

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

OFFICER-INVOLVED SHOOTING – 042-14

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

Outside City 7/30/14

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

Officer E 8 years, 2 months

Reason for Police Contact

At the termination of a vehicle pursuit, the Subject exited his vehicle and pointed a weapon toward several officers, resulting in an Officer Involved Shooting (OIS).

Subject(s) Deceased (X) Wounded () Non-Hit ()

Subject: Male, 34 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 June 30, 2015.

Incident Summary

On the date of this incident, Victim A arrived at a fitness center to attend a workout class. Victim A was driving her newly purchased vehicle, which still had paper plates attached. When Victim A stepped out of her vehicle, she was confronted by her ex-husband, (Subject) who stated that he had a gun and ordered Victim A to get inside the car. Victim A tried to run, but the Subject grabbed her by her hair, took her car keys, and refused to release her. Victim A screamed for help in the hopes that people in the parking lot would hear her.

Outside Agency Officer A, (off-duty), was in the parking lot and responded to her cries for help. Outside Agency Officer A approached the Subject and ordered him to release Victim A. The Subject then pointed a gun at the officer, who backed away from the situation and returned to his vehicle which was parked a short distance away in the parking lot and retrieved his weapon. Meanwhile, Victim A continued to call for help. Outside Agency Officer A was concerned about the safety of Victim A and feared that she was going to be killed or seriously injured.

Outside Agency Officer A returned to reassess the situation and noticed Victim A was now seated in the driver's seat of her vehicle and the Subject was seated in the front passenger seat. Outside Agency Officer A observed Victim A attempting to exit the vehicle, but the Subject pulled her back inside. Outside Agency Officer A emerged from a location of cover, displayed his identification in his left hand, and pointed his weapon at the Subject. Outside Agency Officer A identified himself as the police and ordered the Subject to drop the weapon and show his hands.

The Subject then pointed his handgun at Outside Agency Officer A, who ducked down behind cover. Outside Agency Officer A, fearing for his safety as well as the safety of Victim A, reemerged from cover, aimed and fired his weapon at the front passenger area of the vehicle where the Subject was seated, until his weapon went to slide lock. Outside Agency Officer A said the Subject was bleeding from his face, but he appeared coherent and was talking with Victim A, who was hysterical. Outside Agency Officer A could no longer see the Subject's handgun, but it appeared the Subject was continuing to give orders to Victim A. The Subject then drove the vehicle out of the parking lot while Outside Agency Officer A was attempting to maintain visual contact. During this time, he was holding his credentials over his head and yelling at people in the parking lot to call 911.

A witness called 911 and requested that police respond to the location and relayed the circumstances of what was occurring in the parking lot. Outside Agency Officer A also got on the phone with the 911 operator and explained that he was involved in a shooting and provided details and the last known location of the Subject. Communications Division (CD) broadcast to units that a citizen was reporting that an off-duty officer needed help.

While Victim A was driving away from the location, the Subject was pointing his gun at her, and also used it to strike her in the back of the head. As Victim A continued driving,

she observed police vehicles responding towards her. While Victim A was stopped at a traffic light, she exited her vehicle and ran, escaping the Subject. Once Victim A knew the Subject did not follow her, she ran back to a major street, where she flagged down a citizen, who stopped and allowed her to get into his car. Victim A asked the citizen to drive her to a nearby police station. While traveling toward the police station, she observed a black and white police vehicle which was staffed by Officers A and B and made contact.

Victim A shouted at the officers for help, and the officers advised CD that they were Code Six with the victim of the kidnapping. Officers A and B observed blood on Victim A's right ear and requested a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA).

While Victim A was providing information to the officers, she indicated that the Subject took her car and wallet. Officer B inquired if Victim A had her phone and she said it was inside her vehicle. Officer A then asked Victim A if her phone was an iPhone and she confirmed that it was. Using his own iPhone, Officer A asked Victim A to enter her Apple ID and password into an application called, "Find my iPhone," which has the ability to locate Apple products that have Global Positioning System (GPS) enabled.

Officer B was able to determine that the location of her iPhone which he broadcast on his police radio. Officer B formed the opinion the phone was still inside Victim A's vehicle. Officer A continued to update the vehicle's GPS location, which was subsequently located by LAPD Air Support, who also notified other local agencies of the circumstances surrounding this incident.

Outside Agency Officer B was in uniform and driving a marked black and white vehicle. He had monitored the LAPD Air Support broadcast and remained on the lookout. The broadcast included information that the Subject was armed with a semiautomatic handgun and was involved in a shooting with another officer. As Outside Agency Officer B was driving, he observed the Subject's vehicle parked along a street.

Outside Agency Officer B stopped his police vehicle and activated his forward-facing red lights. He exited his vehicle, stood behind his open driver door and unholstered his service weapon. As Outside Agency Officer B was exiting his police vehicle, the Subject accelerated his vehicle towards his direction.

As the Subject was about to pass Outside Agency Officer B's position, he observed the Subject raise a black semiautomatic handgun with his right hand canted to the side. Outside Agency Officer B observed the handgun was raised above the dashboard of the vehicle, with the driver's side window down, at approximately the same height as the Subject's head and it was pointed in his direction. Outside Agency Officer B, in fear for his life and believing the Subject was going to shoot him, fired several rounds at the Subject, several of which struck the driver's side of his vehicle. Outside Agency Officer B broadcast that shots were fired and that the Subject was entering onto a nearby freeway. LAPD Air Support was overhead and witnessed the OIS.

As this was occurring, Officer C, wearing tactical attire, driving an unmarked LAPD Sports Utility Vehicle (SUV), equipped with overhead emergency light bar and siren was off-duty and en route to his residence. The SUV was not equipped with ballistic door panels. Officer C was on the freeway when he monitored a CD broadcast on Air Support/K-9 frequency regarding, "Officer needs help." Officer C further heard broadcasted information advising that the Subject had forced Victim A into a black vehicle with paper plates. An additional broadcast indicated that an off-duty officer needed help and shots were fired. Officer C exited the freeway where Outside Agency Officer B was involved a shooting with the Subject.

While stopped at the intersection, Officer C observed Outside Agency Officer B's vehicle attempting to stop the Subject and witnessed the Subject accelerating in the direction of the officer with the driver's side window down. As the Subject drove past Outside Agency Officer B, the Subject pointed a handgun at him, resulting in an OIS. The Subject's vehicle then continued onto the freeway.

Officer C activated his emergency lights in order to identify himself so that the Subject would not run into him. As the Subject entered the freeway, the Subject drove past Officer C, who was still stopped on the off-ramp. Officer C observed the driver's side window was still down. As the Subject was passing Officer C, the Subject pointed a small handgun at him. The Subject's vehicle did not contain any passengers. Officer C unholstered his pistol and obtained a two-handed grip while he repositioned himself in the driver's seat. Officer C attempted to obtain a sight picture of the Subject as he drove past him, but was unsuccessful. Officer C reholstered his pistol.

Officer C conducted a U-turn and entered the freeway. Officer C initiated a pursuit based on the attempted murder of Outside Agency Officer B, and the assault with a deadly weapon against himself. Air Support broadcast the pursuit and the OIS information. Officer C indicated he did not advise CD he was in pursuit, but did broadcast that the Subject was wanted for an assault with a deadly weapon on a police officer.

As Officer C entered onto the freeway, uniformed Officers D and E observed the Subject's vehicle enter onto the freeway and heard the broadcast by Air Support of an officer needing help and shots fired. Officer E advised CD that they were going to be in pursuit of the vehicle. As the pursuit continued on the freeway, Officer C observed a marked black and white police vehicle, with emergency equipment activated, pass him as did the vehicle being driven by Outside Agency Officer B. Officer C became the third unit in the pursuit with Officer D and E as the primary unit and Outside Agency Officer B in the secondary position.

The Subject drove on the freeway, failing to yield and driving at speeds reaching 100 miles per hour while committing numerous traffic violations. Uniformed Officer F and G joined as the secondary unit in the pursuit while still on the freeway and broadcast this information to CD.

Air Support again broadcast that the Subject was armed and had a weapon in his hands. While trailing the pursuit, Outside Agency Officer B's vehicle suffered a tire blowout which disabled his vehicle and prevented him from arriving at the termination of the pursuit. The Subject's vehicle had exited the freeway and continued on side streets, eventually leaving the city of Los Angeles and ultimately entering into a public park.

The Subject's vehicle was forced to stop, as the road ended into a curb and sidewalk of the park. Officer E observed the brake lights of the Subject's vehicle illuminate and believed there was a strong likelihood that an armed confrontation would occur based on the OIS involving the outside agencies and knowing the Subject was armed. Officer E stated that when the brake lights of the Subject's vehicle activated, he observed smoke coming from the rear tires and the Subject's driver's door then opened. At this time, Officer E used his left hand and released his seatbelt. Officer E's left hand pushed the front passenger door open, at which time he unholstered his service pistol with his right hand.

Officer E could see the Subject exiting the vehicle holding a black semiautomatic handgun in his left hand. Officer E then yelled, "Gun. Gun. Gun." The Subject was trying to push the door open with his shoulder, and Officer E could see the Subject was also holding a black fanny pack.

Officer E thought the Subject was either going to discharge his firearm, try to scare them, or fire without looking. Officer E reflected that the Subject had shot at officers and knew he was being pursued by police officers. As the Subject exited the vehicle with a gun in his hand, he pointed it rearward in a canted position in the direction of Officer D. Officer E believed that the Subject was going to shoot his partner.

Officer E, while seated in the police vehicle with his left foot on the floorboard and his right foot on the ground, extended his right arm between the "A" pillar and the window frame of the open door and fired one round at the armed Subject. Officer E said at the time he fired his pistol, he did not observe any individuals near or behind the armed Subject. Following the OIS, Officer E exited his vehicle and attempted to obtain a better shooting stance. However, at that point the Subject was running through the park and down a hillside, until he was out of sight of the pursuing officers.

Officer D stated that when the pursuit terminated, he was trying to get the police vehicle into park, when he observed the Subject exit the vehicle with a gun. Officer D believed the Subject was holding the gun in his left hand and was raising it in his direction; further believing the Subject was going to start shooting at him and his partner. Officer D's mindset went from getting the vehicle into park to dismounting as quickly as possible in order to get out and deploy to a better position. Officer D released the shifter with his right hand and reached for his service pistol. Officer D used his left hand to open the driver's door to exit the police vehicle as he began to unholster his service pistol in order to engage the Subject. Officer D, while crouched down, slid out of the driver's seat to take cover behind his ballistic door. When the Subject exited the

vehicle, he turned toward Officer D's direction. Officer D switched modes from stopping the police vehicle to just getting out; in order to obtain a better position, draw his firearm, and defend himself and his partner. While exiting his vehicle, he heard a gunshot.

Note: Officer D attempted to place the vehicle in park and exited the vehicle, but he inadvertently left the police vehicle in drive. The police vehicle proceeded to roll forward at approximately 2-5 MPH and collided with the rear bumper of the Subject's vehicle. A traffic collision report was completed.

When the pursuit terminated, Officers F and G remained as the secondary unit and positioned their vehicle behind Officer D and E's police vehicle. Officers F and G observed the Subject exit the vehicle, holding a gun in his left hand while holding a black duffel bag in the right. They then heard a single gunshot. Fearing an armed confrontation was about to occur, Officers F and G unholstered their respective pistols.

Air Support advised CD that the Subject was running through the park. Air Support maintained a visual on the Subject as he continued running through the park and down a hillside, attempting to escape.

Note: There were several witnesses at the park who observed various portions of the OIS. These statements were consistent with those of the involved officers.

A perimeter was established around the hillside where the Subject was last seen running. Numerous officers from multiple agencies assisted with perimeter containment.

After discarding his handgun, the Subject lay down on the hillside. Los Angeles Police Department personnel repeatedly ordered the Subject, via police vehicle and aircraft Public Address Systems (PA), to surrender and walk down to the bottom of the hill; however, he did not comply. Metropolitan Division Special Weapons and Tactics (SWAT) personnel were notified and responded to the incident. Command staff formulated a tactical plan to deploy SWAT personnel and a K-9 component to take the Subject into custody. SWAT was deployed, and the Subject was ultimately taken into custody and handcuffed without further incident.

Note: While proceeding through the park, LAPD personnel experienced difficulty in communicating with CD; therefore, many of the radio broadcasts were not captured or recorded.

The OIS at the park involving LAPD personnel and the Subject fleeing the scene was captured on video by a local news helicopter.

The Subject was escorted down the hillside to the Command Post (CP) where he received emergency medical treatment from Los Angeles County Fire Department

personnel. The Subject was then medevaced via helicopter to a nearby hospital for treatment. The Subject was treated and later released for booking into an LAPD jail facility.

A canine gun/article search was conducted in an effort to locate the Subject's handgun. A weapon was located and recovered from under a bush on the hillside in proximity to where the Subject was taken into custody. The weapon was ultimately recovered by Scientific Investigation Division (SID) Firearms Analysis Unit (FAU) personnel.

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 Officers C, D, E, F and G's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

D. Lethal Use of Force

The BOPC found Officer E'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. Officer Safety/Field Tactics – Vehicle Stops

At the termination of the pursuit, the Subject exited his vehicle and pointed his handgun in the direction of Officer D. Officer D was in the process of stopping

the police vehicle when he observed the Subject's actions and attempted to quickly place his police vehicle in park while simultaneously exiting his vehicle. Believing that he might be shot if he remained seated in his vehicle, and based on his urgency to exit his vehicle as quickly as possible, Officer D failed to place the transmission into the park position, causing the vehicle to continue to move forward approximately 12 to 13 feet (at approximately two to five MPH) and collide with the rear of the Subject's vehicle.

Officer D recalled that while he was attempting to place the vehicle in park, he realized that the Subject was coming out of the vehicle. Officer D believed that the Subject was going to shoot at him and his partner. Officer D stated that he abandoned the thought of parking the vehicle and needed to defend himself and exit his vehicle. Officer D did not want to remain inside the vehicle, fearing that the Subject could kill him. Officer D stated that he needed to exit the vehicle to obtain a better position in order to remove his firearm and defend himself and his partner.

Officer D made a split-second decision regarding the threat posed before him and exited the police vehicle. Officer D made an effort to place his vehicle in park as he quickly exited, to avoid the possibility of being shot while seated in his vehicle.

The BOPC determined that given the possibility of being shot while remaining seated in the police vehicle, it was reasonable for Officer D to not have placed his vehicle in park. Although Officer D failed to place his vehicle in park as he exited his vehicle, the tactical decisions and actions taken by Officer D were consistent with approved Department tactical training.

In conclusion, Officer D's actions did not substantially deviate from approved Department tactical training. However, Officer D could benefit from a discussion about his responsibility to ensure his vehicle is properly placed in park when deploying on a rapidly unfolding tactical situation. This topic will be discussed during the Tactical Debrief.

2. Clearing Vehicles

Officers F and G positioned their police vehicle behind Officers D and E's vehicle, and observed the Subject exit his vehicle while pointing a gun in the officer's direction. Officers F and G heard a single gunshot and then observed the Subject run from the officers through the park. Officers F and G followed behind Officers D and E and past the Subject's vehicle, without effectively clearing it.

Officer E recalled that his concentration was on the Subject and that he was the lead officer. Officer E observed the Subject running with a gun, so he panned the entire area and moved away from the Subject's vehicle. Officer E believed that

due to the nature of the radio call, that the Subject's vehicle did not contain any additional persons inside.

The BOPC assessed the officers' decision to run past the Subject's vehicle without clearing it of any additional persons. In this case, the initial radio call information, coupled with the officer's observations, as well as the Air Support unit's observations allowed the officers to proceed past the Subject's vehicle with relative certainty there were no additional persons inside. Based on the totality of the circumstances in that the officers were aware of the circumstances involving just two occupants, then one, being the Subject, the BOPC determined that the officer's decision to pass the abandoned vehicle and continue after the armed Subject in the interest of public safety was reasonable. However, officers are trained to clear a subject's vehicle to ensure no additional persons are inside.

In conclusion, based on the totality of the circumstances, the vehicle not being cleared by Officers D, E, F and G was a substantial deviation; however, was justified as indicated above. This topic will be discussed during the Tactical Debrief.

3. Foot Pursuit Tactics (Armed Subjects)

The Subject fled on foot from the officers as he held the handgun in his left hand, with officers following behind.

Based on the fact that the Subject displayed a propensity for violence, it is the BOPC's expectation that officers take action to stop an armed subject from escaping and endangering the community. Officer E's perception for pursuing the Subject was that there were children in the park and that the Subject was armed. Officer E thought that if the Subject ran towards the children, then he would have to take action, but the Subject continued running straight.

Generally, officers are discouraged from pursuing armed Subjects on foot. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their decision to engage in a foot pursuit of an armed Subject. In this circumstance, the officers were concerned for the welfare of the public and the families in the park, and their decision to continue to pursue the Subject was reasonable in this case.

Note: The video captured by the news helicopter showed that Officers D, E, F and G were a substantial distance behind, not immediately behind the Subject as he fled through the park and down the hillside.

Based on the rapidly unfolding incident with limited tactical options available to Officers D, E, F and G and the fact that the Subject possessed a handgun, it was reasonable for the officers to focus on the safety of the public.

In conclusion, Officers D, E, F and G's are reminded of the importance of maintaining cover, and assessing containment options, while pursuing potentially armed subjects. This topic will be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:

1. Vehicle Pursuit Procedures

Officer E did not request a back-up, air unit or a supervisor during their pursuit. However an Outside Agency unit was with Officers D and E during the initial stages of the pursuit and they knew an air unit was already overhead. This topic will be discussed during the Tactical Debrief.

2. Shooting from a Seated Position/Single-Handed Shooting

Officer E discharged his service pistol while seated in the police vehicle, single-handed. As time was of the essence, Officer E's decision to fire in this manner was reasonable under the circumstances. This topic will be discussed during the Tactical Debrief.

3. Running with a Service Pistol

Immediately following the OIS, Officers D, E, F and G ran with their service pistol drawn as they pursued the Subject through a crowded park. The officers are to be reminded that there is an increased potential for an unintentional discharge when running with a service pistol in hand. This topic will be discussed during the Tactical Debrief.

4. K-9 Announcement (Post OIS)

A review of the LAPD K-9 Deployment Report indicated that the K-9 announcement exception was authorized by the Incident Commander. It was noted that the exemption was necessary due to the severity of the crime, nature of the threat, and to not alert the Subject of the officers' pending actions/deployment. This topic 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.

In conclusion, the BOPC found Officers C, D, E, F and G's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- During the course of the vehicle pursuit, the LAPD Air Support advised the officers that the Subject was armed with a gun. At the termination of the vehicle pursuit, Officers D, E, G and F observed the Subject exit his vehicle with a handgun in his left hand and drew their respective service pistols.

As the Subject entered the freeway, the Subject drove past Officer C, who was stopped on the off-ramp. As the Subject passed Officer C, the Subject pointed his handgun through the open vehicle window at Officer C. Realizing that lethal force may become necessary, Officer C drew his service pistol and attempted to obtain a sight picture of the Subject as he drove past him.

At the termination of the vehicle pursuit, regarding his service pistol drawing, Officer E stated that he saw the Subject with a weapon and believed that the situation was going to escalate. Officer E observed the Subject exiting his vehicle and believed that he was going to shoot at him and/or other officers, therefore he unholstered his weapon to defend himself.

Officers D, F and G were at the termination of the vehicle pursuit and also believed that there was a substantial risk that the situation may escalate to the point where deadly force may be justified, and drew their respective service pistols.

Note: In addition to the above listed employees, there were additional personnel that responded who also drew or exhibited firearms. Their drawing/exhibiting was appropriate and requires no specific findings or action in regard to these officers.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers C, D, E, F and G, 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 Officers C, D, E, F and G's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- At the termination of the pursuit, Officer E observed the Subject exiting his vehicle while holding a black handgun in his left hand. As a result, Officer E yelled, "Gun."

Gun. Gun.” Officer E believed the Subject was either going to discharge his firearm, try to scare them, or fire without looking. When Officer E observed the Subject exit the vehicle with a gun in his hand, and point it in Officer D’s direction, Officer E believed that the Subject was going to shoot his partner and therefore fired one round to stop the Subject’s actions.

As the Subject pointed his handgun rearward in a canted position at Officer D, Officer E thought that the Subject was going to shoot his partner. Officer E was aware that his partner was already coming out of the car and thought that his partner was still in the driver’s seat trying to put the vehicle into park. Officer E believed that that Subject was going to shoot his partner while he was still seated in the driver’s seat so he fired one round.

Based on the Subject being armed with a handgun and pointing it at the officers, Officer E’s decision to discharge his service pistol to protect himself and his partner was objectively reasonable.

In conclusion, an officer with similar training and experience as Officer E 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 and Officer D’s life, was objectively reasonable and within Department policy.

The BOPC found Officer E’s lethal use of force to be objectively reasonable and in policy.