

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

OFFICER-INVOLVED SHOOTING – 014-17

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

Outside City 2/21/17

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

Officer A	3 years, 8 months
-----------	-------------------

Reason for Police Contact

An off-duty LAPD officer became involved in an altercation with a group of teenagers. The officer drew his weapon during the altercation and an officer-involved shooting occurred.

Subjects	Deceased ()	Wounded ()	Non-Hit (X)
-----------------	---------------------	--------------------	--------------------

Subject 1: Male, 13 years of age.
Subject 2: Male, 15 years of age.
Subject 3: Male, 16 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 February 6, 2018.

Incident Summary

Off-duty Los Angeles Police Department (LAPD) Officer A, was engaged in a conversation with Witness A at the front of a residence, which is situated on a street corner.

According to Officer A, Witness B, a middle school student walked onto Witness A's property, across the grass toward the driveway, and then walked between Witness A's parked vehicles. Meanwhile, Subject 1 and Witnesses C and D, also students, walked on the street in front of Witness A's property. Officer A stated that in the past, there had been several instances where Witness A's property had been vandalized and litter had been left on the property.

Witness A confronted Witness B for walking across the driveway and asked her to use the sidewalk.

According to Officer A, Witness B cursed at Witness A, at which point Officer A cursed back at Witness B, telling her to use the sidewalk and to leave the area. Witness B then directed her cursing toward Officer A.

Note: Witness A is hard of hearing and did not hear the cursing from either Officer A or Witness B.

According to Officer A, Witness B stopped at the mouth of the south-facing driveway on the sidewalk, stated that Officer A could not talk to people like that, that she was now on the sidewalk, and she did not have to leave.

Officer A continued to curse at Witness B, using profane language. According to Officer A he was trying to establish a command presence to get Witness B to leave.

Witnesses B, C, and D and Subject 1 then walked westbound, away from the residence, followed by Officer A. Subject 1 argued with Officer A about the offensive language that Officer A had directed at Witness B.

According to Officer A, Subject 1 put his hands in his front shorts pockets and asked Officer A what he was going to do. Officer A told Subject 1 to leave because the incident was over. According to Officer A, Subject 1 said that if Officer A touched him, he would "*shoot*" Officer A. According to Officer A, Subject 1 had his hands in his pockets at this time and he believed Subject 1 was probably in possession of a firearm.

According to Officer A, he was not sure what Subject 1 was going to do; however, because of the comment made, he believed Subject 1 had reached for a weapon in his front shorts pockets. Officer A told Subject 1 to take his hands out of his pockets. Subject 1 kept his hands in his pockets and again stated that if he touched him, he would "*shoot*" Officer A.

According to Subject 1, he told Officer A not to use such offensive language toward Witness B and that if Officer A were to touch him, he would “sue” him.

Note: During the course of the investigation, it became clear that Subject 1 pronounced the word “sue” as “shoo.”

Note: According to Witnesses E and F, who were nearby, they did not hear anyone say they were going to shoot. Witness A stated he was hard of hearing and did not know what was said between Officer A and the group. Witnesses B, C, and D stated that they did not hear Subject 1 say he would shoot Officer A.

Note: In Officer A’s first interview with LAPD investigators, and in his initial account to an officer from the local police department, Officer B, Officer A indicated that both the verbal altercation during which he believed Subject 1 threatened to shoot him and the subsequent physical confrontation with Subject 1 occurred in front of the driveway of the residence, and that they happened sequentially.

This initial account by Officer A is refuted by video evidence and by witness accounts from Subject 1 and Witness B, as well as by Officer A’s third interview with LAPD investigators. The preponderance of the evidence suggests that the verbal altercation when Subject 1 stated that he could “sue/shoot” Officer A, and the subsequent physical altercation occurred approximately 150 feet away from where Officer A initially stated that the confrontation occurred, demonstrating that Officer A pursued Subject 1 a significant distance along the street prior to the “sue/shoot” comment being made and the physical confrontation occurring.

According to Officer A, he decided not to call the local authorities at this time because he did not feel it would be safe for him to do so. He believed that if he attempted to call, it would draw his attention away from Subject 1’s actions. He also felt he was faced with multiple people, and he did not know whether they were armed. Officer A believed any attempt to make a phone call would put him at greater risk.

Officer A also decided not to identify himself as a police officer because he believed if Subject 1 had any intention to do bodily harm or kill him with a gun, the situation would exacerbated. Also, if Subject 1 was a gang member, Officer A believed Subject 1 would be more inclined to use a firearm against him if he knew he was a police officer.

Note: Subject 1 is not a documented gang member.

According to Officer A, he proceeded to move slowly toward Subject 1, not wanting to back away and risk turning his back to him.

Officer A stated he did not move to cover because he would have lost sight of Subject 1, and would have exposed his back to the other suspects. Officer A stated that his concern for Witness A was heightened by the fact that Witness A was disabled and unable to move around without the use of crutches. Officer A also believed Subject 1's verbal threat endangered Witness A's safety, and he wanted to maintain his position between Witness A and Subject 1.

According to Officer A, he continued to verbalize with Subject 1 to remove his hands from his pockets. As Subject 1 removed his hands from his pockets, Officer A observed that his hands were empty. Officer A stated that he rushed toward Subject 1 and held onto his arms, in what he described as a bear hug, to maintain control of his hands so Subject 1 would not reach back into his shorts pockets or into the backpack to retrieve a weapon.

Note: According to Officer A, Subject 1 threatened to shoot him while Subject 1 had his hands in his shorts pockets. Because of this threat, Officer A believed Subject 1 "probably" had a firearm.

Officer A stated that he asked Subject 1 twice to take his hands out of his pockets, where he believed that Subject 1 was reaching "for something."

Officer A had no cover at this point during the incident and did not unholster his pistol.

Officer A continued to hold onto Subject 1's arms as Subject 1 attempted to pull himself free from him. According to Officer A, Witnesses B, C, and D gathered around Officer A and yelled for him to let Subject 1 go.

According to Witness A, Officer A walked onto the sidewalk, behind a wall and out of his view. As Witness A walked toward Officer A, he looked down the sidewalk and observed Officer A further down the same sidewalk, holding onto Subject 1. Officer A then asked him to call 911.

Witness A called 911, spoke with dispatchers and requested local police to respond to the incident. Witness A stated that Officer A was an off-duty LAPD officer who was attempting to detain a juvenile who had assaulted Officer A.

According to Officer A, Subject 1 continued to struggle with him. He and Subject 1 were in the middle of the street and began to move away from his residence. They were approximately one house down when Subject 1 freed himself from Officer A and dropped his backpack. According to Officer A, during the struggle Officer A felt a hard object in Subject 1's pocket, which he believed might be a handgun. Officer A did not recall which pocket contained the object.

Surveillance video from a neighboring residence depicts the contact between Officer A and Subject 1 on the street. Officer A is seen pulling Subject 1 back in

the direction of Officer A's house, onto the sidewalk. The video depicts Officer A, bent at his waist, and he appears to punch Subject 1 in the groin area with his left hand as Subject 1 struggles to pull away from him. The video evidence further depicts that, as Officer A and Subject 1 continue to struggle, Officer A faces Subject 1 and appears to kick Subject 1 in the groin area.

Subject 1 dropped his backpack and ran. The video depicts Officer A following Subject 1 in the street, but unable to catch up to him. Officer A did not recall pulling Subject 1 down the street.

According to Officer A, although he was concerned that Subject 1 was possibly armed with a handgun, his attention was divided between Subject 1 and the backpack, which he believed may contain a weapon, because he did not want Subject 1 or any of his companions to return to his house and harm Witness A. Officer A believed Witness A could not defend himself, and he needed to protect him and himself.

Note: Although Officer A indicated concern that Subject 1 and his companions would go back to Witness A's house and harm him, video evidence confirms it was Officer A's actions that led the group back towards Witness A. There is no evidence that Witness A was threatened or harmed during this incident.

Officer A stated that after viewing the surveillance video from the residence, he had not realized that he had turned his back on Subject 1 as he walked toward the backpack. According to Officer A he believed Subject 1's friends were more concerned with the backpack than Subject 1 was, and, accordingly, the backpack may have contained a weapon. Officer A turned and walked toward Witnesses B, C, and D, who were attempting to grab ahold of the backpack. Witness A placed his crutch on top of it. Witness D grabbed the backpack, and he and Witness B ran back towards Subject 1.

According to Officer A, he continued on the street, and followed Subject 1 to one side of the street. According to Officer A, as Subject 1 was walking away from him, he would turn his back, face Officer A, and back away from him. There was approximately five to six feet between them, and Officer A was trying to close that gap so he could get ahold of Subject 1 again.

Note: Surveillance video from a nearby residence depicts Officer A running toward Subject 1. Officer A stated his intent was to take Subject 1 to the ground, disarm him, remove the threat, and detain him until the police arrived.

According to Officer A, he caught up to Subject 1 on the street several houses down, and held his arms to keep him from putting his hands back in his pockets. Witnesses B, C, and D had also moved down the street to where Officer A and Subject 1 were positioned, and Officer A believed Witness B was holding onto the backpack. Officer A indicated he continued to divide his attention between Subject 1 and the backpack; he

did not want Subject 1 or one of the other three juveniles to retrieve the backpack or any harmful items it might have contained.

Additional students from nearby schools also walking in the area observed the confrontation and began to gather around. Officer A stated he moved away, into the middle of the street.

According to Officer A, Subject 1 freed himself from his control and ran across the street and onto the front lawn of a neighboring residence. Subject 1 stopped, turned toward Officer A, and reached into his sweatshirt pockets, leading Officer A to believe that Subject 1 was attempting to arm himself. Moments later, Subject 1 removed his hands from his pockets, at which time Officer A ran toward him. Officer A stated he bent down, placed his right shoulder into Subject 1's midsection, and used his bodyweight to tackle Subject 1 to the ground.

Witness G, a student at the local high school, arrived and recorded the incident on his cell phone. Witness G's video depicts Subject 1 sitting on the front lawn while Officer A is kneeling behind him, with his left arm over the top of Subject 1's left shoulder and Officer A's right arm over the top of Subject 1's right arm. Officer A at times held his hands together across Subject 1's chest as Subject 1 wriggled in an apparent attempt to free himself. The cell phone video also depicts Subject 1's backpack laying on the grass next to them. Eventually, Subject 1 got up onto his feet and was able to get free from Officer A.

Note: In Witness G's video footage, Officer A does not demonstrate any apparent concern that Subject 1 has a handgun in his pockets. For significant periods of time during this stage of the incident, Officer A is not attempting to control Subject 1's hands. Furthermore, Officer A does not appear to pat Subject 1 down or make any effort to establish whether he had a gun on his person or in the backpack that was on the floor next to them.

Witness G's cell phone video depicts that after Subject 1 had gotten free, Officer A then approached Witness A, who handed him a cell phone. Officer spoke with an APD dispatcher from the local police department and requested they respond quickly, and that he was holding down a suspect who had threatened to shoot him.

More students began to gather around Subject 1 and Officer A, and some of them began yelling at Officer A to release Subject 1. Officer A estimated the crowd consisted of approximately 15 to 20 people. This crowd included Subjects 2 and 3. The crowd moved closer to Officer A, which caused him to move back as he held onto Subject 1's sweatshirt.

Officer A called out to Witness A to call 911, due to the difficulty he was having controlling Subject 1 and in fear of the large group of people that had formed around

him. Officer A backed up to a three-foot high hedge that separated two properties. As Officer A held onto Subject 1, he was approached by Subject 2.

Witness A contacted local police department dispatchers for the second time and stated that approximately 15 people had shown up and were confronting Officer A.

According to Officer A, Subject 2 walked within a foot of him, asked what was going on and told him to let go of Subject 1. Officer A cursed at Subject 2 and told him to back up. Officer A observed Subject 2 walk toward the front grass area, take off his backpack, remove his sweatshirt, and walk back toward him. Officer A verbalized with Subject 2 to get back. Subject 2 ignored him, continued to close the distance, and appeared to have his hands clenched.

According to Officer A, he focused his attention on Subject 3, who stated that he had to let Subject 1 go. Officer A told Subject 3 to back up. Subject 3 asked what Officer A was going to do if he didn't. Officer A again told Subject 3 to back up and that police were on their way.

The cell phone videos obtained during this investigation depict Subject 3 rushing at Officer A and pushing him with both hands, such that Officer A falls over the hedge. They depict Officer A immediately standing up on the other side the hedge while holding onto Subject 1's sweatshirt with his right hand (Subject 1 was standing on one side of the hedge, while Officer A was on the other side). Subject 2, who was standing in front of Officer A, delivered a punch to the left side of Officer A's face. Officer A lifted his left arm up in what appeared to be an unsuccessful attempt to deflect the punch.

According to Officer A, he was scared for his life and felt he could become overpowered by the crowd, potentially disabling him physically. He was also concerned because he carried his off-duty firearm with him; he felt that if the crowd located it, they could use it to kill him or Witness A.

According to Officer A, he quickly got up from the ground, and to ensure his and Witness A's safety, he unholstered his pistol from the left front inner waistband of his pants with his right hand. Officer A cleared the front of his shirt and maintained a right single-handed grip on the pistol.

Cell phone videos which captured the incident depicted how Officer A unholstered the pistol with his left hand. The cell phone videos also depict the crowd moving closer to him and a male jumping over the hedge to confront him.

According to Officer A, he assessed the situation and believed he needed to shoot. He looked down in front of him and observed an open patch of grass with an approximately four foot gap between himself and the large group. Officer A aimed his pistol at the patch of grass and fired one round into the ground to scatter the crowd away from him.

Officer A stated that he moved Subject 1 to the left side of his chest and made sure Subject 1 was clear from his right arm as he extended his right arm past Subject 1's body, and then fired into the ground.

Cellular phone videos depict Officer A leaning over the hedge, holding Subject 1 by the sweatshirt collar with his right hand and the pistol in his left hand. Officer A pulled Subject 1 toward him over the hedge and fired one round from his pistol over Subject 1's buttocks with the pistol pointed downward over the hedge.

Witness A called local police department dispatchers and reported that Officer A had discharged his pistol into the ground.

Subject 1, who Officer A believed was near his pistol when he fired, began yelling he had been shot in his back. Officer A secured his handgun in his left rear pants pocket and checked Subject 1 for gunshot wounds.

Officer A observed a local police department vehicle and yelled out to the officers he needed help. Local police department Officers B and C approached and separated Subject 1 and Officer A. Officer A identified himself as an off-duty LAPD officer and told the officers he had a gun in his left rear pocket.

Officer B removed Officer A's pistol from his left rear pocket and secured it inside his police vehicle.

Officer B's BWV had been activated and captured Officer A's statements. Officer A stated he had fired a warning shot because he was surrounded by 15 people and one of them had punched him, causing a laceration to his chin. Officer A pointed out Subjects 1 and 2, who were subsequently detained.

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/Holstering of a weapon 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 Officer A's tactics to warrant Administrative Disapproval,

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

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

D. Lethal Use of Force

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

Basis for Findings

Detention

- While off-duty, Officer A directed a juvenile to remove herself from private property and utilize the public sidewalk. According to the officer, another juvenile intervened, threatened to shoot him, and placed both hands in the front pockets of his shorts. Believing the juvenile was armed and had threatened to shoot him, the officer detained the juvenile. In this case, Officer A never identified himself as a police officer during the incident.

A. Tactics

Tactical De-Escalation

- 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.

In this case, the officer was off-duty when he detained a juvenile that he believed had threatened to shoot him. After the initial detention, the juvenile was able to break free from the officer's grasp and then fled from the officer, thus giving the officer ample opportunity to safely disengage and de-escalate the situation, by returning to his residence and summoning the response of the local law enforcement agency.

Additionally, Officer A had ample time prior to the detention to de-escalate the situation and instead continued to escalate the situation by pursuing the juvenile after he had broken free and ran away from the officer.

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

1. Off-Duty Tactics (Substantial Deviation)

Officer A, while off-duty, attempted to affect the arrest of a juvenile without causing the response of the local law enforcement agency.

In this case, with Officer A's sole readily available equipment being his service pistol and an extra magazine, he should have recognized the risk posed to his safety as he initiated physical contact with an individual he believed to be armed.

By failing to disengage when Subject 1 broke free from his grasp on three separate occasions, it is clearly apparent that Officer A's first consideration was to take enforcement action and not facilitate the response of the local law enforcement agency, contrary to the expectations of the Department.

- The BOPC additionally considered the following:

1. Reverence for Human Life

While off-duty, Officer A became involved in an incident with a group of juveniles that jeopardized the safety of Witness A and others. Officer A is reminded that involving a civilian in an altercation should be avoided at every opportunity.

2. Drawing a Service Pistol While Holding a Suspect

The investigation revealed that Officer A drew his service pistol with his left hand while holding Subject 1 with his right hand. Officer A is reminded that drawing a service pistol while engaged in a physical struggle with a suspect can increase the chances of an unintentional discharge and increase the risk of the suspect getting ahold of the service pistol.

3. Basic Firearm Safety Rules

Officer A drew his service pistol with his left hand, while maintaining control of Subject 1 with his primary right hand. Additionally, as he drew his service pistol, it appears he may have covered some of the individuals in the crowd prior to assuming a low ready position. Officer A is reminded of the importance of always being aware of his muzzle direction.

4. Utilizing a Holster

The investigation revealed, after firing the warning shot, Officer A did not secure his service pistol in its holster. Instead, he placed his service pistol in his left rear pants pocket. Officer A is reminded there is a heightened concern for an unintentional discharge when securing a service pistol in a pocket without a holster.

- 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 determined that the off-duty tactics employed by Officer A during this incident constituted a substantial deviation, without justification, from approved Department tactical training.

In conclusion the BOPC found Officer A's tactics to warrant Administrative disapproval.

B. Drawing/Exhibiting

- According to Officer A, after getting punched and falling over a hedge, he looked up and saw a group of people rushing toward him. Fearing for his safety, he assumed a kneeling or standing position, and drew his service pistol.

Based on the totality of the circumstance, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would not reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified at the time the weapon was drawn.

In conclusion the BOPC found Officer A's drawing/exhibiting to be out of policy.

C. Non-Lethal Use of Force

- **Officer A** – Firm Grip, Physical Force, Kick, Punch, Takedown and Bodyweight.

Video footage captured Officer A in physical contact with Subject 1 in the roadway approximately 150 feet away from the residence where the altercation had begun, along with an ongoing struggle to pull Subject 1 toward the residence. Also captured is what appeared to be Officer A delivering a punch and kick to Subject 1's groin. According to Officer A, he did not recall delivering any punches during the incident, but did recall trying to feel around Subject 1's waist and pockets for a weapon.

According to Officer A, he recalled attempting to knock Subject 1 off balance by kicking his leg between Subject 1's legs and hooking around the back of one leg. Due to the fluidity of the altercation, as he initiated this kicking action, he went forward and contact may have occurred. Officer A also believed the kick had occurred later in the incident, after the takedown.

First Contact

According to Officer A, when Subject 1 removed his hands from his pockets, he noted that there was nothing in them. He then grabbed Subject 1 to prevent Subject 1 from possibly arming himself.

According to Officer A, as he attempted to maintain control of Subject 1, they moved down the street.

According to Officer A, he was unable to maintain his hold on Subject 1. Subject 1 was able to break free and then fled down the street in a southwesterly direction.

Second Contact

According to Officer A, during the initial struggle, he felt a hard object in one of Subject 1's shorts pockets he believed that it was a handgun. Concerned for his safety, and the safety of Witness A, he pursued Subject 1, grabbed him, and a struggle ensued.

According to Officer A, Subject 1 broke from his grasp and ran across the street.

Third Contact

According to Officer A, Subject 1 stopped on the front lawn of a residence, five houses away from the residence where the altercation began, and then turned and faced him. He observed Subject 1's hands away from his body, so he ran toward Subject 1 and used his bodyweight to take him to the ground to prevent him from possibly arming himself.

According to Officer A, Subject 1 landed on his back, and Officer A maintained his lower body on top of Subject 1's legs. Subject 1 then utilized his elbows to wiggle around and free himself, which led to the two standing back upright and struggling again.

Note: The cellular telephone video recorded by Witness G depicts Officer A kneeling behind Subject 1 on the front lawn of the residence, attempting to maintain control of Subject 1 by holding onto his sweatshirt and arms. At times Subject 1 and individuals in the background can be heard voicing concern that Officer A was choking Subject 1.

According to Officer A, after he and Subject 1 both stood up, Subject 1 became much more aggressive and started swinging and punching at him. Subject 1 was moving his arms around, and he attempted to control Subject 1 by holding onto his clothing and trying to grab his arms.

Fourth Contact

Note: The investigation revealed that Subject 1 broke free from Officer A's grasp on the front lawn, and a fourth contact occurred.

According to Officer A, as he continued to struggle with Subject 1, a large group was crowding around them on the lawn. As Officer A struggled to control Subject 1, they moved on the front lawn of a residence three houses away from Officer A's home, toward the hedge.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would believe that this same application of non-lethal force was not reasonable to prevent Subject 1's escape.

In conclusion the BOPC found Officer A's non-lethal use of force to be out of policy.

D. Lethal Use of Force

- **Officer A** – (pistol, 1 round)

According to Officer A, after being punched in the face by Subject 2, he felt a sharp stabbing pain in his face and struggled to maintain consciousness. He observed the large group of people coming toward him. Fearing that the group was going to overpower him and have access to his gun, he fired a single warning shot into the grass. After firing the warning shot, the group began to scatter.

The BOPC concluded that the crowd's actions did not warrant a warning shot. The BOPC was also critical as to the manner in which the warning shot was employed.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances would not reasonably believe that the crowd's actions presented an imminent threat of death or serious bodily injury, and would not have fired a warning shot.

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