

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

OFFICER-INVOLVED SHOOTING – 018-14

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Central	4/21/14		
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Officer(s) Involved in Use of Force	Length of Service
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Sergeant A	27 years
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Reason for Police Contact

Sergeant A attempted to contact a subject, who was exhibiting threatening behavior with a box cutter/utility knife in a public garage. The Subject resisted arrest, resulting in an officer-involved shooting (OIS).

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 26 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 suspect 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 March 10, 2015.

Incident Summary

On the date listed above, the Subject drove his pick-up truck into a five-level subterranean parking garage located in downtown Los Angeles.

The Subject stopped his truck at the ticket booth gate of the entrance ramp to the parking garage. Witness A, a garage attendant employed by the parking company, approached the driver door of the truck and informed the Subject that the parking fee was \$7. The Subject replied that he did not have any money and would exit the garage. Witness A directed the Subject to drive through and around the ticket booth to exit the parking garage. The Subject acknowledged Witness A's instructions and Witness A activated the gate arm to lift up. The Subject drove through the gate opening and continued into the parking garage.

After waiting several minutes for the Subject's truck to return and exit the parking garage, Witness A walked through the parking garage in search of the Subject. Witness A searched each parking level and arrived at level five of the parking garage identified as P-5. He then observed the Subject's truck parked in a stall in the northeast portion of the parking garage between parked vehicles. Witness A observed the Subject outside his truck, hiding behind a red vehicle, which was parked to the right of the truck. Witness A walked toward the Subject and the Subject replied, "Step away." The Subject then emerged from behind the red vehicle and walked to the front of the truck, holding a yellow and black screwdriver in one hand and an object appearing to be a utility knife in his other hand. The Subject paced back and forth, panting, mumbling, and screaming unintelligible sounds. Due to the Subject's erratic behavior, Witness A threatened to notify the building security personnel. The Subject responded by placing his hand into the wheel well area of the red vehicle, as if concealing an item.

Witness A then ran to a north stairwell and up to P-4 in the garage. He then used an intercom to request building security personnel to respond to his location. Witness B, a parking garage attendant supervisor, heard Witness A's request and arrived at P-4, then walked down to P-5 with Witness A.

Victim A, a security guard, also heard Witness A's request and responded to the front lobby of the building. Victim B, the building's security director, directed Victim A to respond to P-5 and assist Witnesses A and B with the Subject. Victim A walked down to P-5 and observed Witnesses A and B standing near the bottom of the P-5 ramp. Victim A began to approach the Subject. Witness B immediately warned him that the Subject may be holding weapons under his sweater. Victim A stopped and walked away from the Subject. Victim A then stood near Witnesses A and B. Victim A believed that the Subject was under the influence of narcotics, as the Subject was sweating profusely and pacing from one corner of the garage to the other.

Victim A directed the front lobby personnel, via a two-way radio, to inform Victim B and notify the police regarding the Subject possibly possessing a weapon.

Shortly after hearing Victim A's broadcast on the two-way radio, Victim B responded to P-5 from the lobby and observed the Subject walking in circles, kneeling down, then standing, and touching nearby walls.

Note: After Victim B's arrival to P-5, Witness A returned to P-1 and continued his duties at the parking garage booth.

Victim B then directed Victim A to respond upstairs to the front lobby and notify the police. Victim A returned to the front lobby of the building and waited for the response of the police.

After speaking with the 911 operator, Victim A returned to P-5 and Victim B returned to the building lobby to notify building management regarding the incident and that police had been requested. After notifying management, Victim B exited the building and waited for the arrival of police.

Witness B and Victim A remained on P-5, and Witness B urged the Subject in Spanish to leave the parking garage prior to the arrival of police in order to avoid arrest. Witness B informed the Subject that he could return at a later time to retrieve his truck and assured him that he would not be charged for any parking fees. Victim A added that in order to exit the parking garage, the Subject had to walk up the ramps. The Subject was verbally unresponsive; however, he proceeded to walk with a hand underneath his sweatshirt to P-4 then to P-3. Witness B and Victim A followed the Subject from several feet away and asked the Subject what was wrong and if he required anything. Victim A updated their location on the two-way radio.

As he arrived at P-3, the Subject stated to Witness B and Victim A, "You guys are fooling me, making me go in circles!" After waiting for several minutes outside the building for police arrival, Victim B heard Victim A broadcast that he was following the Subject on the ramp between P-3 and P-4. Victim B re-entered the parking garage and went to P-3.

Witness B continued to urge the Subject to leave the parking garage, and asked if he was okay and required an ambulance, and the Subject replied, "No." The Subject then walked down the ramp to P-4, as Witness B and Victims A and B, who had just arrived, followed him. The Subject continued to walk on P-4 as he touched the walls with his left hand and muttered unintelligible words. Victim B noted that the Subject appeared to be more erratic and incoherent than earlier.

Rampart Patrol Division uniformed Officers A and B, were assigned the call and responded to the incident.

Rampart Patrol Division uniformed Sergeant A, heard Communications Division (CD) assign the incident to Officers A and B and broadcast that he was backing those officers.

After several minutes of walking and touching walls on P-4, the Subject ran into the south stairwell and exited onto P-5, followed by Victims A and B, while Witness B remained behind on P-4. The Subject then brandished the utility knife with the blade exposed to Victims A and B.

The Subject walked to a manual pull fire alarm system affixed to the south wall and pulled the lever, activating an audible alarm with flashing lights. Due to the fire alarm activation, Los Angeles Fire Department (LAFD) personnel responded to the location.

The Subject then chased Victims A and B as he held the utility knife in his right hand at chest level, extended away from his body with the exposed blade pointing upward. In fear for their safety, Victims A and B ran from the Subject, using parked vehicles as barriers, they then eventually separated from each other in order to distract the Subject.

Victim B stood on the east side and Victim A stood on the west side of the parking garage. The Subject would chase either Victim A or B, and then would be distracted by the other, causing him to re-focus on the other. According to Victim B, they were chased by the Subject for approximately 20 minutes. According to Victim A, the duration of the chase was almost an hour, and he believed that the Subject would have cut them without hesitation.

Sergeant A arrived and stopped his police vehicle adjacent to the east curb of the one-way street, in front of the building, north of the entrance to the parking garage. Sergeant A announced his arrival and location via the Mobile Digital Computer inside his police vehicle. Sergeant A stated he intended to determine if a police unit was on scene and if not, he would wait for the police unit to arrive and provide assistance.

Through the building lobby window, Witness C observed Sergeant A's police vehicle arrive and stop in front of the building. Witness C informed Victim B that police had arrived, and Victim B replied to direct the police to P-5. Witness C exited the building and walked up to the driver's side of the police vehicle and told Sergeant A that they wanted him to go down to P-5. Sergeant A replied, "Where?" and Witness C replied, "It's right where the guy is," and pointed toward the entrance to the parking garage, approximately 70 feet south, where Witness D stood, waving his arms.

Sergeant A drove south and onto the parking garage entrance where Witness D was waving his arms frantically. Witness D approached the front passenger door and via the opened window, yelled something to the effect of, "Somebody with knife," and directed Sergeant A to get down there.

Based on the information that he had received from CD, Witness C and Witness D, Sergeant A believed that the Subject was possibly stabbing people; therefore, due to the urgency to address the threat, he drove into the parking garage without verifying if any police units were on scene.

Sergeant A drove through each parking level and observed parking garage attendants directing him to drive lower into the parking garage. While driving down to P-5, Sergeant A broadcast, "Code 6, going down to P-5."

As Sergeant A drove down the ramp from P-4 to P-5, he observed Victims A and B standing to his left. Sergeant A stated Victims A and B yelled out, "Hey, hey, he's over there, he's over there!" and motioned toward a pillar located northwest of his position.

Sergeant A stopped his police vehicle facing in a northwest direction. He then activated his vehicle overhead "take-down" light and the driver side spotlight onto the pillar and its immediate surrounding area. Sergeant A exited and positioned himself behind the open driver door, approximately 35 feet southeast of the pillar. Due to his belief that the situation may escalate to the use of deadly force, Sergeant A unholstered his service pistol and held it in a two-handed low-ready grip.

The Subject, who hid behind the pillar, briefly peeked out, partially revealing his face, and then he quickly concealed himself behind the pillar again. Sergeant A directed the Subject to display his hands, at which time the Subject peeked out from the other side of the pillar. According to Sergeant A, the Subject continued to peek out from opposite sides of the pillar as he continued directing the Subject to display his hands. The Subject then leaned out to his left, exposing himself holding a utility knife in an unknown hand.

Sergeant A directed the Subject to drop the utility knife and step out from behind the pillar. Due to the Subject's unresponsiveness, Sergeant A repeated the same directions in Spanish. The Subject continued to ignore Sergeant A's directions.

The Subject eventually stepped out from behind the pillar, holding the utility knife in his right hand, his elbow bent at 90 degrees, swinging his arm side to side and proceeded to take a few steps toward Sergeant A. According to Sergeant A, approximately two to three minutes had elapsed from the time that he arrived on P-5 to the Subject stepping out from behind the pillar.

Sergeant A believed that the Subject was at a far enough distance that the Subject did not pose an immediate deadly threat. He removed his OC spray with his left hand while continuing to hold his pistol in his right hand, in a low-ready position.

According to Sergeant A, he directed the Subject to drop the utility knife several times. The Subject, who had a glazed appearance on his face, walked hurriedly toward Sergeant A. As he held his pistol in his right hand, with his right arm retracted close to his upper body and the pistol pointed at the Subject, Sergeant A stepped to his left and away from the driver door. Using his left hand, from a distance of approximately 13 feet, Sergeant A sprayed a single burst from his OC onto the Subject's face. As the OC spray contacted the Subject's face, he reacted by yelling something unintelligible and swung the utility knife quicker from side to side. The Subject then advanced toward Sergeant A at a quicker pace, just short of a run.

In fear for his life, Sergeant A backed away and fired two rounds from his service pistol in a northern direction, targeting the Subject's center body mass from a distance of approximately eight feet. He fired the rounds in succession with his right arm fully extended, holding his service pistol and maintaining a hold of his OC in his left hand. Sergeant A stopped firing to assess and determined that the rounds did not have any effect on the Subject as they appeared to have missed the Subject.

The Subject continued to advance toward Sergeant A in a hurried manner while swinging the utility knife in a wider, side-to-side motion. Fearing that the Subject would cut his hand or disarm him, Sergeant A continued to retreat. He then fired three additional rounds from his service pistol in a northern direction at the Subject, from a distance of approximately five feet. He was holding his pistol in a close-contact position with his right arm retracted near his right rib cage area. Sergeant A stopped firing when the Subject went forward and fell onto the ground to his right, dropping the utility knife.

Victim B, who stood approximately 18 feet behind and to the right of Sergeant A, stated that after Sergeant A fired the first volley of two rounds, Sergeant A stepped a few steps back and pivoted to his right prior to firing his second volley of two to three more rounds.

Victim A, who stood behind a vehicle parked approximately 32 feet to the left of Sergeant A, stated he did not observe the shooting. Victim A's vision was obstructed by parked vehicles.

Witness B had walked down to P-5 via the ramp and as he neared the bottom of the ramp, he observed Sergeant A, who stood approximately 15 to 20 feet away from Witness B, backing to the rear of his police vehicle. Witness B observed Sergeant A aim his service pistol to Sergeant A's left and fire three to four rounds. Witness B did not observe what Sergeant A was shooting at.

As the Subject lay on the ground, he stated, "Oh it hurts, oh you shot me!" The Subject then reached into his sweatshirt pocket to retrieve a flathead screwdriver and tossed it onto the ground. The Subject then reached into his pants pocket and retrieved a grey pen and tossed it onto the ground.

Victim B believed that the Subject would have caused injury if not for Sergeant A's actions as he stated, "Actually, the sergeant...the officer with the initial shooting, I actually thanked him, because honestly, this guy was coming at me with a box cutter, me and [Victim A]. And I have no doubt that he would have hurt me or him ... if it wasn't for the officer. ..."

Sergeant A holstered his OC spray with his left hand as he held his service pistol in his right hand, in a two-hand grip, pointed at the Subject while he stepped back for increased distance away from the Subject. Sergeant A then removed his police ASTRO radio with his left hand while holding onto his service pistol with his right hand and broadcast something to the effect of, "Officer needs help, shots fired, su[bj]ject down!"

Sergeant A then directed Victims A and B to call for assistance and requested medical aid for the Subject.

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 A's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

The BOPC found Sergeant A's non-lethal use of force to be in policy.

D. Use of Lethal Force

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

Basis for Findings

A. Tactics

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

1. Subjects Armed with Edged Weapons

Sergeant A removed his OC spray from its holster in order to deploy it on the Subject, who was advancing toward him with a box cutter.

In this instance, believing the suspect was possibly secreted behind a pillar which stood approximately 35 feet to the northeast of Sergeant A, Sergeant A stood behind his open driver's side door with his service pistol drawn. When the Subject emerged from behind the pillar, he did so armed with a box cutter. In response, Sergeant A removed his OC spray.

Sergeant A maintained his position behind his open driver's side door and repeatedly ordered the Subject, in both English and Spanish, to drop the box cutter. As he did so, Sergeant A held his service pistol in his right hand and his OC spray in his left hand. The Subject ignored Sergeant A's commands, and advanced toward Sergeant A, while swinging the box cutter from side to side. When the Subject closed the distance to approximately 13 feet, Sergeant A, in order to obtain a clear target, moved away from behind his open driver's side door and deployed his OC spray at the Subject for a single burst of approximately three seconds.

The BOPC noted that Sergeant A removed his OC spray when the subject was initially 35 feet away, assumed a position of cover and extensively verbalized with the Subject in both English and Spanish to no avail. However, as the deployment of OC necessitates a subject ideally to be positioned between three to twelve feet from the officer, confronting a subject armed with an edged weapon from said distance can place an officer at a tactical disadvantage. That being said, Sergeant A, with his service pistol drawn, had a contingency plan in place, should the OC spray fail to stop the Subject, as was ultimately the case in this instance.

Based on the totality of the circumstances, the BOPC determined that Sergeant A's actions were reasonable, and did not substantially deviate from approved Department tactical training. Nevertheless, in an effort to enhance future tactical performance, the BOPC directed that this topic be discussed during the Tactical Debrief.

2. Utilizing Cover

Sergeant A moved away from the cover of his open driver's side door, as the Subject, armed with a box cutter, continued closing the distance between him and Sergeant A in order to deploy his OC spray.

Regarding his reasoning, Sergeant A recalled that it would have been difficult to be accurate with the OC spray through the window and then above the door frame, so he stepped to the left so the door frame wouldn't interfere.

Although Sergeant A initially stood behind cover, the BOPC noted that an open vehicle door is not a fixed structure and can therefore be forced closed. With that in mind, coupled with Sergeant A's reasoning, Sergeant A's redeployment from his open driver's side door was appropriate under the circumstances. However,

moving away from cover can place the officer at a tactical disadvantage when a subject who is armed with an edged weapon is advancing toward an officer.

The BOPC noted this was a rapidly unfolding tactical situation wherein Sergeant A was the sole officer at scene. Simultaneously, he was communicating with an uncooperative subject, monitoring the Subject's movements, and assessing his force options, all the while taking into consideration the presence of the parking lot personnel just west of him.

Based on the totality of these circumstances, the BOPC determined that Sergeant A's actions did not substantially deviate from approved Department tactical training. Nevertheless, the BOPC directed that Utilizing Cover would be a general topic of discussion 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 conclusion, the BOPC found Sergeant A's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- Sergeant A opted to back a patrol unit on a radio call of a male armed with a knife. After Sergeant A arrived, and following the direction of several parking attendants, he drove down to level P5 of the subterranean parking garage, where security guards Victims A and B directed Sergeant A to the Subject's location. According to the security guards, the Subject was purportedly behind a pillar located northwest of Sergeant A. Sergeant A parked his police vehicle facing the pillar and exited the driver's side door. Believing the Subject was armed with a knife, Sergeant A drew his service pistol.

Based on the totality of the circumstances, the BOPC determined that an officer/supervisor with similar training and experience as Sergeant A, 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 Sergeant A's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

- **Sergeant A** – (Oleoresin Capsicum (OC))

As Sergeant A deployed behind his open driver's side door, he stood approximately 35 feet southeast of the pillar. When the Subject emerged from behind the pillar, he was holding a box cutter in his right hand. The Subject raised the box cutter to approximately shoulder level and swung it side to side.

While still maintaining his service pistol in his right hand, Sergeant A removed his OC spray and held it in his left hand. Sergeant A repeatedly ordered the Subject to drop the weapon; however, the Subject ignored Sergeant A's commands and walked toward him, resulting in Sergeant A deploying a single burst of OC for approximately three seconds, to what Sergeant A believed to be the left side of his face.

Based on the totality of the circumstances, officers/supervisors with similar training and experience as Sergeant A would reasonably believe that the non-lethal use of force utilized was reasonable in order to stop the Subject from advancing.

In conclusion, the BOPC found Sergeant A's non-lethal use of force to be objectively reasonable and in policy.

D. Use of Lethal Force

- **Sergeant A** – (pistol, five rounds.)

First Sequence of Fire

The Subject began to walk toward Sergeant A while armed with a box cutter, resulting in the deployment of OC Spray. Sergeant A noted the OC spray made contact with the Subject's face; however, the Subject continued to close the distance toward Sergeant A continuously swinging the box cutter from side to side, resulting in Sergeant A firing two rounds from his service pistol, to stop his actions.

Second Sequence of Fire

The Subject appeared unaffected as he quickened his pace toward Sergeant A, while still swinging the box cutter from side to side. According to Sergeant A, as he simultaneously redeployed rearward and at a close contact position, he fired two to three rounds at the Subject to stop his advance.

Sergeant A recalled that the Subject continued swinging the knife in a wild motion as he looked in Sergeant A's direction and charged at him, such that Sergeant A feared for his life. Sergeant A continued backing up and fired what he believed to be approximately two or three more rounds at his direction to stop his advancement.

In conclusion, the BOPC determined that an officer/supervisor with similar training and experience as Sergeant A would reasonably believe that the Subject presented an imminent threat of death or serious bodily injury and therefore the use of lethal force in defense of his life was objectively reasonable and within Department policy.

Therefore, the BOPC found Sergeant A's use of lethal force to be objectively reasonable and in policy.