the percipient officers.

According to Sergeant A, he responded to Officer A's location. Officer A was standing alone in front of a residence and obtained a Public Safety Statement (PSS) from him. He then advised him not to discuss the OIS until his attorney arrived. Sergeant A requested additional resources and maintained command and control until additional resources arrived.

### **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 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 its review of the instant case, the BOPC made the following findings.

#### **A. Tactics**

The BOPC found Officer D's tactics to warrant a Tactical Debrief. The BOPC found Officers A, B, and C's tactics to warrant a finding of Administrative Disapproval.

#### **B. Drawing/Exhibiting**

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

#### **C. Less-Lethal Use of Force**

The BOPC found Officer C's less-lethal use of force 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**

- **Detention**

The officers received a Domestic Violence radio call. Upon the officers' arrival, they met with the victim and observed her to have injuries alleged to be from the Subject. The officers determined that a felony crime had occurred and searched the residence to arrest the Subject. As the officers attempted to detain the Subject, he approached them armed with a knife. Officers used lethal force to stop his actions and took him into custody. The officers' actions were appropriate and within Department policies and procedures.

### **A. Tactics**

- **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 Subject fled as officers conducted a search of the residence. The officers observed the Subject jump over a neighbor's fence in an attempt to flee. The Subject ignored numerous commands from the officers and approached them while armed with a knife.

The officers attempted to de-escalate during the very brief opportunity they had to do so. Officer B commanded the Subject to show his hands and then later to drop the knife. Four officers were present at the scene and were each equipped with TASERS. Once the Subject produced the knife and closed the distance, Officer C was able to give a last second warning to the Subject that he was going to "tase" him. The situation quickly escalated when the Subject continued to advance upon the officers, and it was no longer safe to continue with further de-escalation efforts. Faced with an imminent threat of serious bodily injury or death, the officer utilized lethal force to stop the deadly threat.

However, the BOPC believed the officers did not effectively communicate or plan in connection with their search of the residence. As a result, nobody was designated to deploy less-lethal force options, or to serve as communications officer, during the search. Nor was any provision made to contain the residence or ensure the safety of the female victim waiting outside.

Further, once noises were heard outside the residence, the officers did not effectively coordinate a response. This resulted in a lone officer exiting the residence, placing him in a position where he became involved in a one-on-one encounter with the suspect.

Although the above-noted issues did not lead directly to the OIS itself, the BOPC noted that these tactical errors were inconsistent with the Department's trained PATROL model of tactical de-escalation.<sup>1</sup>

- In its review of this case, the BOPC noted several unjustified and substantial deviations from approved Department tactical training. Based on these deviations, described below, the BOPC found Officers A, B, and C's tactics to warrant a finding of Administrative Disapproval. Given Officer D's lack of tenure on the Department, and that he was apparently following the lead of his more experienced colleagues' decision-making, the BOPC found Officer D's tactics to warrant a Tactical Debrief.

#### 1. Reverence for Human Life/Perimeters

The officers left Witness A alone at the front of the residence, then deployed inside without setting up a perimeter to ensure containment of the Subject or the safety of both themselves and Witness A.

While conducting a search of the property, officers heard noises outside, on the side of the residence. Officer B heard some type of movement, rustling, or things falling outside and felt that he needed to check on Witness A. According to Officer B, he waited approximately one minute after hearing the noise outside before he went to check on Witness A.

Officer C heard somebody outside in the bushes fumbling around and felt the noise indicated that the Subject had possibly exited the house, and was maybe making his way toward Witness A to continue his attack. Both Officers C and D describe finishing the search before addressing the fact that the Subject had potentially exited the residence.

The investigation revealed that after exiting the residence, the Subject had broken through a fence on the side of his residence and traversed across the front garden onto the side of his neighboring property before he was confronted by Officer B.

The officers' failure to ensure the residence was contained prior to initiating their search for the Subject, in concert with their decision to leave Witness A outside on her own, unduly exposed Witness A to the risk of being further harmed by the Subject. It also increased the risk that the Subject would be provided the opportunity to escape, or that he would be able to gain a position of advantage relative to the officers.

Applicable training establishes that a perimeter is "essential" when a property is being searched. The officers' failure to adhere to this basic tactical concept in this case was an unjustified and substantial deviation from approved Department

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<sup>1</sup> Tactical De-Escalation Techniques Directive No.16, Oct 2016. PATROL acronym: Planning, Assessment, Time, Redeployment and/or containment, Other resources, Lines of communication.

tactical training. Further, the officers' collective failure to provide for the protection of Witness A during their search was inconsistent with the Department's core value of reverence for human life.

## 2. Separation/Contact and Cover

Given the noises heard on the outside of the residence, Officer B could reasonably have expected to encounter the Subject when he exited the residence to check on Witness A. As Officer B responded to the front of the residence, his partner, Officer A, was with Officers C and D at the backdoor "attempting" to check the backyard for the Subject.

Once outside, Officer B made the decision to check for the Subject on the side of the residence. When Officer B located the Subject, he was substantially separated from his partner and without the support of any cover officer. The failure of the officers to avoid separating, and to ensure Officer B had the benefit of a cover officer when he went outside to investigate the noises, represented unjustified and substantial deviations from approved Department tactical training.

- The BOPC additionally considered the following:
  1. Non-Conflicting Simultaneous Commands – The investigation revealed that Officers A and B 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. Running with a Service Pistol Drawn – The investigation revealed that Officer A ran out of the residence to assist his partner with his service pistol drawn. Officers A was reminded there is a heightened concern for an unintentional discharge when running with a drawn service pistol.

These topics were 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.

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 discuss individual actions that took place during this incident.

In conclusion, the BOPC found Officer D's tactics to warrant a Tactical Debrief and Officers A, B, and C's tactics to warrant a finding of Administrative Disapproval.

## **B. Drawing and Exhibiting**

- According to Officer A, he drew his service pistol prior to conducting a search of the residence because he was aware that a violent crime has occurred and that the Subject could arm himself.

According to Officer B, upon his arrival, he was briefed on the plan to conduct a search of a residence for a felony domestic violence suspect. He drew his service pistol to apprehend a felony suspect inside a residence where knives could be found.

According to Officer C, the officers formulated a plan to conduct a search of the residence for a domestic violence suspect and drew his service pistol because he believed the Subject could arm himself.

According to Officer D, he drew his service pistol because the officers were conducting a search of a residence for a domestic violence suspect who could have armed himself with a weapon.

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

## **C. Less-Lethal Use of Force**

- **Officer C** – (one TASER activation)

According to Officer C, he observed the Subject advancing towards Officer B, while holding a knife over his right shoulder and shouting, "shoot me," so he discharged the TASER to stop the Subject's actions.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer C, when faced with similar circumstances, would believe that this same application of less-lethal force would be reasonable to overcome the Subject's resistance.

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

#### **D. Lethal Use of Force**

- **Officer A** – (pistol, one round)

According to Officer A, the Subject had the knife to his side then began to close the distance between himself and Officer B. After giving numerous demands, the Subject continued to within five feet while holding a knife in a raised manner. Fearing for his partner's life and safety, believing the Subject was going to attack Officer B with the knife, Officer A fired one round 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 that the use of lethal force would be objectively reasonable.

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