

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

OFFICER-INVOLVED SHOOTING – 046-12

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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West Valley	07/19/12		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	22 years, 7 months
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Reason for Police Contact

Officers responded to a battery report. The Subject armed himself with a handgun and Officer A felt his life and that of his partner was in danger, resulting in an officer-involved shooting.

Subject(s)	Deceased () Wounded (X) Non-Hit ()
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Subject: Male, 47 years of age.	
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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 25, 2013.

Incident Summary

On the date of this incident, Communications Division (CD) received a 911 call from Witness A, who stated the Subject verbally threatened to harm him. Witness A also stated that the Subject owned a .22 caliber handgun.

Note: Witness A was calling from his cellular telephone in front of a convenience store.

Uniformed patrol Officers A and B (working as partners) responded to the call and were provided with the above information. Officer B immediately recognized Witness A from a dispute call that he responded to several days prior to this incident. Witness A stated he was still having problems with the Subject, but did not allege that any crime(s) had occurred. After a brief conversation, the officers asked Witness A what they could do for him and he replied "Nothing."

Note: Although the radio call indicated that Witness A owned a firearm, neither Officer questioned Witness A regarding this issue. The officers provided Witness A with a business card and left the location.

An hour later, CD received another 911 call from Witness A who stated he had been assaulted by the Subject. Witness A stated that the Subject pushed him with his hands and he wanted police officers to respond to his residence. CD broadcast the call and advised officers to monitor comments for officer safety.

Note: Officers A and B responded to the call and although the comments again indicated that a firearm was inside the residence, Officers A and B still did not question Witness A about the weapon.

Uniformed Officers C and D also monitored the broadcast and responded as back-up.

Officers C and D arrived first at the residence and approached Witness A, who was sitting on the curb in front of the residence. Witness A stated the Subject pushed him and he wanted to make a private person's arrest.

Officers A and B then arrived and spoke with Witness A, who reiterated that after he spoke with the officers at the convenience store, he went home and the Subject pushed him. Witness A stated that although he understood the Subject was intoxicated and agitated, he wanted the Subject arrested and he signed a Private Person's Arrest (PPA) form. According to Officer A, after Witness A signed the PPA Form, the investigation continued. Officer A intended on talking to the Subject to get his side of the story and attempt to resolve the situation.

The officers and Witness A approached the front door of the residence. Witness A sat on the porch as Officer B knocked on the door. A male opened the door and identified

himself as Witness B. Witness B advised that the Subject was in his bedroom, pointing toward the Subject's bedroom.

Officers A and B entered the residence and approached a closed bedroom door. The officers noted that the doorknob was locked. Initially, Officer B stood in front of the door, but then positioned himself inside a bedroom doorway, adjacent to the Subject's bedroom door. The hinge side of the Subject's bedroom door was closest to Officer B. Officer A took a position in the hallway adjacent to the bathroom, directly southwest of the Subject's door.

Officer B knocked on the Subject's door and asked him to step out to talk to them. The Subject refused to exit the bedroom and told the officers to get off of the property. Officer A ordered the Subject to come out of the bedroom, so that they could talk like adults and handle the matter reasonably. After talking to the Subject for approximately five minutes, the officers heard the Subject approaching the door.

Note: According to Witness A, the officers told the Subject several times that they just wanted to make a report and to please open the door.

The Subject opened his door approximately 18 to 24 inches, but remained inside the bedroom facing in a southwest direction. The Subject's hands were clearly visible to the officers. Officer B asked the Subject if he pushed Witness A. The Subject replied that he pushed Witness A, but didn't assault him. Officer A stepped to the center of the hallway and asked the Subject to come out of the bedroom. The Subject stated he would not come out and immediately turned to step further inside his bedroom.

Officer A then asked the Subject if he and Officer B could come into the room to discuss what had happened with Witness A. At that point, Officer A could smell marijuana emanating from the Subject's bedroom. Officer A assured the Subject they were not there to concern themselves with marijuana. As Officer A took one step toward the bedroom door, Officer B reached toward the door with his left foot to prevent the Subject from closing the door; however, the Subject slammed the door closed.

As the Subject slammed the door, Officer A formed the opinion that the Subject could be arming himself. Officer A concluded that if the Subject armed himself, Officer B would be in a dangerous position and could possibly be trapped in the other bedroom. According to Officer A, the crime committed by the Subject had escalated from battery to resisting a police officer. Therefore, Officer A kicked the bedroom door two times.

Officer A's second kick splintered the door frame and the Subject's bedroom door swung open. The Subject was standing next to a bed which was against the wall of the bedroom. The Subject was facing north with his back toward the doorway and Officer A. As the door continued to swing open, the Subject began to turn counterclockwise with his right hand reaching toward a pillow at one end of the bed.

Note: Witness B believed he heard an officer state, "Do not grab under the pillow."

Believing that the Subject was reaching for a gun, Officer A stepped to his right into the doorway which went east to the dining room. Officer A believed the incident could turn into a deadly force situation and unholstered his weapon and assumed a low-ready position.

As the Subject continued turning counterclockwise, he had a stainless-steel revolver in his right hand. When Officer A first observed what he believed was the Subject's revolver, the muzzle was pointed in a west direction. Officer A indicated he saw several motions to indicate the Subject was holding a firearm, including the motion of his hand and arm, which appeared to be in a locked position as he was turning. The Subject continued to turn counterclockwise. As the muzzle was pointing south toward the officers, Officer A yelled, "Gun," to alert his partner.

Note: The Subject later told investigators that when the police kicked down his door, he was in the process of grabbing the revolver from under his pillow and sticking it down underneath his mattress when he got shot. According to the Subject, the surprise of the door kicking in made him turn.

Believing the Subject was going to fire the revolver and kill him and the other officers; Officer A raised his pistol, and fired one round at the Subject's middle to lower back. Officer A stopped firing when the Subject's bedroom door returned to a closed position.

According to Officer B, as the Subject's bedroom door was kicked open, he observed the Subject stepping toward a bed. Officer B observed the Subject moving toward the pillows when Officer A yelled, "Gun." Officer B unholstered his service pistol. The Subject's bedroom door was closing, which obscured Officer B's view of the Subject. As the bedroom door was halfway closed, Officer B could no longer see the Subject and Officer A fired one round. Officer A subsequently broadcast to CD that the officers had shots fired.

Officer A ordered the Subject to come out of the bedroom. With his left foot, Officer B pushed open the bedroom door and the Subject crawled into the hallway with his hands visible to the officers. According to Officer A, blood was visible on the Subject's left arm and clothing. The Subject continued to follow Officer A's direction to lie on the floor. With Officers B and D covering, Officer A holstered his pistol, approached the Subject and handcuffed his wrists behind his back.

Note: As Officer A was handcuffing the Subject, he observed a gun magazine on the floor. After the Subject was handcuffed, Officer A felt the magazine well of his holstered pistol and realized it was empty. Officer A picked up the magazine and inserted it into his pistol.

Note: After the Subject was handcuffed, Officer B holstered his pistol.

Officer C approached the bedroom and broadcast a request that a Rescue Ambulance (RA) respond. LAFD personnel arrived on scene, administered emergency medical treatment and transported him the Subject to a local hospital.

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 A and B's tactics by a vote of 3-1 to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officers A, B and C's drawing and exhibition of a firearm to be in policy.

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

- In their analysis of this incident, the BOPC identified the following tactical consideration:

1. Disputes

In this instance the BOPC identified that Officers A and B would have benefitted from additional information (e.g. the presence of additional people in the residence and a further inquiry into the presence of the reported handgun).

The BOPC has the expectation that officers conduct investigations that provide them with the ability to maintain a tactical advantage through a thorough and complete understanding of the circumstances of each field contact and crime investigation.

Although there were identified areas for improvement, the BOPC found that the investigation did not substantially deviate from approved Department tactical training. However, Officers A and B would benefit from a review of the information that serves to enhance tactical decisions and actions. This topic will be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:

1. Warrantless Entry

In this instance, the Subject slammed the door on Officer A, who was concerned that the Subject was arming himself with the handgun that Witness A advised that he possessed. In response, Officer A forced entry by kicking the door open, constituting a warrantless entry. The BOPC determined that Officers A and B would benefit from a review of the criteria for a warrantless entry.

2. Firearms

During the OIS, Officer A's magazine fell from the magazine well and onto the floor. After Officer A handcuffed the Subject, Officer A picked up the magazine and re-inserted it into his pistol because of the ongoing tactical situation. Officer A believed that the magazine was not completely seated in the magazine well. This would be consistent with the condition of his service pistol after the OIS with the slide in the forward position, the chamber empty, and the magazine fully loaded.

- 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.

After a thorough review of the incident, it was determined that the identified areas for improvement neither individually nor collectively substantially deviated from approved Department tactical training. Therefore, the most appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place is a Tactical Debrief.

In conclusion, the BOPC found Officers A and B's tactics by a vote of 3-1 to warrant a Tactical Debrief.

B. Drawing/Exhibiting

With the knowledge that the Subject might be in possession of a handgun, Officers A and B deployed outside of the Subject's locked bedroom door. The Subject partially opened his door, spoke to the officers, then slammed the door shut.

Once the Subject slammed the door shut, Officer A believed that the Subject was arming himself with a handgun and kicked the bedroom door, forcing it open. While the door was open, Officer A saw the Subject bring his hand out from underneath the pillow holding an object that he believed to be a handgun. Believing that the Subject was about to shoot him or Officer B, Officer A drew his service pistol. According to Officer A, he was in fear for his life and the life of Officer B.

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 that the situation may escalate to the point where deadly force may be justified.

Officer B took a position in the open doorway of the bedroom located adjacent to the Subject's bedroom door. Hearing Officer A yell "Gun," Officer B drew his service pistol.

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 that the situation might escalate to the point where deadly force might be justified.

In conclusion, the BOPC found Officers A and B's drawing and exhibition of a firearm to be in policy.

C. Lethal Use of Force

- **Officer A** (pistol, one round)

Officer A kicked open the door and observed the Subject retrieve an object that he believed to be a handgun from under his pillow on the bed. As Officer A obtained a barricade position, he observed the Subject turn his upper torso in a counterclockwise direction, pointing a handgun in the direction of the officers. Officer A drew his service pistol and fired one round at the Subject, striking him on the left elbow and left hand. Officer A fired only one round because the bedroom door closed and the Subject was no longer visible to Officer A.

The events as depicted by Officer A were corroborated by the Subject when he told investigators he was reaching to get the handgun out from under my pillow. The

Subject was planning to sneak the gun underneath his mattress, but the surprise of the door kicking in made him turn.

The BOPC determined that the available evidence in this case supports that the incident occurred in a manner consistent with the events as depicted by Officer A.

Therefore, an officer with similar training and experience as Officer A would reasonably believe that the Subject posed an immediate threat of serious bodily injury or death and that the use of lethal force would be justified.

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