

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

OFFICER-INVOLVED SHOOTING – 009-18

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Harbor	2/2/18		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	3 years, 10 months
Officer B	3 years, 4 months

Reason for Police Contact

Officers attempted to conduct a traffic stop, but the vehicle fled from the officers. At the termination of the pursuit, the driver produced a semi-automatic handgun and pointed it at the officers, resulting in an officer-involved shooting (OIS).

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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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 the Department is currently legally prohibited from 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 January 8, 2019.

Incident Summary

Officer A, the driver, and Officer B, the passenger, were in full uniform driving a black and white police vehicle as they conducted extra patrol near a business where gang members were known to gather. As they drove toward an intersection, Officer A observed a vehicle speeding down the street, being driven by the Subject.

Officer A advised Officer B of the traffic violation. After clearing the traffic on the cross street, Officer A observed the Subject's vehicle conduct an unsafe left turn onto another street. The unsafe left turn caused the traffic to come to a stop to avoid a collision with the Subject's vehicle. Officers A and B began to follow the Subject's vehicle and observed him driving up the street at a high rate of speed. According to Officer A, the Subject committed three or more traffic violations and drove recklessly before Officer A was able to pull behind him to conduct the traffic stop.

The officers caught up to the Subject's vehicle and observed the vehicle conduct a turn without stopping at the stop sign. The Subject's vehicle continued at a high rate of speed while driving on the wrong side of the road into oncoming traffic.

According to Officer A, he turned on the emergency lights and sirens at the intersection and advised Officer B to broadcast that the officers were in pursuit of a reckless driver. The Subject's vehicle drove two blocks before it collided with two vehicles traveling in the opposite direction. The pursuit terminated when the Subject's vehicle collided head on with the second vehicle.¹ According to Officer B, he attempted to obtain the license plate of the vehicle to run it for wants or warrants and was unable to broadcast due to the short duration of the pursuit.

Officer A stated he stopped the patrol vehicle behind the Subject's vehicle, both officers exited, and conducted a high-risk traffic stop. Officer B broadcast the officers' location and requested a back-up unit unit.

Officers A and B unholstered their pistols and pointed them toward the Subject, who was sitting in the driver's seat of the vehicle.

According to Officer A, he conducted a high-risk traffic stop due to the Subject's reckless driving, his lack of regard for the safety of the pedestrians or anyone in the area, and the fact that school had recently been dismissed.

According to Officer B, he exited the vehicle and unholstered his pistol due to the Subject's actions and his inability to verify whether or not the vehicle was stolen. Officer B stated carjacking suspects are commonly armed, and the Subject's reckless driving led him to believe that he was running from them.

¹ The pursuit traversed .10 miles and lasted approximately 11 seconds.

The following recounts the actions of the officers at the time of the OIS. The incident rapidly unfolded and many of the officers' actions occurred simultaneously. The officers' background as they fired rounds was a multi-family apartment building.

According to Officer A, upon exiting the patrol vehicle, he stepped to the left of the driver-side door in order to be able to see the Subject and ordered him to show his hands. Officer A observed the Subject's head moving inside of the vehicle, as if he were searching for something. Officer A gave the Subject several commands to show his hands and place them outside the vehicle, but the Subject did not comply with his commands.

According to Officer A, he observed the Subject turning toward him in the seat, holding a pistol with his right hand, pointing it across his chest and out of the driver-side window toward him. The Subject then pulled the pistol back inside the vehicle. Officer A yelled, "gun," to notify his partner that the Subject was in possession of a gun.

Officer A observed the Subject reach out the window and point the gun at him a second time. He observed two muzzle flashes from the Subject's gun but did not hear any gunshots.

Officer A stated that at this time he was in fear for his and his partner's lives, as well as for the individuals in the vehicles the Subject had collided with and bystanders in the area. In fear for his life and his partner's life, Officer A stated he fired his pistol three to six times toward the Subject, who was seated in the driver's seat of the minivan, from an increasing distance of 28 to 36 feet, while he re-deployed to the rear of his police vehicle to obtain better cover. Officer A stated he then assessed, and the Subject was no longer pointing the pistol out of the driver-side window.

During a review of the third-party surveillance, Officer A can be seen firing nine rounds from the front driver-side door as he re-deployed to the rear driver-side of the police vehicle.

According to third-party surveillance video, upon reaching the rear driver's side of the police vehicle, Officer A stopped firing his pistol. Approximately, two seconds later, the Subject pointed his pistol out the window at Officer A and appeared to fire once. Officer A ducked and moved from the rear driver-side trunk area to the rear passenger side of the police vehicle. The Subject pulled himself out of the driver-side window with the pistol in his right hand, stumbled, and landed on the street on his left knee. Officer A fired nine additional rounds at the Subject from the rear passenger side of the police vehicle as he moved forward toward the open front passenger door.

A review of Officer A's Body-Worn Video (BWV) depicted him conducting an out-of-battery speed reload after he fired his final round. Officer A was heard giving the Subject commands to show his hands and to get down on the ground. Officer A walked from the front passenger door to the rear of the patrol vehicle, around the trunk, and

returned to the front driver's door where he gave the Subject additional commands and broadcast directions to responding units.

According to third-party surveillance video, Officer B fired five rounds at the Subject from the right side of the police vehicle as the Subject jumped out of the driver-side window. Officer B was next to Officer A when he fired. A review of Officer B's BWV depicted him conducting an in-battery speed reload² after he fired his final round.

According to third-party surveillance video, as the Subject jumped out of the driver's window, he took one step and was struck by gunfire while still holding the pistol in his right hand. The Subject dropped the pistol and rolled over on his back with his feet pointed toward Officers A and B. The pistol remained near the Subject's left knee.

According to Officer A, as the Subject jumped out of the driver's side window, he pointed the pistol from underneath his stomach in his direction. The Subject fell to the ground and immediately attempted to regain his footing in an attempt to run while still holding the pistol in his right hand. Officer A stated he feared for the safety of the bystanders in the area because of the Subject's lack of regard for public safety and willingness to shoot at officers. Officer A believed that if the Subject regained his footing, he would shoot at him and his partner. Officer A believed he fired his pistol four to six times toward the Subject, from a decreasing distance of 41 to 33 feet, as the Subject jumped out of the vehicle window with the gun in his hand.

According to Officer B, upon exiting the patrol vehicle, he used the passenger-side door as cover. He heard Officer A's gunfire to his immediate left but he could not see what was transpiring. Officer B knew that the high-risk stop had escalated to a deadly force situation. As Officer A was firing his second volley, the officers' Digital In-Car Video System (DICVS) captured Officer B yelling to Officer A, "What you got? What you got?"

Officer B immediately broadcast, "Shots fired officer needs help, [location]."

According to Officer B, he observed the Subject jump out the driver side window with a gun in his hand. Officer B believed the Subject and Officer A had exchanged gunfire. Officer B stated he was in fear for his life and believed he had to stop the threat. Fearing that the Subject was going to shoot either him or his partner, Officer B aimed his pistol at the Subject and fired his pistol to stop the Subject's actions. Officer B believed he fired two rounds, from an increasing distance of 27 to 33 feet.

Upon review of Officers A and B's BWV, they held the Subject at gun point until additional units arrived. While awaiting the response of the additional units, Officers A and B gave the Subject several commands to show his hands. Officer A used his radio

² A "speed reload" refers to the action of reloading a weapon in a very short amount of time by ejecting the currently loaded magazine with one hand, and generally drawing as well as loading fresh magazine with the other hand.

to notify responding units which way they should approach. Additionally, he requested an ambulance to stand by until they had the situation under control (Code Four).

Additional officers responded to the help call. As the officers began to approach the Subject to take him into custody, Sergeant A arrived on scene and directed the officers to first clear the Subject's vehicle. Once it was determined there was no one else in the vehicle, the officers approached the Subject. Officer A holstered his pistol and retrieved the handgun from the pavement beside the Subject's left knee. Officer A then immediately placed the unmanipulated gun on the hood of his police vehicle in view of the DICVS.

Based on Sergeant A's BWV, he retrieved the gun from the hood of the police vehicle, removed the magazine, cleared a discharged cartridge case from the chamber, and placed the gun on the trunk of the vehicle. It was then secured by another officer, who placed the gun in the trunk of his vehicle.

After Officer A removed the handgun, the other officers handcuffed and searched him for additional weapons. One of the officers assessed the Subject's injuries and observed a gunshot wound to his back. He was rolled back to a supine position while he was still handcuffed and monitored until Fire Department personnel arrived to assess him. He was then transported by ambulance to the hospital, where he was treated for multiple gunshot wounds. The Subject survived his injuries and was subsequently arrested for the attempted murder of Officers A and B.

Shortly after the Subject was taken into custody, officers were notified of a bystander who had also been struck by gunfire. He sustained a non-life-threatening gunshot wound and was also transported by ambulance to the hospital for treatment.

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 and Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Officers A and B'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), 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 the subject's 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 suspect 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.)

- During the review of the incident, the following Debriefing Points were noted:

1. Tactical Vehicle Deployment

Officer A stopped the police vehicle in close proximity to the Subject's vehicle after a vehicle pursuit.

The positioning of a police vehicle is critical in order to provide the officers a tactical advantage should the incident escalate.

In this case, during the vehicle pursuit, the Subject collided with multiple vehicles and came to an abrupt stop, causing Officer A to have to stop his vehicle in close proximity to the Subject's vehicle. As a result, Officer A was not able to place his police vehicle in the optimal position, which placed him and his partner at a tactical disadvantage.

Based on the totality of the circumstances, the BOPC determined that Officer A's vehicle deployment was a substantial deviation, with justification, from approved Department tactical training.

2. Utilization of Cover

Officers A and B left a position of cover when they moved from the protection of portions of their police vehicle.

The utilization of cover enables an officer to confront an armed suspect while simultaneously minimizing their exposure. As a result, the overall effectiveness of a tactical incident can be enhanced while also increasing an officer's tactical options.

In this case, upon exiting his police vehicle, Officer A moved away from his driver's door in an attempt to obtain a better view of the Subject. Officer A then quickly re-deployed back to his vehicle door and reassumed a position of cover.

Additionally, during the OIS, Officer B moved away from his vehicle's passenger door and deployed to the front passenger fender of his police vehicle. Officer B moved away from the front passenger fender momentarily, then quickly redeployed back to a position of cover at the front passenger fender of his police vehicle.

Based on the totality of the circumstances, the BOPC determined the officers' actions were not a substantial deviation from approved Department tactical training.

- The BOPC also considered the following:

1. Target Acquisition

The investigation revealed that one of the rounds fired by the officers during this incident struck a bystander, rather than their intended target. The officers were reminded of the importance of target acquisition, background, sight alignment, and sight picture while firing their service pistols.

2. In-Battery Speed Reload

The investigation revealed that Officer B conducted an In-Battery Speed Reload after the OIS, discarding a magazine containing 13 rounds. Officer B was reminded of the importance of retaining magazines containing significant numbers of cartridges during a tactical situation.

3. Preservation of Evidence

The investigation revealed that as the arrest team approached the Subject to take him into custody, Officer A recovered the Subject's handgun from the ground and placed it on the hood of his police vehicle to prevent the Subject from re-arming himself.

In this case, it is understandable why Officer A moved the handgun because the risk of the Subject re-arming himself outweighed the benefits of leaving the evidence in place. While it was unavoidable in this case, Officer A was reminded that, whenever tactically feasible, it is preferable to leave evidence undisturbed until investigators can properly document and preserve the scene.

Additionally, Sergeant A unloaded the Subject's handgun and placed it in a police vehicle trunk without donning latex gloves. Sergeant A was reminded of the importance of maintaining the integrity of evidence at the scene of a Categorical Use of Force.

4. Less-Lethal Force Options

The investigation revealed that there were no designated less-lethal cover officers as part of the arrest team when approaching the Subject to take him into custody. The BOPC would have preferred that a less-lethal force option be deployed in the event the Subject posed a situation where the deployment of a less-lethal force option was appropriate.

These topics were to be discussed at the Tactical Debrief.

Command and Control

- Sergeant A responded and assumed the role of Incident Commander. He directed the officers to clear the Subject's vehicle for additional suspects and then ensured that the Subject was taken into custody. Additionally, a miscommunication occurred leading Sergeant A to believe the Subject shot himself and no OIS had occurred. Another supervisor at the scene determined an OIS had occurred shortly there, and the protocols subsequent to a Categorical Use of Force were initiated.

The actions of Sergeant A, and the other supervisors at the scene, were consistent with Department supervisory training and met the BOPC's expectations of a field supervisor during a critical incident.

- 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 also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

In conclusion, the BOPC found Sergeant A and Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- According to Officer A, he conducted a high risk stop because the Subject's actions indicated he had no regard for public safety. Officer A exited the police vehicle, assumed a position of cover behind his driver's side ballistic door panel, and drew his service pistol.

According to Officer B, the officers conducted a *felony* stop due to the Subject's reckless driving and because the vehicle was possibly stolen. Officer B exited the vehicle, assumed a position of cover behind his passenger-side ballistic door panel, and drew his service pistol.

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

C. Lethal Use of Force

- **Officer A** – (pistol, eighteen rounds in two sequences of fire)

First Sequence – (nine rounds)

According to Officer A, the Subject pointed the handgun out the window at him a second time and he observed two muzzle flashes.

Believing that he was going to be killed, Officer A returned fire, firing nine rounds at the Subject from his service pistol to stop the lethal threat as he redeployed to the back of the police vehicle for cover.

Second Sequence – (nine rounds)

According to Officer A, while near the rear of the police vehicle, he assessed and observed the Subject had tucked his hand back inside the driver's side window. A second or two later, the Subject jumped out of the driver's window while he turned, looked, and pointed the gun, underneath his stomach, in Officer A's direction.

According to Officer A, as he began to re-deploy to the passenger side of the police vehicle, he observed the Subject fall to the ground and then begin to run on his hands and feet with the gun in his hand. Officer A told the Subject to get down on

the ground and drop the gun multiple times, but the Subject ignored his commands. The Subject then attempted to regain his footing and turn towards the officers while armed with the handgun.

In fear for his life, Officer A positioned himself behind the passenger-side door of the police vehicle as he fired nine rounds from his service pistol at the Subject to stop the lethal threat.

- **Officer B** – (pistol, 5 rounds)

According to Officer B, he initially could not see what his partner saw, but he heard numerous shots and believed his partner was exchanging gunfire with the Subject. Officer B then observed the Subject exit the vehicle holding a gun in his hand.

Believing he was going to turn and shoot himself or his partner, Officer B fired five rounds from his service pistol at the Subject to stop the lethal threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B would reasonably believe that the Subject's actions presented an imminent threat of death or serious bodily injury and that the lethal use of force would be objectively reasonable.

Therefore, the BOPC found Officers A and B's lethal use of force to be in policy.