

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

OFFICER-INVOLVED SHOOTING – 059-17

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
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Pacific	8/4/17		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Officer B	1 year
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Reason for Police Contact

Officers responded to a request for service regarding a restraining order. Upon entry to the residence the Subject pointed a rifle at officers, at which time an officer-involved shooting (OIS) occurred.

<u>Subject</u>	<u>Deceased (X)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
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Subject, Male, 53 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 July 17, 2018.

Incident Summary

An Emergency Board Operator (EBO) received a 911 call from Witness A, who told the operator that she would like a police escort to return to her home. Witness A explained that her ex-partner had been staying with her and that he was subject to a no negative contact restraining order. Witness A further explained that they had been getting along until she had gone to see a friend and now the Subject had become upset and was breaking antiques left to her by her grandmother inside the house. Witness A stated that there were no weapons at the address. She was very concerned about returning home.

Communications Division (CD) broadcast the call, which Pacific Patrol Division uniformed Police Officers A and B accepted.

Officers A and B arrived at the location. Officer B utilized their vehicle's Mobile Digital Computer (MDC) to place themselves at the scene. Upon arrival at the scene, the officers and Witness A exited their vehicles and met on the sidewalk.

Witness A stated to the officers that there was a restraining order with 'no negative contact' between her and the Subject, and that the Subject had broken property left to her by her mother. She was afraid of the Subject and wanted him to leave.

The officers advised Witness A that since they lived together and there was no removal order they legally could not remove the Subject from the residence. It was agreed upon, that the three of them would go to the residence, determine if he was inside, and if so, peacefully resolve the situation.

The three proceeded toward the residence, Witness A then opened the front door by unlocking the deadbolt with a key.

According to the officers, once Witness A unlocked the door, she pushed it open and stepped back behind them. This allowed the officers to approach the front door. Within moments, Officer A observed the Subject sitting on a wooden rocking chair in the dining room; he was facing away with his back toward them. According to Officer A, he observed the Subject holding a black assault rifle with both hands. The rifle was lying across his lap with the muzzle pointing left to the west.

Officer A immediately recognized it as a potentially deadly situation and reacted by unholstering his pistol. He held his pistol with both hands and simultaneously moved forward a few steps into the house and used an interior wall that was 4 feet from the front door for cover. According to Officer A, he immediately started providing verbal commands for the Subject to drop the rifle, while the Subject was still sitting down on the chair in the middle of the living room.

The Subject did not comply with the commands and instead stood up from the chair, held the rifle in his hands while simultaneously turning counterclockwise toward the left. Meanwhile, Officer A continued to verbalize and repeatedly ordered the Subject to drop the gun. Believing they were in imminent threat for their lives, Officer A kept his pistol aimed at the Subject and moved his right index finger from the handgun frame to the trigger and prepared to fire.

Immediately before Officer A was about to pull the trigger, he heard a single gunshot to his right. The Subject was struck by the gunfire, fell to the floor on his back with the rifle falling from his hands and landing approximately an arm's length away from his body. Recognizing that his partner must have fired, Officer A quickly glanced back and saw Officer B standing by the right side of the doorway with his pistol drawn. As he focused his attention back to the Subject and observed him moving, Officer A provide him with commands to stop moving and to not reach for the rifle.

Officer A broadcast, "Officer needs help, shots fired," and provided his location. Officer A also requested a Rescue Ambulance (RA). The officers maintained their positions, kept their pistols aimed toward the Subject, and waited for additional officers to arrive. During this time, Witness A remained outside in the front yard.

Officer B stated Witness A unlocked the front door and stepped back, which allowed them to step up to the door. Officer A was positioned on the left side of the open doorway and Officer B was on the right at the bottom of the steps leading to the door. Within moments, he observed his partner unholster his pistol and heard him yell to someone inside to, "Drop It." At this point, according to Officer B, he was still standing on the bottom step and did not have a clear view of the interior. However, believing that his partner had observed a potentially deadly threat, Officer B unholstered his pistol and simultaneously moved forward up the stairs and positioned himself on the exterior right side of the door frame. This allowed him to see the Subject sitting on a rocking chair in the dining room, facing away, and with his back toward them.

Officer B saw the Subject getting up from the rocking chair. And the second he got up from the rocking chair, he turned to his left with the rifle in his hand. Officer B held his pistol with both hands and aimed it at the Subject.

Simultaneously, he heard his partner continue to issue verbal commands to the Subject to drop the rifle. According to Officer B, the Subject did not comply and continued to turn his body to the left toward them while holding the rifle's pistol grip with his right hand and the hand guard with his left hand. The Subject then pointed the muzzle of the barrel at Witness A and the officers. Officer B perceived the Subject's body movement and posture as if preparing to position the rifle into a shooting position by placing the rifle stock on his shoulder or under his arm pit. Officer B believed the Subject was going to start shooting in their direction. Believing they were in imminent danger, Officer B aimed at the Subject, and fired one round at him. The round struck the Subject in the torso, causing him to fall, landing on his back, and dropping the rifle. The rifle landed within arm's reach near the Subject's right knee.

According to Witness A, she opened the front door, took a few steps into the house and observed the Subject sitting on a chair in the dining room with his back toward her and the officers. She then heard an officer repeatedly yelling for the Subject to put the weapon down. When the Subject turned his body in a counterclockwise direction, she immediately observed the Subject holding a rifle with both hands. Witness A indicated that she then observed the Subject moving the rifle's muzzle in their direction.

Witness A stated she sensed she was in danger because she was between the Subject armed with a rifle in front of her and the officers behind her. Witness A heard holster buttons unsnapping and instinctively reacted by turning to the door to leave. She also said she observed Officer B at the doorway with his gun drawn, and as she quickly walked past him, she heard a single gunshot. Although, Witness A did not actually see which officer fired his gun, she believed it was the Officer B, because as she was walking out of the doorway she heard a gunshot within close proximity of her.

Officers A and B maintained their positions and waited for additional officers to arrive.

Upon the arrival of further units, the officers quickly devised a tactical plan to approach the Subject to take him into custody. Officers A and C made physical contact with the Subject. They rolled him onto his stomach and applied two sets of handcuffs by linking them together. Officer C observed the Subject bleeding from the armpit area, he placed a blanket over the wound, and applied pressure to stop the bleeding. The Subject was then rolled onto his left side to facilitate his breathing and held in that position until the RA arrived.

Upon the arrival of the RA, the Subject was transported to hospital where he failed to respond to medical treatment and was pronounced dead.

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 the BOPC's review of the instant case, the BOPC made the following findings.

A. Tactics

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

Basis for Findings

Detention

- The officers responded to a Domestic Dispute radio call. Upon arrival, Witness A directed the officers to the Subject, who was seated in a chair holding an assault rifle. After ignoring the officer's commands to drop the rifle, the Subject stood up and pointed the rifle in the officers' direction, resulting in an OIS. 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 involved officers were faced with a rapidly unfolding tactical situation when Witness A opened the front door of her residence, and one of the officers observed the Subject seated in a chair holding an assault rifle. The officer attempted to verbalize with the Subject to de-escalate the situation, get him to surrender, and resolve the situation peacefully without the use of force. However, the Subject immediately stood up, turned toward the officers, and pointed the rifle in their direction.

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

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

1. Tactical Communication/Planning

Officers A and B did not effectively communicate and plan with each other during the incident.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety through their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

While there were several shortcomings in the communication and planning between the officers, the BOPC determined that the officers' actions were based on the limited information that they had at the time, and therefore were not a substantial deviation from approved Department tactical training.

2. Public Safety at Critical Incidents

Officers A and B allowed Witness A to accompany them to the front door of her residence where the Subject was possibly located.

Placing a member of the public in harm's way should be avoided at every opportunity. It would have been tactically prudent and safer for the involved personnel to not include Witness A in their initial approach of the residence and request an additional unit to remain with Witness A while they conducted their investigation.

In this case, the BOPC concluded that based on the comments of the radio call indicating that the Subject was not armed and the information that Witness A provided to the officers, and the fact that the officers were in close proximity to Witness A as they approached the location, the officers' actions did not substantially jeopardize Witness A's safety.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's actions were not a substantial deviation from approved Department tactical training.

- The BOPC also considered the following:

1. Preservation of Evidence

The investigation revealed that Officer A used his foot to move the rifle away from the Subject to prevent him from re-arming himself. The officers were reminded, whenever tactically feasible, it is preferable to leave evidence undisturbed until FID investigators can properly document and preserve the scene.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident

specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

In conclusion, the BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- According to Officer A, he observed the Subject sitting on a chair, in the middle of the living room, holding an assault rifle with both of his hands. He immediately drew his service pistol, stepped into the residence and assumed a position of cover behind a wall.

According to Officer B, he observed the Subject sitting on a rocking chair, facing away from them. He then heard his partner say, "Hey, drop it," and immediately unholstered his service pistol. At that point, he believed his partner observed something that he could not see from his position, so he 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 that the situation may escalate to the point where deadly force may be justified.

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

C. Lethal Use of Force

- **Officer B** – (pistol, one round)

According to Officer B, the Subject got up, turned to his left, and he immediately observed that the Subject was holding a rifle with both hands, and that the rifle's barrel was aimed in his direction. Believing the Subject was going to start shooting at him or his partner, Officer B fired one round from his service pistol at the Subject to stop the deadly threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B would reasonably believe 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 B's lethal use of force to be in policy.