

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

OFFICER-INVOLVED SHOOTING – 064-17

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Van Nuys	9/8/17		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	4 years, 4 months
Officer B	4 years, 4 months
Officer E	7 years, 11 months

Reason for Police Contact

Officers responded to an in-progress assault with a deadly weapon (ADW), involving a mentally ill suspect. Upon arrival, the Subject pointed a rifle at the officers, resulting in an officer-involved shooting (OIS) and the deployment of a less-lethal beanbag shotgun.

Subject(s)	Deceased ()	Wounded ()	Non-Hit (X)
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Subject: Male, 23 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 August 28, 2018.

Incident Summary

Officers A and B received an emergency (Code Three) radio call from Communications Division (CD) to respond to the location of occurrence for a violent male with mental illness. Witness A reported to CD that her son the Subject had become psychotic and was assaulting family members. In the background, the Subject could be heard shouting that he had a .22 caliber weapon with a silencer and was going to kill police officers when they responded. Witness A also advised that the Subject possibly possessed a knife and that she and her daughter, Witness B, were with the Subject inside their residence.

Note: Unless otherwise noted, the officers who responded to this incident were in full uniform and from the same Area Station.

CD updated the broadcast adding that the telephone line was still open and the Subject could be heard in the background attacking family members at the location. Per the Department's response protocol for such calls, CD requested that a supervisor respond to the location and assigned Sergeant A.

A short while later, Officers C and D, notified CD that they were also responding. Approximately one minute later, Sergeant B notified CD that he would respond and cancelled Sergeant A's response.

CD then broadcast updated information and advised that Witnesses A and B were with the Subject and that fighting could be heard in the background of the open line. Due to the comments of the call, and the additional information that was broadcast, Officer C requested that an Air Unit respond.

Note: Although requested, the OIS and subsequent Code Four broadcast, indicating that the incident had been resolved, occurred as the Air Unit was still en route. Therefore, their response was cancelled.

CD broadcast that the PR (Witness A) was on the line reporting that she and Witness B had been "cut" by the Subject.

Sergeant B, who was still en route, requested that CD dispatch a Rescue Ambulance (RA) with instructions for the RA to stand by until the scene was secured.

As Officers A and B were nearing the location, they noted that there were no sidewalks on the side of the street and that the addresses to the residences were very difficult to find. Unbeknownst to them, they ended up stopping their vehicle in the street between the driveways of the radio call address and the neighboring residence.

Note: Officer B believed his partner updated the officers' status and location (Code Six) upon their arrival at scene. Officer A, however, did not recall if he did or not. (Officer A was asked approximately 10 months later, during follow-up investigation.)

A review of the CD recording of the local police radio did not capture a Code Six broadcast, and a check of the officers' Mobile Digital Computer (MDC) log showed no manual input recorded. However, during the officers' subsequent help call request, CD correctly broadcast their location.

Officer A exited the passenger side of the vehicle and observed a group of individuals close to his location, in front the residence next to the location of occurrence. With no house numbers visible from the street, Officer A incorrectly believed the group of individuals were at the location of the radio call. As he momentarily directed his attention toward the group, he heard the Subject yell a profanity at the officers in an aggressive tone of voice. Officer A looked toward the driveway of the residence of occurrence and observed the Subject behind a chain-link gate holding a rifle in a low-ready position.

Note: During his interview with FID investigators, the Subject indicated he was holding the barrel and stock of a .22 caliber rifle. The Subject said he pointed it at the officers because he wanted them to shoot him.

Officer A observed the Subject holding the rifle in a low-ready position, with his left hand on the stock and his right hand toward the area where the trigger would be located. As the Subject began to raise the rifle in his direction, Officer A warned his partner and unholstered his pistol. Officer A aligned his sights, placed his finger on the trigger, and ordered the Subject to drop the gun. The Subject moved a few steps and concealed himself from Officer A's view behind the cement pillar at the mouth of the alley.

Note: In his statement to FID investigators, the Subject confirmed that he attempted to momentarily hide from the officers.

Officer B indicated that as he exited the driver's side of his police vehicle, he heard screaming. Based on the information Officer B received, indicating the Subject was armed with a gun and had stabbed victims with a knife, he unholstered his pistol and held it in a low-ready position. In an effort to see down the driveway, Officer B moved from his vehicle to a position of cover behind the cement pillar at the mouth of the driveway.

Officer B then peered around the cement pillar to obtain a visual of the driveway and observed the Subject holding a rifle with the barrel pointed in his direction. Officer B estimated the Subject was approximately 10 yards away from him and believed that the Subject was attempting to ambush him. Simultaneously, he heard Officer A yell that the Subject had a gun. Officer B felt vulnerable behind the cement pillar and immediately moved along the fence line, away from the Subject. Officer B took cover behind a large decorative fountain located in the neighboring front yard.

Note: Officer A believed Officer B was still inside their vehicle when he yelled that the Subject had a rifle.

In an effort to gain a better view of the driveway where the Subject was last seen, Officer A moved in front of his passenger door and took a kneeling position behind the engine block of his vehicle. With his right hand, Officer A utilized a one-hand grip on his firearm and pointed it toward where he last observed the Subject. With his left hand, Officer A cued his microphone and broadcast that he needed a backup for a Subject with a gun.

Within seconds, Officer A observed the Subject reappear and noted that he was now in a single-leg kneeling position in the driveway with the rifle pointed in his direction. The Subject was in what Officer A described as a shooting stance with the stock of the weapon against his shoulder and pressed against his cheek. Officer A believed the Subject was going to shoot him in the head. In defense of his life, he fired one round at the Subject's center body mass from a distance of approximately 42 feet.

Officer A assessed after firing his round and observed the Subject raise the rifle above his head and drop it behind him, and placed himself in a prone position in the driveway. Officer A broadcast that shots had been fired, "officer needs help," and then ordered the Subject not to move or reach for the gun. Moments later however, the Subject stood up and told the officers several times to shoot him and that they were going to have to kill him. Officer A then yelled to Officer B that the Subject had dropped the gun and was no longer armed.

Officers C and D arrived at the scene moments after the OIS. Neither officer reported hearing the gunshot. As Officer D approached the scene, he observed Officers A and B's police vehicle parked in the street facing in a southwest direction, and Officer A at the front passenger side of his vehicle behind the engine block. Officer D parked adjacent to Officers A and B's vehicle, which was parked facing the driveway.

Upon exiting their vehicle, Officers C and D each heard Officer A say that shots had been fired. Officer D unholstered his pistol and immediately deployed behind the rear passenger side of a silver van that was parked adjacent to them. Officer C also unholstered his pistol and initially moved toward a six-foot high wooden fence on the side of the driveway. Officer C was unable to see the Subject from this vantage point, and consequently redeployed across the street to Officer D's position behind the silver van.

Officer E notified CD that he had arrived at the location (Code Six). According to Officer E, he arrived at the same time as Officers C and D and parked directly behind their vehicle. As Officer E exited his police vehicle, he heard a single gunshot and an unidentified officer yell, "Gun." Officer E unholstered his pistol and deployed along the front driver's side of his vehicle, utilizing the engine block for cover. He was unable to see the Subject from this position and redeployed across the street to Officers C and D's location behind the silver van.

Officer D communicated with Officer A to ensure he was okay and to inform him that he could not see the Subject. Officer A verbalized that the Subject was now unarmed and requested that an officer retrieve a beanbag shotgun. Officer E holstered his pistol and returned to his police vehicle to retrieve his beanbag shotgun.

Upon hearing that the Subject was not armed, Officer C redeployed across the street to join Officer B.

Although Officer B was able to see the Subject while standing behind the fountain, he desired better cover. Officer B communicated this to Officer C and together they moved a few feet and took cover behind a white sedan that was parked in the driveway.

From their respective positions of cover, Officers A and B gave several commands to the Subject to surrender and to go down to his knees. The Subject refused and repeatedly stated, [expletive deleted]. The Subject told the officers several times to shoot him while pacing back and forth in the driveway. Witnesses A and B then exited their residence and yelled to the officers that the Subject was not armed and to not shoot him.

From the neighboring yard, Officer B instructed the victims (Witnesses A and B) to go back into their residence. As the victims started to comply, the Subject also began walking back toward his residence. Officer B feared for the safety of the victims and was also concerned the Subject might pick up the rifle that he had discarded on the ground. Officers B and C moved forward toward the wrought-iron fence that separated them and the Subject. While utilizing the large bushes next to the fence as concealment, Officer B ordered the Subject several times to stop. The Subject eventually changed direction and began walking quickly toward the wrought-iron fence, in Officer B's direction. The Subject appeared agitated and screamed for the officers to kill him. As the Subject approached the fence, Officers B and C redeployed back behind the white vehicle in the driveway. The Subject stopped his advance and continued to pace in the driveway near where he had dropped the rifle.

Officers A and D eventually redeployed from their positions across the street to the cement pillar at the mouth of the driveway. The officers maintained a high/low barricade position at the pillar, with Officer A standing and Officer D kneeling.

In an effort to establish a tactical plan to confront the Subject, Officer C redeployed to Officers A and D's position near the cement pillar. Concurrently, Officer E returned from his vehicle with a beanbag shotgun and joined the officers at the mouth of the driveway.

Officer E observed the Subject pacing back and forth in the driveway with his fists clinched. The Subject had blood on his chest and arms, was sweating profusely, while yelling, "[Expletive deleted], come get me." Officer E ordered the Subject to lie on the ground and show his hands. When the Subject refused, Officer E warned that if he reached for anything or made any sudden moves, he would shoot him with the beanbag and that it would hurt.

Officer E repeated his command for the Subject to lie on the ground and show his hands, but he again refused. The Subject instead began to walk toward him in an aggressive manner with his fists clinched. Officer E believed the Subject had the capability of quickly scaling the chain-link gate. Based on the knowledge he had regarding the initial radio call that indicated the Subject was armed and had threatened physical harm to responding officers, Officer E fired one round from his beanbag shotgun through the chain-link gate, at the Subject's abdomen, from a distance of approximately 37 feet.

Officer E stated the Subject flinched as if he had been struck and then continued to pace back and forth. Officer E took two steps forward toward the Subject and yelled at the Subject again to put his hands up and to get on the ground.

Officer E warned the Subject that if he did not comply with their orders, he would be shot again with a beanbag round and that it would hurt. The Subject told the officers that he was not going to do what they asked. The Subject challenged Officer E to shoot him and again began walking rapidly toward him. Officer E fired a second beanbag round at the Subject through the chain-link gate from a distance of approximately 29 feet.

Note: According to Officer D, he observed both beanbag rounds strike the gate and fall to the ground. Upon later examination, it was determined that both beanbag rounds had struck the gate, ruptured, and released their contents.

After Officer E fired the second beanbag round, the Subject placed himself in a prone position. He was then taken into custody without further incident.

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 Sergeant C along with Officers C, D, and E's tactics to warrant a Tactical Debrief; however, there was no finding for Officers A and B.¹

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

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

D. Less-Lethal Use of Force

The BOPC found Officer C' less-lethal use of force to be in policy.

E. Lethal Use of Force

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

Basis for Findings

Detention

- Officers responded to a radio call of a violent male with mental illness, who was armed with both a firearm and knife and had stabbed family members. Upon their arrival, the Subject pointed a firearm at the officers. The officers' actions were appropriate and within Department policies and procedures.

A. Tactics

Tactical De-Escalation

- In this case, the officers were confronted by an armed suspect upon exiting their police vehicle. Officers gave the Subject orders to drop the firearm. The Subject then pointed the firearm at officers.
- In its analysis of this incident, the BOPC identified the following tactical considerations:

1. Tactical Planning

¹ The BOPC did not reach a majority decision as to whether these officers' tactics should have resulted in a finding of Tactical Debrief or Administrative Disapproval.

While Officers A and B discussed assignment of lethal and less-lethal force responsibilities, they did not formulate a specific plan of approach while en route to the radio call.

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

2. Code-Six

Officers A and B did not advise Communications Division (CD) of their arrival at the radio call.

Based on the totality of the circumstances, the BOPC determined that in this situation, Officer A and B's decision to focus on the deadly threat and not advise CD of their Code-Six location was reasonable and justified, and not a substantial deviation from approved Department tactical training.

3. Tactical Vehicle Deployment

Officer B inadvertently parked the police vehicle adjacent to the driveway of the call location where the Subject was described as being armed with a gun.

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

The BOPC also considered the following:

- **Beanbag Target Areas**

The investigation revealed that Officer C aimed at the Subject's abdomen and upper torso area, which he later clarified as targeting the Subject's center body mass, when he discharged the Beanbag Shotgun.

- **Effective Encounters with the Mentally III**

The investigation revealed that Officers A and B responded to a radio call in which the Subject was being reported as possibly suffering from mental illness.

- **Beanbag Shotgun Sight Alignment**

The investigation revealed the beanbag shotgun used by Officer C was equipped with misaligned sights.

- 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 and a Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

The BOPC found Sergeant C along with Officers C, D, and E's tactics to warrant a Tactical Debrief; however, there was no finding for Officers A and B.²

B. Drawing/Exhibiting

- According to Officer A, he observed the Subject standing in the driveway behind a chain-linked fence without a shirt, sweating profusely, and holding a rifle. He yelled "gun" to his partner, crouched behind the engine block of his vehicle for cover and drew his service pistol.

According to Officer B, he stopped the vehicle, unsure of the exact location of the radio call, and opened his driver's door. Immediately he heard screaming, exited his vehicle, and drew his service pistol.

According to Officer E, upon exiting his vehicle, he drew his service pistol due to the comments of the radio call and deployed to Officer A's position of cover.

According to Officer D, he immediately drew his service pistol upon arriving at the scene due to the broadcast of shots being fired. He then deployed to Officer B's position in the neighbor's yard, one property away from the Subject's location.

According to Officer C, upon his arrival, he exited his vehicle and heard a loud bang followed by an unknown officer stating, "Gun, gun, gun." He then took cover behind his vehicle and drew his service pistol.

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

² The BOPC did not reach a majority decision as to whether these officers' tactics should have resulted in a finding of Tactical Debrief or Administrative Disapproval.

C. Non-Lethal Use of Force

- **Officer B – Bodyweight**

According to Officer B, after being handcuffed, the Subject began flailing his legs and kicking at the officers. He then used his right knee to apply bodyweight to control the Subject's legs and applied the HRD to the Subject's legs.

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

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

D. Less-Lethal Use of Force

- **Officer C – (beanbag shotgun, two sock rounds)**

According to Officer C, the Subject began walking rapidly, with his fists clenched, charging at him. He then discharged one sock round from his beanbag shotgun at the Subject, causing the Subject to flinch. He assessed and observed that the Subject was still standing, aggressive, and not complying with his orders.

Officer C took two or three steps forward while telling the Subject to put his hands up and get on the ground. The Subject refused to comply and again walked rapidly towards him, charging at him. Officer C then discharged a second sock round from his beanbag shotgun at the Subject, causing him to go down to the ground.

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

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

E. Lethal Use of Force

- **Officer A – (pistol, one round)**

According to Officer A, he observed the Subject come into view, take a crouched shooting position, and point the barrel of the gun at him. Believing the Subject was going to shoot him in the head, Officer A fired one round from his service pistol at the Subject to stop the 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 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.