

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

OFFICER-INVOLVED SHOOTING – 003-14

Division **Date** **Duty-On (X) Off ()** **Uniform-Yes (X) No ()**

77th Street 01/14/14

Officer(s) Involved in Use of Force **Length of Service**

Officer E 20 years, 7 months

Reason for Police Contact

Officers responded to a barricaded subject incident. During negotiations, the Subject exited the front door and pointed a dark object toward officers, and an officer-involved shooting ensued.

Suspect **Deceased (X)** **Wounded ()** **Non-Hit ()**

Subject: Male, 55 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 January 6, 2015.

Incident Summary

Communications Division (CD) received a 911 call from Witness A, an employee at a fitness club, reporting that a club member, Witness B, had been robbed by a subject armed with a gun outside of the club. Witness B spoke with the emergency operator and provided the subject's vehicle license plate number, described the male and indicated that he was armed with a shotgun or rifle.

CD broadcast the information, and Officers A and B responded to the call. A crime broadcast was issued providing the subject description and information on the subject's vehicle. The crime broadcast also listed items taken during the robbery including Witness B's black leather purse containing personal property and her Apple iPhone.

Additional officers also responded to the call and assisted with the robbery investigation. During Witness B's interview, she advised that her Apple iPhone was equipped with a Find My Phone application which enabled an individual to locate the phone. Officer C activated the Find My Phone application which revealed the location of Witness B's phone.

During the course of the robbery investigation, officers located the Subject; however, he entered a residence and refused to surrender. The Subject threatened to shoot any officer who tried to enter. The residence was surrounded and Metropolitan Division K-9 and Special Weapons and Tactics (SWAT) personnel were requested to respond. Sergeant A assumed the role as the Incident Commander (IC) and was assisted by Sergeants B and C.

Detectives A and B arrived at the scene and were directed to the rear of the residence. Shortly after arriving at the rear of the residence, Detectives A and B observed Witness C exit the back door. Witness C approached the detectives, who were uncertain of Witness C's involvement. Witness C was handcuffed by Detective B. Witness C advised the detectives that he was the owner of the residence. He informed them that the Subject ran into the residence that morning and that three other occupants were inside. Detective B stated that he broadcast that Witness C was not the robbery subject. Witness C was escorted to the Command Post (CP) and told the officers of three additional tenants inside the residence with the Subject, and that he believed the Subject was armed with a gun.

Lieutenant A provided the incident information to responding SWAT officers. Lieutenant A directed the first officers to arrive on scene to establish an Emergency Response Team (ERT) and for the deployment of armored vehicles, K-9, Behavioral Science Services, the Bomb Squad and equipment needed for a barricaded subject.

Los Angeles Fire Department (LAFD) personnel received the alarm to respond. Upon arrival, they staged near the CP.

Sergeant D and Lieutenant A, along with several SWAT officers, arrived at the CP. Sergeant A briefed Lieutenant A, Sergeant D and the SWAT officers on the current status of the incident.

Captain A arrived during the deployment of SWAT officers and assumed the duties as IC. Captain A received information from Lieutenant A on the tactical operation. Captain A directed Lieutenant A to continue with their operation.

While SWAT personnel began staging their armored vehicles, Witness D exited the front door and walked to the officers in front of the residence. He was detained by officers who debriefed him regarding the two civilians remaining inside the residence with the Subject. Witness D was then escorted to the CP.

While at the CP, Lieutenant A continued directing arriving SWAT officers and additional armored vehicles to the residence. Sergeant D was the on-scene tactical supervisor for command and control and placed the armored rescue vehicles at specific positions in front of and to the sides of the residence. A total of four armored vehicles were positioned in front of the residence and each vehicle was tasked and equipped for specific functions.

The SWAT officers relieved the uniformed officers from their containment positions around the residence. As the patrol officers were relieved, they holstered their weapons.

Sergeant D stood on the passenger side of the armored rescue vehicle positioned in the roadway southwest of the residence, facing east, and could hear the Subject yelling out to the officers. From his position, Sergeant D used a public address system (bullhorn) and communicated with the Subject, asking him to come out and surrender. In response, the Subject yelled back, “[Expletive] you. The first officers going to come in here I’m going to kill. I’m going to kill your mom. I’m going to kill—I’m going to kill any [expletive] officer who comes in here. I’m going to kill him.”

Officer D, assigned to the Crisis Negotiation Team (CNT), assumed the duties of communicating with the Subject, taking over the bullhorn from Sergeant D. Officer D stood on the passenger side of the armored rescue vehicle near Sergeant D. Officer D was facing the front door of the residence as he addressed the Subject.

Officer D heard unintelligible yelling from inside the residence as the metal security door abruptly swung open. Officer D observed the Subject standing in the doorway, holding a dark object resembling a weapon in his right hand. Officer D sought cover and ducked down behind the armored rescue vehicle.

At the same time that Officer D observed the Subject stepping out of the residence, Officer E was standing on the passenger side of the armored rescue vehicle to the right of Sergeant D and Officer D. Officer E was standing adjacent to the passenger door, nearest to the hood of the armored vehicle. Officer E was the designated cover officer,

and he had a clear and unobstructed view of the residence front porch and door. Officer E was armed with a rifle, which he held over the hood of the armored vehicle.

According to Officer E, the Subject swung open the black metal security door and took a step onto the porch. The Subject was holding a blue steel semiautomatic pistol in his left hand, which was extended out toward officers who were positioned on the east side of the residence near the armored rescue vehicle which was parked in a northeast direction partially in the roadway and residence driveway. The Subject turned in a clockwise direction and pointed the pistol in Officer E's direction. Fearing for his life and the lives of the other officers, Officer E elevated his rifle slightly and used his optical sights, placing the red dot on the Subject's upper torso. Officer E moved the selector switch from safety to semiautomatic mode and fired one round from his rifle. The Subject continued moving in a clockwise direction falling back into the residence as the metal security door closed. Officer E immediately advised the officers around him that he discharged his weapon and the Subject was down inside the residence. Officer E placed the selector switch back to safe mode and lowered his rifle.

At the same time, Officer D and other officers heard a female screaming from inside the residence and he called for her to come out. Witness E exited the front door and told the officers that the Subject was inside the doorway and was incapacitated. Witness E also advised that Witness F, a blind male, was inside the residence. Witness E was then taken to the CP.

Sergeant D conferred with the SWAT team leader about an emergency rescue. The tactical plan was to have the armored vehicles move from their current positions and have one of the armored vehicles drive northeast over the west wrought iron fence. The armored vehicle was to be used as cover for the officers to approach onto the property and into the residence. Sergeant D briefed Lieutenant A of the emergency rescue plan and was given the approval to proceed.

The ERT used the armored vehicle as cover as they followed on foot along the sides of the vehicle. At point was Officer E, who provided cover for Officer F, who opened the unlocked front door. Officer E was the first officer to enter and observed the Subject lying on the floor at the doorway entrance. The ERT filed in behind Officer E.

The ERT observed the Subject adjacent to the doorway lying on his back in a northeast direction, with his head farthest from the door. Officer G checked the Subject and noted that the Subject was not conscious or breathing. Officer G rolled the Subject over onto his stomach and was assisted by Officer H in placing plastic flex-cuffs on the Subject's wrists behind his back. The ERT searched the residence and located Witness F in a room to the rear of the residence. Witness F was escorted out by Officer H.

Note: Officer G conducted a pat-down search of the Subject and did not find any weapons.

The residence was searched and no additional subjects were found. During the subsequent search of the residence, a black plastic replica revolver and two 12-gauge

shotguns were located. The replica gun was in a built-in cabinet drawer in a hallway, and the shotguns were in soft cases in a locked closet. A black television remote control was located on the wood floor approximately four feet northeast of the Subject's head in the living room.

Sergeant D managed the officer-involved shooting (OIS) scene. He identified and separated the percipient and involved officers. Sergeant E arrived from the CP and began to monitor Officer E and obtained a Public Safety Statement from him.

LAFD personnel entered the Subject's residence. The paramedics administered medical aid to the Subject to which he failed to respond and determined death.

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 Lieutenant A, Sergeant D and Officer E's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officer E's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

- There were no tactical issues identified by the BOPC during the review of this incident.
- The evaluation of tactics requires 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, although there were no identified tactical points or issues, a Tactical Debrief is the appropriate forum for Lieutenant A, Sergeant D, and Officer E to review and discuss the incident and individual actions that took place during the incident with the objective of improving overall organizational and individual performance.

In conclusion, the BOPC found Lieutenant A, Sergeant D and Officer E's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- An armed street robbery occurred with a cellular telephone being one of the items taken. A cellular telephone location check was conducted that led to a follow-up investigation at a residence. During the standoff, the Subject stated that he would shoot and kill the officers.

Personnel from Metropolitan Division, SWAT, responded and deployed around the target location. Officer E was positioned adjacent to the passenger door of the armored rescue vehicle that was parked in the roadway southwest of the target location. Officer E exhibited his police rifle.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer E, 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.

In conclusion, the BOPC found Officers E's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- **Officer E** – (rifle, one round)

According to Officer E, he responded to the location of a barricaded subject that was involved in a robbery, and was possibly armed with either a rifle or a shotgun. He received additional information indicating that there were also additional people located inside the residence with the Subject. At the time it was unknown if they were hostages or not.

While at the scene, Sergeant D broadcast that the Subject informed the patrol officers that he had a gun and was intending to shoot responding police personnel.

Officer E assumed the primary cover position adjacent to the passenger door of the armored rescue vehicle that was parked in the roadway southwest of the target location.

Officer E recalled, "I took a position of what we call primary cover. Basically, on the passenger's side utilizing the vehicle - - armored vehicle as cover and primary cover mean I would be the primary lethal force if the su[bj]ect were to present a lethal threat to us. I had my rifle braced over - - basically over the hood of the armored vehicle."

"He flung the door open, the black metal screen door he flung it open. And as he - - as I - - as the door swung open and he was revealed to me - - my view he had his left hand extended out towards the street towards where the [armored vehicle] in this drawing is indicated with [officers]. He took one step through the doorway onto the porch with his arm extended at eye level towards this other [armored vehicle]. And immediately swung his arm and torso I guess in a clockwise direction towards my direction his left hand extended outward. I think I heard him yell, but I don't recall what it was he yelled."

When asked what was in the Subject's left hand. Officer E stated, "It was a small blue steel semi-auto handgun. I did not see him discharge the weapon."

Officer E continued, "His arm is extended out with the pistol in his hand up at his eye level with the muzzle pointed at me. I immediately elevate my rifle slightly til I could see my sight, my red dot sight, and took the selector switch off safe and pressed one shot."

When asked why he discharged his firearm, Officer E stated, "I initially saw him stepping out with the weapon extended towards the other vehicles where [officers] were and I knew from - - initially [Officer I] was standing there as - - as a cover officer on that side. So my perception was he was going to shoot [Officer I]. Almost immediately he swung his weapon into my direction I thought he was going to shoot me. And that's why I fired to - - protect my life at that point."

The Subject's action of raising his hand and extending his arms and raising his left hand while holding an object aimed toward Officer E, and the containment officers, established the belief that the object was a handgun. Accordingly, Officer E's decision to discharge his police rifle to protect himself and the containment officers was objectively reasonable.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer E would believe that the actions committed by the Subject presented an imminent threat of death or serious bodily injury. Therefore the use of lethal force would be reasonable in this situation and in compliance with Department policy and tactical training.

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