

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

OFFICER-INVOLVED SHOOTING – 017-19

Division	Date	Duty-On () Off (X)	Uniform-Yes () No (X)
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Outside City	4/26/19		
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Officer(s) Involved in Use of Force	Length of Service
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Sergeant A	32 years, 4 months
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Reason for Police Contact

Sergeant A was off-duty, at a car wash having his/her personal vehicle detailed, when he/she observed the Subject enter the car wash office. A short time later, Sergeant A heard gunshots from the office area. Within seconds of the gunshots, the Subject exited the office holding a handgun in his right hand. Sergeant A verbally identified himself/herself as a police officer and ordered the Subject to stop. The Subject fired at the sergeant resulting in an Officer-Involved Shooting (OIS).

Subject	Deceased ()	Wounded ()	Non-Hit (X)
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Male.

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 Office of the Inspector General. The Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on April 7, 2020.

Incident Summary

Sergeant A was off-duty on a regular scheduled day off. Sergeant A drove his/her personal vehicle to a car wash, outside the city of Los Angeles, to be washed and detailed.

Sergeant A sat on a chair that was located west of the car wash office door. Another patron of the car wash, Witness A, was seated on a bench east of the door. The Subject entered the car wash lot and walked toward the office. The Subject walked past Sergeant A and entered the office. Sergeant A observed the Subject walk by and noted that he was wearing a hooded sweatshirt with the hood of the sweatshirt up.

According to Sergeant A, he/she heard three loud consecutive noises emit from the office area. Sergeant A said the noise resembled the sound of bottles being dropped and did not immediately recognize it as gunfire.

The Subject exited the office and walked in a southwesterly direction at a fast pace. According to Sergeant A, as the Subject walked past him/her, he/she observed a black semi-automatic handgun in the Subject's right hand. Sergeant A stated that the gun was pointed down, along the Subject's right side, with the muzzle pointed toward the ground. The Subject continued walking in a southwesterly direction toward the driveway.

After observing the Subject armed with a gun, Sergeant A formed the opinion that the noises he/she heard may have been gunshots. Believing a crime occurred inside of the office, Sergeant A immediately stood up and identified himself/ herself as a police officer and told the Subject to stop.

According to Sergeant A, in response to his/her command, the Subject turned in a counterclockwise direction and fired one round in Sergeant A's direction as he ran through the car wash lot. Sergeant A unholstered his/her pistol, which he/she held in a two-hand shooting position, with the muzzle pointed in a southerly direction toward the Subject, and fired at the Subject.

Sergeant A fired one round at the Subject in a southerly direction from an approximate distance of 15-20 feet.

Witnesses B, C, D, E, and F were employees of the car wash and were standing in the car wash lot, east of the southwest driveway, at the time of the incident. All five witnesses indicated that they observed the Subject flee on foot through the car wash lot. According to Witness B, as the Subject ran past him, the Subject pointed a pistol in his direction as he continued to run toward the southwest driveway.

According to Witness C, he chased the Subject briefly as he fled through the car wash lot. As the Subject approached the gate, he turned and fired approximately three rounds. Witness C stated he stopped chasing the Subject and dropped to the ground to

avoid being shot. According to Witness C, he believed Sergeant A's actions prevented him and the other witnesses from being shot by the Subject.

The Subject continued to run west across the street, down an alley and out of sight. According to Sergeant A, he/she followed the Subject on foot for a short distance, with intentions of tracking his movements. Sergeant A estimated that he/she was approximately 40-50 yards behind the Subject.

After the Subject fled the scene, Sergeant A holstered his/her pistol and called 9-1-1 on his/her cellular phone to report the incident. Upon speaking with Communications Division (CD), Sergeant A immediately identified himself/herself as an LAPD sergeant and advised that he/she was involved in an OIS. Sergeant A went back to the officer where he/she discovered the victim of the shooting and further requested a rescue ambulance.

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). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC found Sergeant A's Tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Sergeant A's drawing and exhibition to be In Policy.

C. Lethal Use of Force

The BOPC found Sergeant A's lethal use of force to be In Policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value when using force

shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Use of Force Policy, Los Angeles Police Department Manual.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in Graham v. Connor, 490 U.S. 386 (1989), which states that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force.

(Use of Force Policy, Los Angeles Police Department Manual.)

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a subject and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. 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. (Tactical De-Escalation Techniques, October 2016.)

A. Tactics

Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)*

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.

Planning – Sergeant A estimated that the time from when he/she heard the possible gunshots in the office to when the Subject exited the office was approximately ten seconds. The rapid escalation of the situation by the Subject limited Sergeant A's ability to plan for this incident. However, in regard to planning ahead for a possible off-duty incident, Sergeant A stated he/she had practiced unholstering his/her off-duty pistol from his/her off-duty holster. Sergeant A kept his/her off-duty pistol loaded with Department approved ammunition and inside of a Department-approved holster.

The BOPC noted that the Subject, after entering into the office of the car wash and presumptively firing his pistol at the victim inside, exited the office carrying the pistol in plain view in his hand. The Subject did not appear to have attempted to conceal the pistol even though numerous citizens and employees were present in the parking lot area of the car wash, keeping the firearm readily accessible.

Assessment – Sergeant A observed the Subject arrive at the car wash. While the Subject was in the car wash office, Sergeant A heard three possible gunshots. As the Subject fled the office, Sergeant A observed the Subject holding an unconcealed pistol in his right hand and looking around. Sergeant A assessed the Subject had committed a crime and that he was a threat to Sergeant A and to the people at the carwash, leading Sergeant A to take action and identify himself/herself as a police officer. Sergeant A assessed the background of the Subject during the OIS, taking

into consideration that there was an empty parked vehicle and an apartment complex in the background. During the OIS, Sergeant A assessed after his/her first round of fire and observed the Subject flee on foot, but remained prepared and tracked the Subject's path.

Time – Sergeant A was presented with a rapidly evolving incident in which the Subject's actions did not allow Sergeant A time to communicate with the Subject, refine a tactical plan, or call for additional resources prior to the OIS incident. Sergeant A instructed the Subject to stop and identified himself/herself as a police officer. While it would have been preferable that Sergeant A take a position of cover prior to identifying himself/herself as a police officer, the danger presented to Sergeant A and the citizens in the area by the armed Subject limited the time afforded to Sergeant A.

Redeployment and/or Containment – The incident rapidly unfolded and provided limited time for Sergeant A to redeploy. It would have been preferable Sergeant A take a position of cover prior to identifying himself/herself as a police officer. Sergeant A attempted to contain the Subject as he/she tracked the Subject's movement.

Other Resources – Sergeant A immediately contacted CD and requested an LAPD unit to respond and for the local law enforcement agency to be notified. He/she additionally requested a rescue ambulance for the victim of the shooting.

Lines of Communication – Sergeant A told the Subject to stop and identified himself/herself as a police officer. Sergeant A believed he/she needed to let the Subject and the other people at the car wash know that he/she was a police officer and not another Subject. The Subject responded by firing a pistol at Sergeant A and running from the location. The actions of the Subject did not allow for Sergeant A to communicate further with the Subject. After the OIS incident, Sergeant A communicated pertinent information to CD, as well as with responding law enforcement personnel.

The BOPC noted Sergeant A was presented with a situation that required him/her to make a split-second decision to take police action. Sergeant A was alone, and off-duty at the time of the incident which limited his/her tactical options. The BOPC considered the disadvantages inherent with being off-duty, consisting of, but not limited to, not being equipped with a ballistic vest nor having the desired equipment for a tactical situation, such as a radio to request assistance. Sergeant A assessed that an armed Subject had committed a crime and was a threat to himself/herself and to others at the car wash. Sergeant A attempted to de-escalate the situation by issuing a verbal command for the Subject stop and gain the Subject's voluntary compliance. Sergeant A did not attempt to physically confront the Subject, nor did he/she attempt to block the Subject's path. Sergeant A's use of planning, assessment, time, redeployment, and lines of communication were within Department standards and expectations.

The BOPC determined that Sergeant A attempted to de-escalate the incident, but that the Subject's aggressive actions, including firing a pistol at Sergeant A, limited Sergeant A's options. Sergeant A attempted to utilize different aspects of de-escalation techniques throughout the incident.

During the review of the incident, the following Debriefing Topics were noted:

Debriefing Point No. 1 Utilization of Cover

The utilization of cover, coupled with distance, enables an officer to confront an armed Subject while simultaneously minimizing their exposure. As a result, the overall effectiveness of actions taken during a tactical incident can be enhanced while also increasing an officer's tactical options. The investigation revealed that at the time Sergeant A identified himself/herself as a police officer, he/she did so without the benefit of cover.

Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work to ensure a successful resolution. The ability to adjust to a tactical situation ensures minimal exposure to the officers.

In this case, the BOPC recognized that the incident rapidly unfolded in front of Sergeant A who did not have cover immediately available. The area between Sergeant A and the Subject was the open space of the car wash lot. Cover was available from some parked vehicles, but those vehicles were parked away from Sergeant A and were not readily available. To seek cover, Sergeant A would have had to use more time and delay intervening with the Subject who was walking with a firearm in plain sight amongst numerous car wash employees and other citizens. Although not specifically known at the time to Sergeant A when he/she intervened with the Subject, the Subject had murdered a car wash employee prior to walking past Sergeant A. Sergeant A opined that a significant crime had occurred due to the Subject's actions and the sounds that Sergeant A heard that were possible gunshots emanating from the office prior to the Subject exiting. The BOPC would have preferred Sergeant A have a position of cover prior to announcing his/her presence and ordering the Subject to stop, but considered that Sergeant A's tactical options were significantly limited due to the immediacy of the possible threat of violence to numerous citizens and the limited available cover. The BOPC recommended additional training on the topic of utilizing cover during the Tactical Debrief.

Based upon the totality of the circumstances, the BOPC determined that Sergeant A's actions did not substantially deviate from approved Department tactical training.

B. Drawing/Exhibiting

According to Sergeant A, he/she observed the Subject holding a black semiautomatic handgun in his right hand with the muzzle pointed down towards the ground. The Subject was looking around as he walked in a southwest direction down the driveway and was approximately halfway to the gate from where Sergeant A was seated. Sergeant A assessed the situation and determined that the sounds he/she had heard possibly could have been gunshots and a crime could have occurred. Sergeant A believed the Subject was a threat to not just himself/herself, but to everyone in the car wash. Sergeant A instructed the Subject to stop and Sergeant A identified himself/herself as the police. The Subject turned in a counterclockwise manner and fired a round in Sergeant A's direction. Sergeant A, reacted quickly and did not know if he/she unholstered his/her pistol prior to the Subject shooting in his/her direction or if he/she unholstered afterwards.

In this case, the BOPC conducted a review in evaluating the reasonableness of Sergeant A's Drawing and Exhibiting. The BOPC noted Sergeant A told the Subject to stop and identified himself/herself as a police officer. In response to Sergeant A's command, the Subject turned sideways at an angle, in a counterclockwise direction. The Subject brought up his firearm and fired one round in Sergeant A's direction. Sergeant A reacted, but did not know if he/she unholstered his/her off-duty pistol prior to or after the Subject fired at him/her. The BOPC noted that in either case, the Subject was observed to have been holding a pistol or had already fired upon Sergeant A.

As such, based on the totality of the circumstances, the BOPC determined, that an officer with similar training and experience as Sergeant A, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Sergeant A's Drawing/Exhibiting to be In-Policy.

C. Lethal Use of Force

Sergeant A- (pistol, 1 round)

Sergeant A was standing approximately two or three feet south of the chair when he/she unholstered his/her pistol from its holster, which was attached to the right side of his/her belt. Sergeant A utilized a two-handed grip and aimed at the Subject. At that point, the Subject was still in the car wash, north of the gate. A fraction of a second passed from the time the Subject shot at Sergeant A to the time Sergeant A fired one round back at the Subject. Sergeant A stated his/her background during the OIS consisted of a car parked on the south side of the street and apartment buildings.

According to Sergeant A, when asked by investigators of how much time elapsed between when the Subject fired at him/her and when Sergeant A returned fire, Sergeant A recalled that it was a fraction of a second.

In this case, the BOPC conducted a thorough review of the investigation and considered several factors in evaluating the reasonableness of Sergeant A's use of lethal force. The BOPC noted that this was a dynamic and rapidly unfolding incident in which Sergeant A was forced to make a split-second decision to protect himself/herself and other citizens at the car wash from the deadly threat. The Subject was walking through the car wash, armed with a pistol in his hand. Upon being verbally contacted by Sergeant A, the Subject turned and fired his pistol at Sergeant A, thus posing a deadly threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Sergeant A would reasonably believe that 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 Sergeant A's Use of Lethal Force to be In Policy.