

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

OFFICER-INVOLVED SHOOTING – 009-14

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
West Valley	3/21/14		

Officer(s) Involved in Use of Force	Length of Service
Officer E	25 years, 4 months

Reason for Police Contact
Officers responded to a 911 call.

Subject	Deceased (X)	Wounded ()	Non-Hit ()
Subject: Male, 74 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 January 20, 2015.

Incident Summary

West Valley Patrol Division Police Officers A and B were in full uniform and in a marked black and white police vehicle when Communications Division (CD) broadcast, "West Valley units, violent male mental illness, [location]. [Witness A] is in front of the location, a female [...], grey hair, purple shirt, green pants. Inside of location, [subject] is a male [...], 70 years, grey hair, mustache, red shirt, tan pants or shorts, 390 armed with a knife, threatening to kill, correction harm [Witness A] and himself. [...]" The radio call was subsequently assigned to Officers A and B, who responded with emergency lights and sirens.

Communications Division next broadcast, "West Valley units [...], additional on your violent male with mental illness at [location]. Subject also stated that he wishes to commit suicide by cop." Within seconds of the broadcast, West Valley Patrol Division Sergeant A advised CD he was responding to the call. Patrol Division uniformed Police Officers C and D also responded.

Communications Division additionally broadcast, "West Valley units [...], additional on the male mental illness at [location]. The subject is now armed with a shotgun in front of the location."

An air unit responded and advised the responding ground units to stop all traffic and assisted in positioning the responding units around the area. The air unit continued to broadcast updates on the Subject's location and activity as it orbited over the scene.

Police Officers E and F also advised CD they were responding to the scene and that they were equipped with a Patrol Rifle.

Officers C, D, E and F arrived near the location and gathered on an adjacent sidewalk. Officer E observed a female, Witness A, walking south toward him. Officer E called out to her and advised her to walk to him. Witness A walked to Officer E and upon reaching him, stated that the Subject's gun was unloaded and that the police had been to their residence before. Officer E directed her to talk to the officers behind him and refocused his attention back to the north.

Witness A also advised Officers C and D that the Subject's shotgun was not loaded and that she had hidden the rounds from the Subject. Witness A also advised the officers that the Subject may have a knife and would approach them. Upon hearing that, Officer D retrieved a bean bag shotgun from his police vehicle and chambered a round.

The officers then redeployed and positioned themselves two properties to the south in the front yard. The officers stood behind a vine-covered chain-link fence that ran east and west along the north side of the property line of that residence and used it for concealment. Officer E positioned himself behind a City trash can that was on the sidewalk adjacent to the fence and used it for concealment. Officer F, who had previously unholstered his service pistol, stood behind the fence west of Officer E.

Officer C unholstered his service pistol at the fence and stood west of Officer F. Officer D was armed with a bean bag shotgun and stood west of Officer C.

Sergeant A arrived on scene and contacted Witness A, who advised Sergeant A that the Subject was bipolar and had been drinking, and that he was armed with an unloaded rifle.

As Sergeant A subsequently met with the officers, the Subject suddenly exited the front door of his residence and stood on his front porch. Officer E's view of the Subject was partially obstructed by bushes in the Subject's yard, and he was unable to determine if the Subject was armed. Officer E called out to the Subject to come forward with his hands up. The Subject looked in Officer E's direction and slowly walked down the steps and continued east onto the front yard lawn. At that point Officer E observed that the Subject was holding a shotgun. According to Officer E, the Subject was, "...walking with a shotgun in his right hand, just swinging it kind of like a golf club or a baseball bat." With his rifle at a low-ready position, Officer E shouted to the Subject, "Sir, drop the shotgun, drop the shotgun. Just put your hands up."

Note: Officer F also gave commands. When Officer F was asked how many times he gave commands to the Subject, he replied, "I'd say four to six times."

Sergeant A broadcast that the Subject was exiting his residence and that he was armed. The Subject ignored Officer E's commands and continued to walk east on the front yard lawn toward the sidewalk. The Subject then stopped short of the sidewalk, and leveled the shotgun across his body with the barrel pointed north, away from the officers. Officer E issued the Subject additional commands for him to put the shotgun down. According to Officer E, the Subject slowly turned toward Officer E, raised the shotgun to a port arms position, and made a deliberate racking motion of the shotgun while facing him.

At that point, Officer E raised his rifle, looked through the sight and took aim at the Subject. According to Officer E, the Subject started to bring his weapon down, brought the barrel over, and it appeared that he was pointing it directly at Officer E. Officer E waited one more second, and then fired one round at the Subject. He observed the Subject flinch and move to the right with the barrel still coming his way. Officer E immediately thought that the Subject was going to fire a round even though he had been hit, so Officer E fired a second round at the Subject. Officer E indicated that he was in fear for his life when he fired his rounds. The Subject fell backwards and landed on his back on the lawn, dropping the shotgun as he fell. The shotgun landed near his feet.

Note: The investigation determined that Officer E fired two rounds from his rifle at the Subject from a distance of approximately 73 feet.

Sergeant A broadcast that shots had been fired, the Subject was down, and that he needed a Rescue Ambulance (RA) to respond to his location. Sergeant A observed the Subject on his back and moving his arms. Sergeant A was concerned the Subject could reacquire the shotgun. Sergeant A observed several officers east of him and waved for them to respond to his location. The additional officers responded to Sergeant A's location, and Sergeant A informed them that he needed an arrest team. The officers formed an arrest team and approached the Subject with Sergeant A. Officer G subsequently handcuffed the Subject without incident.

Los Angeles City Fire Department (LAFD) personnel arrived on scene and treated the Subject, subsequently transporting him to a local hospital. The Subject 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 Sergeant A and Officers C, D, E, and F's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officers C, E and F'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

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

1. Encounters with the Mentally Ill

Communications Division broadcast information that the Subject suffered from a mental illness. Communications Division was further advised of his actions and provided additional information that he may attempt to create a suicide by cop situation.

The involved officers approached the incident with the knowledge that the Subject suffered from mental illness and was armed with a firearm. They tactically approached the incident and utilized cover. There was some initial confusion over which property the Subject was outside of; however, the officers determined his location and deployed appropriately given the circumstances. Officers should continuously assess the tactical situation when persons with mental illness are involved, in particular one in possession of a firearm. Training and experience are also crucial when handling incidents involving potentially armed mentally ill persons.

The officers obtained pertinent information regarding the Subject having a mental illness. The officers' maintained awareness of this fact throughout the incident and as additional information came to light, tactically deployed appropriately.

In conclusion, the officers' actions did not substantially deviate from approved Department tactical training. However, in an effort to improve future tactical performance, this topic will be discussed during the Tactical Debrief.

2. Tactical Communication

Officers in the air unit described the residence by fixed landmarks in the yard to assist the ground officers in locating the Subject. The air unit also advised the officers that the residence was located where two electrical transformers were positioned and where trees were planted in the yard.

Although the air unit orbited above the call location and provided descriptive features in an effort to guide the officers to the Subject, communication of an address to the officers on the ground may have been advantageous for them to pinpoint the residence.

Officers are to be reminded of the role of the ground officers in relation to the air unit. If uncertainty of a location exists, officers should make every effort to

communicate with one another and verify the information. That being said, after a review of the communications involved throughout this incident, the BOPC determined the officers' actions did not substantially deviate from approved Department tactical training. However, in an effort to enhance future tactical performance, this topic will be discussed during the Tactical Debrief.

3. Cover vs. Concealment

Officers C, D and F took a position of concealment behind a vine-covered chain-link fence. Officer E utilized a City trash can as concealment and was positioned just east of the officers.

In reviewing Officers C, D, E and F's actions, the BOPC noted that there was no viable cover for the officers to utilize as they redeployed to a position to maintain view of the Subject. The BOPC's expectation is that officers evaluate the use of cover given the circumstances with which they are faced. Officers C, D, E and F walked in front of the yard where the air unit last observed the Subject armed with a shotgun and upon being advised to redeploy, immediately moved to a position of concealment. This position of concealment was the only accessible location and increased the officers' tactical advantage. As the officers discussed other tactical options including cover, the Subject exited the residence while holding a shotgun, causing the officers to focus on the threat presented before them.

In conclusion, the BOPC found the officers' actions did not substantially deviate from approved Department tactical training. Officers C, D, E and F sought adequate concealment behind a vine-covered chain-link fence and a City trash can, which provided distance between the officers and the residence, and concealment. However, the officers are reminded of the importance cover can provide during an incident involving an armed suspect. This topic will also be discussed at the Tactical Debrief.

4. Verbal Commands

Officer E observed the Subject walk outside the residence while armed with a shotgun. Officer E gave clear and repeated commands for the Subject to drop the shotgun. Officer C also gave the Subject commands to drop the shotgun. These commands were simultaneous and non-conflicting. Officer C realized Officer E was in the best position to provide verbal commands to the Subject and did not want to confuse the Subject; therefore, he transitioned to a position of cover, while Officer E continued as the contact officer.

The process of communicating with an armed subject involves a variety of concerns while determining the most effective method to safely diffuse the situation. The BOPC acknowledged the multiple efforts made by Officers E and C ordering the Subject to drop the shotgun and their transitioning roles. Although

the philosophy behind a Tactical Debrief is to enhance future performance by discussing areas where improvements could be made, often times, discussions pertaining to positive aspects of the incident lead to additional considerations that would be beneficial in future incidents. Therefore, the topic of verbal commands will be discussed during 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 review and discuss the incident and individual actions that took place during this incident.

Therefore, the BOPC found Sergeant A, along with Officers C, D, E and F attend a Tactical Debrief, to ensure the specific identified topics are covered.

B. Drawing/Exhibiting

- Air Support personnel observed the Subject holding a rifle, later identified as a shotgun, and immediately broadcast a Help Call and requested a Police Rifle equipped unit. Officers E and F responded to the request. Officers C and D also responded to the call. As the officers arrived, Officer E, believing he may encounter an armed subject, retrieved and exhibited his police rifle. Officers C, D, E and F approached the residence. Based on the information that the Subject was armed with a shotgun, Officers C and F, believing they may encounter an armed subject, drew their respective service pistols.

Note: Officer D was equipped with the bean bag shotgun and indicated that he did not draw his service weapon because of his position during the incident.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience while faced with similar circumstances would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

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

C. Lethal Use of Force

- **Officer E** – (rifle, two rounds)

Officer E observed the Subject exit the residence while armed with a shotgun. Officer E ordered the Subject to drop the shotgun numerous times. The Subject did not comply with Officer E's orders. The Subject then pointed the shotgun barrel toward Officer E, and believing he was about to be shot, Officer E fired two rounds from his Police Rifle at the Subject to stop his actions.

Officer E recalled, "I could clearly see that he's [the Subject's] walking with a shotgun in his right hand, just swinging it kind of like a -- a golf club or a baseball bat," so Officer E issued several commands to drop the shotgun and put his hands up. According to Officer E, the Subject "continued to walk to maybe the middle of the lawn just past the palm trees, and he stopped." Officer E again issued the commands to drop the shotgun and put his hands up. As described by Officer E, the Subject then "brought the shotgun up into a modified port arms position, not with the muzzle up in the air but kind of across his stomach with both hands with the barrel of the shotgun pointing northbound across the lawn [...] He slowly started to turn towards me. And as he so, it -- it was pretty slow, I started to squat down a little bit and get behind his rifle to defend myself if he spun on me."

Officer E continued to order the Subject to drop the shotgun and the Subject then turned the shotgun toward Officer E. Officer E recalled, "It appeared that he looked directly at me and did a very deliberate racking motion of the shotgun still facing me. When he did that, I got down behind the trash can, behind my rifle, thumb on the safety, finger along the frame, and brought my -- my eye into the reticular scope mounted on my rifle. [...] And I could clearly see his eyes and I could clearly see everything from his knees to maybe a foot or two above his head, and I could clearly see the shotgun. As he slowly started to bring it down, like it [the shotgun] was coming towards my direction, it appeared to kind of go real slow, I took my safety off my rifle, [...] and just put my finger on the trigger [...] And then he brought the barrel over and it appeared that he was just pointing it directly at me. As soon as the barrel looked like I was looking down a cannon, I -- seemed like I waited one more second, and then I fired one round [...] I saw him flinch and move to the right with the barrel still coming my way, and then I immediately thought now he was going to -- being that he was hit, he was going to squeeze off a round so I fired the second maybe a half a second later on him."

Based on the totality of the circumstances, the BOPC found that an officer with similar training and experience as Officer E would reasonably believe that the Subject's actions of pointing a shotgun at him, presented an imminent threat of death or serious bodily injury and the use of lethal force was objectively reasonable.

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