

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

**OFFICER-INVOLVED SHOOTING – 021-17**

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ( )</u>	<u>Uniform-Yes (X) No ( )</u>
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Hollenbeck	3/25/17		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Officer B	8 years, 8 months
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**Reason for Police Contact**

While driving in their vehicle, Officers A and B heard multiple gunshots being fired. The officers drove toward the sound of the gunfire and observed two men fleeing the area. The Subject produced a handgun, resulting in an officer-involved shooting (OIS).

<u>Subject(s)</u>	<u>Deceased (X)</u>	<u>Wounded ( )</u>	<u>Non-Hit ( )</u>
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Subject: Male, 35 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 March 20, 2018.

## **Incident Summary**

Uniformed Police Officers A and B, while on patrol in a marked police vehicle, heard multiple gunshots being fired in rapid succession near their location. Officer A turned and drove toward the area where they heard the gunshots. The officers scanned the area looking for any signs of suspects and/or victims of a shooting. According to Officer A, he heard five to seven gunshots. According to Officer B, he heard 10 to 15 gunshots.

**Note:** The source of the gunshots was later determined to be an apparent exchange of gunfire between rival gang members. This was one block away from Officers A and B's location when they heard the gunshots.

Sergeant A and Officers C and D were also in the area and heard the gunshots. Sergeant A broadcast to Communications Division (CD) of the possible shots being fired and provided a location. Officers C and D drove toward the sound of the gunshots.

**Note:** Officers A and B did not initially broadcast to inform CD that they were in the area where the shots fired. According to Officer A, he considered doing so but heard Sergeant A already broadcasting.

As Officers A and B approached the location where they heard the shots being fired, they observed two men on the sidewalk. According to Officer A, the two men were standing facing each other and appeared to be arguing. According to Officer B, when he first observed the individuals, they were running on the sidewalk.

According to the officers, there were no other pedestrians or moving vehicles in the immediate area, and the officers suspected that the two men may have been involved in the shooting.

Officer A illuminated the men with the driver's side vehicle spotlight and stopped his vehicle, facing them from a distance of approximately 44 feet. Officer A shouted out his open driver door window at the men to "Stop! Put your hands up!"

According to the officers, one individual started to move away, either walking or running; however, the officers had different recollections of the Subject's initial reaction to their presence.

**Note:** According to Officer A, the Subject looked in the direction of the officers, appeared startled, and stated an expletive. The Subject then walked a few feet, turned around, and ran down the sidewalk while clutching his front waistband area with his right hand.

According to Officer B, the Subject clutched his front waistband area with his right hand and partially crouched down behind the front of a vehicle parked on the curb, then started to run down the sidewalk

As the Subject was clutching his waistband and crouching behind the vehicle, Officer B, believing that the Subject was arming himself, exited the vehicle, unholstered his weapon, and held it in a two-handed grip pointed at the Subject, while also taking cover behind the engine block and ballistic door panel of his vehicle. Officer B told his partner that the Subject was armed, and shouted commands at the Subject to “Come out! Let me see your hands!” Officer B attempted to broadcast their location and that they were with the possible suspects involved in the shooting, but he was unsure if he completed the broadcast.

**Note:** Officers A and B did not activate their Body-Worn Video (BWV) during the incident. According to the officers, after they heard the shots, the situation unfolded very rapidly. When they observed the Subject, they believed he was arming himself with a weapon concealed in his waistband and they did not have time to activate their BWV.

According to Officer B, he believed that the Subject was armed and had possibly shot someone nearby. To track the Subject’s movements, Officer B ran in the middle of the street while shouting commands at the Subject to stop and put his hands up. As Officer B ran, he held his pistol in a two-handed, low ready position. According to Officer B, his intention was to track the Subject in order to set up containment. Officer B purposely did not try to catch up to the Subject. Officers A and B did not make any broadcasts during the foot pursuit.

According to Officer B, after the Subject had run approximately twenty to thirty feet, he observed the Subject holding the butt of a handgun in his waistband. At this point he shouted, “Gun! Gun! Gun!” to further alert his partner to the weapon.

In order to stay with his partner, and not wanting to leave his vehicle in the middle of street, Officer A reversed the vehicle while simultaneously tracking his partner’s movements in his vehicle’s rear-view mirror and the Subject’s movements by looking back over his left shoulder. The Subject failed to stop and continued following the other individual he had been seen with down the sidewalk. The Subject then turned down an alley and the other man continued running down the sidewalk.

**Note:** The alley had an electrical substation nearby, which was surrounded by an eight foot, six-inch-tall cinder block wall and wrought iron fence. A surveillance camera located at a nearby restaurant captured the Subject running into the alley and the subsequent OIS; however, the video did not capture the Subject’s actions at the time of the OIS.

The Subject ran into the alley, at which time, according to Officer B, the Subject turned his torso clockwise while holding a handgun in his extended right arm, pointed in Officer B’s direction. According to Officer B, in fear of being shot and killed, he stopped short of the sidewalk, pointed his weapon toward the Subject and fired one round from approximately 65 feet.

According to Officer B, he assessed and observed the Subject throw the handgun in a forward motion “like throwing a Frisbee” over the cinder block wall and wrought iron fencing surrounding the electrical substation. The Subject then fell to the pavement.

**Note:** The coroner’s report identified a gunshot entrance wound to the Subject’s “left middle back” and a partial exit wound to his right upper chest. The bullet path documented by the coroner appears to be inconsistent with the Subject being in the position described by Officer B at the moment the shot was fired.

According to Officer A, as he reached the alley after reversing his vehicle, he heard two gunshots coming from the direction of where his partner was located.

**Note:** Although Officer A recalled hearing two gunshots, the investigation determined that Officer B only fired one round. There was no evidence that the Subject fired his weapon during the OIS and the source of a possible second gunshot was undetermined. The investigation determined that Officer A was still in the police vehicle when the OIS occurred.

Officer A joined his partner, unholstered his weapon, which he held in a two-handed, low ready position, and pointed it at the Subject, who was laying on the pavement. Officer A broadcast that shots had been fired and provided his location. CD broadcast, “All units, officer needs help,” provided the location, and requested an Air Unit.

In response to the “shots fired” and “help” call broadcasts, numerous uniformed personnel responded to the scene of the OIS. Officer A told his partner, “Let’s get cover and wait for back-up.” The officers redeployed behind a box shaped metal container, located near the Subject. Once additional officers arrived, the officers took the Subject into custody. The Subject had sustained a gunshot wound to his upper torso and one of the officers requested a Rescue Ambulance (RA).

Officer B told one of the responding officers that the Subject had thrown something. Officers in the Air Unit located a handgun on the other side of the wall surrounding the electrical substation. The officers on the ground gained access to the substation, with the assistance of an employee, and guarded the pistol until the arrival of investigating personnel. The weapon was later determined to be a semiautomatic pistol loaded with one round in the chamber and seven rounds in the magazine.

Fire Department personnel arrived at scene. The Subject displayed no signs of life and was determined to be deceased by paramedics at the scene.

### **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 its review of the instant case, the BOPC made the following findings:

#### **A. Tactics**

The BOPC found Officers A and B's tactics to warrant a finding of Administrative Disapproval.

#### **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 Officer B's lethal use of force to be in policy.

### **Basis for Findings**

- **Detention**

While on patrol, Officers A and B heard multiple gunshots close to their location. As they went to investigate, they observed two possible suspects on the sidewalk in front of a closed business. Officer A then issued commands for the individuals to stop and put their hands up. The individuals ignored the commands and ran from the officers, resulting in a foot pursuit. The officers' actions were appropriate and within Department policies and procedures.

#### **A. Tactics**

- **Tactical De-Escalation**

Tactical de-escalation does not require that an officer compromise his 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 two individuals located near where gunshots had been heard immediately fled from the officers. As they fled, the Subject produced a handgun and ran into an alley. According to Officer B, he gave the Subject commands to drop the gun; however, the Subject ignored the commands, turned toward Officer B,

and pointed the gun in his direction. Faced with an imminent threat of serious bodily injury or death, Officer B utilized lethal force to stop the threat.

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

1. Initiating Contact While Seated in a Police Vehicle (Substantial Deviation – Officer A)

According to Officer A, while patrolling, he heard approximately five to seven gunshots coming from one block away from his location. Without broadcasting his and his partner's status as in the area, Officer A negotiated a left turn to go in the direction of the gun shots. Officer A recalled that as he was driving, they observed two men standing on the sidewalk. Officer A believed he communicated to his partner that these men may have been involved in the shooting.

While remaining inside the police vehicle, Officer A verbally engaged one of the individuals. Officer A stated that he thought at some point he issued commands and illuminated the men with the vehicle spotlight. Officer A believed the command was something to the effect of, "Stop, put your hands up."

Further, while still seated in the police vehicle, Officer A observed the Subject grabbing his waistband which, according to Officer A, was consistent with his experience of a person arming themselves or concealing a weapon. When Officer A first noticed the two men, Officer A estimated his vehicle was approximately 50 feet away from where they were standing. Officer A remained in the police vehicle until he subsequently heard gunfire (the OIS), at which point he stopped the vehicle and exited.

According to Officer B, he heard about approximately 10 to 15 gunshots near his location. Once they heard the shots, his partner drove and observed the Subject running from where the shots were heard while holding his waistband. According to Officer B, his partner stopped the police vehicle approximately 30 feet from the men.

The BOPC determined that Officer A placed his partner and himself at a significant tactical disadvantage by initiating contact while seated in his police vehicle. Approved Department tactical training demands that officers exit their patrol vehicles to conduct pedestrian contacts. Officer A remained inside of the police vehicle while issuing commands to potentially armed individuals, whom he believed may have just been involved in a shooting. Officer A's actions constituted a substantial deviation, without justification, from approved Department tactical training.

2. Tactical Communication/Situational Awareness (Substantial Deviation – Officers A and B)

Officers A and B were on regular patrol when they heard numerous gunshots coming from the area of one block away from their location. According to Officer A, when they heard shots being fired, they did not discuss tactics at that point.

Officer A negotiated a turn and proceeded in the direction of the gunfire. As the officers were approaching an intersection, they observed two men standing on the sidewalk and believed that they may have been involved in the shooting. While remaining inside the police vehicle, Officer A began to issue commands to the men, unaware that his partner had already exited the vehicle and begun to pursue them. Officer B did not communicate his intention to initiate a foot pursuit to Officer A.

According to Officer A, the Subject was on the sidewalk, and his partner had already exited the vehicle and was making his way toward the sidewalk from the street. Officer A stated that he did not want to leave the police vehicle in the middle of the street, so he put the vehicle in reverse and was going to park it next to the curb and get out with his partner. Officer A recalled that when he put the vehicle in reverse, he could see his partner in the rear-view mirror making his way towards the sidewalk and the electrical substation. As Officer A was backing up and slowing the vehicle to come to a stop, he heard approximately two shots coming from the direction of the electrical station where his partner was located. Officer A placed the vehicle in park, quickly exited, unholstered his weapon, and approached his partner's location. According to Officer A, he did not see his partner fire his weapon.

According to Officer B, as he was in foot pursuit of the Subject and believed he had shot someone. Officer B did not want to lose sight of the Subject just in case there was a victim down somewhere nearby. Officer B believed that the Subject might have committed a murder. At that moment, Officer B did not know where his partner was, stating that the last time he saw him was when he was still in the police vehicle, and he [Officer B] stated, "Gun, gun, gun." Although Officer A did not specifically indicate during his interview with detectives whether he heard Officer B state, "Gun, gun, gun," Officer A did indicate that he was uncertain whether the individuals were armed.

Containment of an armed suspect demands optimal situational awareness. The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, thus ensuring a coordinated effort. In this case, the officers' lack of planning and failure to effectively communicate with one another placed them at a significant tactical disadvantage and precluded them from functioning effectively as a team.

Additionally, Officers A and B did not provide a description or direction of travel for the other individual who fled the scene of the incident, diminishing the likelihood he could be detained for investigation of his involvement in the shooting, and potentially endangering other units who might have encountered him without being aware of his possible involvement in a shooting.

Based on the above-described issues, the BOPC determined that Officers A and B substantially deviated, without justification, from approved Department tactical training.

### 3. Separation (Substantial Deviation - Officers A and B)

In this instance, Officer B initiated a foot pursuit of an armed suspect while Officer A remained in the police vehicle. According to Officer B, the Subject started running while holding his waistband and what Officer B believed to be the butt of a gun. The Subject continued running and Officer B pursued him in order to track his movement. Officer B did not communicate his intentions to his partner that he was going to chase the Subject.

Officer A knew the individuals were potentially armed and may have been involved in a shooting. According to Officer A, he did not want to leave the police vehicle in the middle of the street, so he placed the vehicle in reverse and was going to park it next to the curb and get out with his partner. Officer A recalled that as he placed the vehicle in reverse, he could see his partner in the rear-view mirror making his way towards the electrical substation. As Officer A was backing up and slowing the vehicle to come to a stop, he heard approximately two shots coming from the direction of the electrical substation where his partner was positioned. Officer A put the vehicle in park, quickly exited, unholstered his weapon, and approached his partner's location.

Officer B's decision to engage in a foot pursuit of an armed suspect without communicating with his partner or ensuring that his partner was joining him in foot pursuit, and Officer A's decision to remain in the vehicle and not to join his partner in foot pursuit, placed both officers at a significant tactical disadvantage. These actions also constituted substantial deviations, without justification, from approved Department tactical training.

Additionally, the actions of Officers A and B caused a significant separation issue. As Officer B observed the Subject reaching the alley, he did not know where Officer A was located. Officer B stated the last time that he saw his partner prior to the OIS, Officer A was still in the vehicle and he [Officer B] had said, "Gun, gun, gun."

According to Officer A, his partner had already exited the vehicle and was making his way toward the sidewalk from the street. Officer A did not want to leave the police vehicle in the middle of the street so he placed the vehicle in



reverse and was going to park it next to the curb then get out to join his partner. However, when Officer A placed the vehicle in reverse, he could see his partner in his rear-view mirror making his way towards the electrical substation. As Officer A was backing up and slowing the vehicle to come to a stop, he heard approximately two shots coming from the direction of the electrical substation where his partner was located. Officer A placed the vehicle in park, quickly exited, unholstered his weapon, and approached his partner's location. Officer A did not know if it was his partner who had fired.

The distance between the two officers, in concert with the fact that one was on foot and the other was reversing the police vehicle, created a situation wherein Officers A and B were each unable to render aid to one another in a timely manner if confronted by the Subject. In this instance, this was evidenced by the fact that Officer B did, on his own, become involved in a deadly force confrontation with the Subject in the alley while Officer A was still reversing the police vehicle. Regarding this point in the incident, Officer B stated that he was unsure where Officer A was located. Officer B stated that his focus was on the Subject because he was armed. Officer A stated that once the Subject made the turn in the alley, he lost sight of the Subject and, upon hearing gunshots, was unaware that it was his partner who had fired.

The actions of both Officers A and B as described above resulted in the officers being separated at the time the OIS occurred and constituted a substantial and unjustified deviation from approved Department tactical training.

These topics were to be discussed at 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 discuss individual actions that took place during this incident.

In conclusion, the BOPC found Officers A and B's tactics to warrant a finding of Administrative Disapproval.

## **B. Drawing/Exhibiting**

- According to Officer B, he observed the Subject holding his waistband as he looked up in the officers' direction and then took cover behind a parked vehicle. Based upon his observations, he believed the Subject was armed with a handgun and was

probably involved in the shooting. Officer B then exited the vehicle, drew his service pistol, and assumed a position of cover behind the front passenger side door.

According to Officer A, he heard two shots coming from the direction of where his partner was located. Officer A then put the vehicle in park, quickly exited, 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 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 B** – (pistol, one round)

According to Officer B, he observed the Subject holding a gun in his right hand and issued several commands for him to drop the gun. The Subject ignored Officer B's commands, turned towards him, and pointed the gun in his direction. Fearing for his life, Officer B fired one round at the Subject to stop the deadly threat.

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 Subject's actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would be objectively reasonable.

Therefore, the BOPC found Officer B's lethal use of force to be objectively reasonable and in policy.