

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

OFFICER-INVOLVED SHOOTING – 067-12

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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77 th Street	10/04/12		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	14 years, 4 months
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Reason for Police Contact

As officers checked a group, the Subject ran and produced a gun, resulting in an OIS.

Subject	Deceased () Wounded () Non-Hit (X)
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Subject: Male, 31 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 July 30, 2013.

Incident Summary

Officers A and B were part of a crime suppression detail and were patrolling an area known for narcotics activity. While driving past the rear of an apartment complex, the officers saw several individuals drinking beer in public, one of whom was the Subject, sitting on a bicycle.

Officer B slowed the vehicle to a stop and Officer A quickly exited the vehicle. The Subject separated himself from the other three individuals and walked toward a vehicle parked in the lot.

Note: Neither officer notified Communications Division (CD) that they had arrived at the location when they exited the vehicle.

Meanwhile, Officer B exited the vehicle and began to make his way around the vehicle to join his partner when Officer A began to make contact with the individuals. Officer A could see that each individual was holding a can of beer.

Officer A asked them what they were doing and one of the individuals who was standing set his beer can down on the ground. Officer A conducted a quick pat down search for weapons. As that was occurring, Officer A noticed that the Subject had begun to push his bicycle backwards, creating distance between himself and the officer.

Officer A then told the Subject to get off the bike. The Subject got off the bike, still holding his can of beer. The Subject suddenly dropped the bicycle and ran north toward the west side of the building. Officer A alerted his partner and then chased the Subject.

Officer B saw Officer A chase the Subject as they ran around the southwest corner of the building and out of his view. Officer B opted to go around the other side of the building as he quickly glanced at and passed the remaining individuals in the parking area.

As Officer A chased the Subject down the walkway, the Subject began to reach into his right pants pocket. Officer A initially thought the Subject was possibly trying to remove narcotics from his pocket, but then saw the butt of a handgun. Officer A reached down and broadcast while his radio was still in its holster that he was still in foot pursuit.

Officer A slowed down his pursuit and unholstered his weapon and continued to pursue the Subject. Officer A unholstered his weapon because he believed the situation might escalate to the use of deadly force. As the Subject reached the corner of the building, he removed the handgun and looked back at Officer A as he started to run. As that occurred, the gun in the Subject's right hand began to move in Officer A's direction. Officer A raised his weapon and fired two rounds at the Subject from a distance of 13 to 16 feet, but missed. The Subject stumbled forward, then ran south on the walkway and tossed the gun over a chain link fence into an adjacent yard.

Officer B heard the gunshots and quickly peeked around the corner of the building. Officer B observed the Subject rounding the opposite corner of the building and observed a black object in mid-air. The Subject continued running at full speed with

both hands in front of him. The Subject collided with Officer B. The force of the impact pushed Officer B into the chain link fence. Officer B grabbed the Subject's upper body and took him down to the ground. Officer B placed his body weight onto the Subject's back to maintain control of him.

Officer A broadcast that the foot pursuit ended with a man with a gun and indicated that shots had been fired.

The Subject was taken into custody and the handgun was recovered.

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 to warrant an administrative disapproval.

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

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

D. Lethal Use of Force

The BOPC found 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. Vehicle Deployment

It is expected that officers approach every tactical incident in the safest manner possible. Specific to this incident, Officer B had knowledge of previous narcotics activity, which warranted that consideration be given to exiting the vehicle and approaching the location on foot rather than stopping and exiting the police vehicle in such close proximity to the potential narcotics subjects.

Although the vehicle deployment could have been improved upon tactically, the BOPC believed that the officers' actions did not substantially deviate from approved Department tactical training.

2. Communication - Code Six

Officers A and B exited the police vehicle and entered the rear yard of a known narcotics sales residence without updating their status or location with CD. During this incident, upon observing the group of males within the parking area and making the decision to investigate the illegal activity, Officers A and B should have advised CD of their status and location, especially since the officers had prior knowledge that this location was known to harbor illegal narcotics activity.

After a thorough analysis of the facts surrounding this incident, the BOPC determined that the officers' actions in this regard substantially deviated from approved Department tactical training, without justification.

3. Contact and Cover

Officer A quickly exited the police vehicle and entered the lot as Officer B placed the vehicle into park, exited and made his way around the rear of the vehicle. Officer A initiated contact with the group of males and began to conduct a cursory search of one of the individuals before Officer B was in a position to serve as the cover officer.

The BOPC conducted a thorough analysis and assessment of this issue and determined that Officer A did not ensure that his partner was with him to provide cover by making physical contact with the group. Additionally, the lack of communication among partners allowed this to develop into a situation wherein proper contact and cover roles were not adhered to.

The BOPC determined that the officers' actions in these regards substantially deviated from approved Department tactical training, without justification.

4. Foot Pursuit - Containment vs. Apprehension - Separation

During the BOPC's analysis of Officers A and B's separation during the foot pursuit, the BOPC took into account that Officer A believed Officer B was behind him. Additionally, the BOPC took into account Officer B's decision to not follow his partner and instead go to the opposite side of the building with the intent to rejoin Officer B. These issues support the fact that neither officer knew exactly where his partner was during the foot pursuit, nor were they able to effectively render aid to one another in the event that it become necessary. The BOPC also examined the fact that Officer B passed several unsearched subjects as he made his way northbound through the lot, placing himself at further risk. There were tactical decisions made during the foot pursuit that made it unsafe for both Officers A and B. Additionally, once the OIS occurred, the officers' separation created an increased potential for crossfire, as Officer B intended to run along the side of the building.

In conclusion, the BOPC determined that Officers A and B's actions in this regard substantially deviated from approved Department tactical training without justification.

5. Foot Pursuit Broadcast

The absence of a clear foot pursuit broadcast, coupled with the fact that the officers did not advise CD of their location and status, made for an unsafe tactical situation. Although Officer A attempted to broadcast the foot pursuit, Officer B did not ensure that the broadcast was made effectively. Officers must work as a team to ensure that other units know their activity and location, in the event that their assistance is needed. Partners often understand that the trailing officer broadcast the foot pursuit, so the lead officer can remain focused on the subject and maintain a tactical advantage as the contact officer. Although not required, this assumption of roles during this incident did not happen.

- The BOPC additionally considered the following:

1. Equipment

Both officers were not equipped with their side-handle batons, which remained inside the police vehicle.

2. Tactical Communication

Officers A and B appeared to have differing concepts on how to approach the group of males in the lot. Officer A utilized a more dynamic approach without ensuring that Officer B accompanied him. Meanwhile, Officer B did not, or was unable to, effectively communicate with Officer A that he was not in his immediate presence throughout the incident. Officers are encouraged to discuss different tactical scenarios and communicate effectively, ensuring that they work safely as a team.

3. Running with Firearm in Hand

Officer A indicated that he drew his service pistol and continued to pursue the Subject on foot, running with his service pistol drawn. Officer A was reminded that running with his service pistol in hand increases the likelihood of an unintentional discharge. However, in this instance preparedness and time was a factor, affording Officer A to have decreased reaction time to the deadly threat that the Subject posed. Additionally, Officer A fired both rounds from a single-handed shooting position, as the incident occurred rapidly.

- 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.

The BOPC was critical of the tactics employed by Officers A and B, and found that their actions unjustifiably and substantially deviated from approved Department tactical training, warranting a finding of Administrative Disapproval.

B. Drawing/Exhibition

- As Officer A pursued the Subject eastbound in front of the building, Officer A observed the butt of a handgun, which the Subject was tugging on, in an apparent effort to remove it from his pants pocket. Officer A believed the incident might escalate to the point where deadly force may be justified and drew his service pistol.

The BOPC determined that an officer with similar training and experience as Officer A, 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 may be justified.

C. Non-Lethal Use of Force

- **Officer B** – takedown, firm grip, bodyweight

Officer B quickly looked northbound from the opposite corner of the residence when he observed the Subject running toward him and a dark object in mid-air. The Subject then ran directly into Officer B, colliding chest to chest. Officer B grabbed the Subject and forced him to the ground. Once there, Officer B utilized his bodyweight to maintain control of the Subject and used firm grips to force the Subject's arms out from under his body.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B would reasonably believe that the use of

non-lethal force would be appropriate in order to overcome the resistance and effect the arrest.

D. Lethal Use of Force

- **Officer A** (pistol, two rounds)

As Officer A pursued the Subject in front of the building, the Subject removed a handgun from his right front pants pocket and turned toward Officer A, pointing his handgun in the direction of Officer A. Officer A believed that the Subject was going to shoot him and fired two rounds at the Subject to stop his actions. The Subject threw his handgun onto the adjacent property, then continued to run along the side of the building.

During the BOPC's assessment of Officer A's application of lethal force, several factors were taken into account, which included the rapidly unfolding nature of the incident. Additionally, once Officer A identified that the object that the Subject was attempting to remove from his pocket was a handgun, he immediately prepared himself by drawing his service pistol. Soon thereafter, the Subject successfully removed the handgun, turned and pointed it toward Officer A, resulting in Officer A discharging his service pistol at the Subject to stop his deadly actions.

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 objectively reasonable and in policy.