

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

**OFFICER-INVOLVED SHOOTING – 057-17**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Southwest	7/22/17		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	12 years, 11 months
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**Reason for Police Contact**

Officers were conducting crime suppression when they attempted to contact the Subject and he fled on foot. During the foot pursuit, the Subject removed a handgun from his pocket and turned it toward the pursuing officer, at which time an officer-involved shooting (OIS) occurred.

<b>Subject</b>	<b>Deceased ( )</b>	<b>Wounded ( )</b>	<b>Non-Hit (X)</b>
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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 state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on June 26, 2018.

## **Incident Summary**

Officers A and B were working a crime suppression detail, driving an unmarked vehicle with emergency equipment. Officer A was the driver and Officer B was the passenger.

Officers A and B observed two men standing in front of a residence. According to Officer A, he and one of the men, the Subject, looked at each other from a distance of approximately 50 feet. He described that the Subject appeared to be startled with "big bug eyes," grabbed his right front pants pocket, turned away, and started walking up the driveway toward the rear yard. According to Officer A, he believed that the Subject was armed with a pistol in that pocket. Officer A pointed at the Subject and told Officer B that the Subject was potentially armed and that they should try to talk to him. The Subject was wearing a white T-shirt and the other male, who was never identified, was wearing a red T-shirt.

Officer B stated that he and Officer A were driving when they observed two men standing in the driveway of a residence. Officer B remembered looking down at his computer, which was on his lap. When he looked up, Officer B saw the Subject looking in the officers' direction and watched as the Subject appeared to say an expletive, as if he had been caught. Officer A accelerated his police car and stopped directly in front of the residence where the Subject and the other man had been standing.

According to Officer A, he yelled for the Subject to stop, while Officer B exited the officers' vehicle. The Subject ignored Officer A's command and began running up the driveway toward the rear yard. According to Officer B, he exited the police car and ran after the Subject to see where he was going. Officer B stated that he knew his partner had exited the police car; however, he did not look back to see where Officer A was located. Simultaneously, Officer A reached the driveway and saw the Subject run through the rear yard.

According to Officer B, the unidentified man in the red T-shirt did not move. He raised both of his hands above his shoulders and gave him a look which led Officer B to believe that the individual had no idea what was going on. Officer B stated that he interpreted the unidentified man's body language as non-threatening, ran past him, and focused his attention on the Subject who was now at the other end of the driveway. Officer B said he could see Officer A, with his peripheral view, to his left, near the driveway and the sidewalk.

Officer A broadcast that he was in a foot pursuit following a man with a gun, and gave the Subject's description.

According to Officer B, as the Subject ran through the rear yard, he observed the Subject grab a green trash can and move it to block his path. Officer B stated that he unholstered his pistol because he believed the Subject was carrying a weapon and the situation could escalate to one involving deadly force. Officer B moved the trash can and followed the Subject into the rear yard. Officer B observed the Subject climb over

the wooden fence along the property line of the residence, and continue running in the neighboring property. Officer B then ran back out to the front of the driveway.

According to Officer A, once he made it to the corner of the street, his plan was to contain the Subject until more units arrived. Officer A then heard noises from the house next to his location. Officer A described the noises as trash cans or a fence being shifted or rattled. Believing that the Subject was going to come out onto the street, Officer A walked to investigate the noises.

According to Officer A, he continued down on the sidewalk and utilized two vehicles parked against the curb as cover. As Officer A passed alongside the first vehicle, he observed the Subject climbing over a closed wrought-iron gate of a residence. The Subject was holding a pistol in his right hand. According to Officer A, he yelled at the Subject to drop the gun multiple times. The Subject looked at Officer A, ignored his commands to drop the gun, and continued climbing over the gate.

According to Officer A, he believed that the Subject wanted to shoot him as he had ample opportunity to discard the pistol as he had run through the backyards and was still refusing to drop the gun. Officer A immediately unholstered his pistol with his right hand and moved forward, using a vehicle as cover, as he continued yelling for the Subject to drop the gun. According to Officer A, he pointed his pistol at the Subject with his right hand while holding his police radio in his left hand.

The Subject continued to ignore Officer A's commands as he made it over the wrought-iron gate and landed on his feet. According to Officer A, the Subject faced in his direction with his right elbow tucked against his body and the gun pointed in Officer A's direction. The Subject then turned and took a couple of steps toward the porch. According to Officer A, the Subject then turned his upper torso back in his direction and, while still holding the pistol in his right hand, pointed the pistol at Officer A. Fearing that the Subject was about to shoot him, Officer A fired one round at the Subject from a distance of approximately 47 feet.

After firing his first round, Officer A lowered his pistol so it would not obstruct his view of the Subject. When he did so, Officer A observed the Subject crouch down and take one to two more steps toward the porch, while still holding the gun in his right hand. According to Officer A, the Subject kept his right elbow tucked against his body and again turned his upper torso toward Officer A, pointing the pistol at him again. Believing the Subject was about to shoot him and fearing for his life, Officer A fired a second round at the Subject from a distance of approximately 48 feet. According to Officer A, two to three seconds after he fired his second round, he observed an object travel over the bushes and land on the sidewalk next to his location. After hearing two gunshots, Officer B broadcast "shots fired."

Simultaneously, the Subject began to lie down on his stomach on the porch. Officer A continued to give the Subject commands to drop the gun. The Subject replied that he

had thrown it. Officer A then moved up to the sidewalk in front of the residence and covered the Subject with his pistol until he was joined by Officer B.

According to Officer B, he observed Officer A one house up from his location with his weapon out. Officer B ran up the sidewalk to join Officer A. According to Officer B, when he was approximately 20 feet from the corner, he observed the Subject prone himself out on the front porch of the residence. Once Officer B made it to the driveway, he observed a black handgun on the sidewalk close to Officer A.

Officer B approached the Subject, handcuffed him, then checked the Subject and determined that he had not been injured. Officer A then broadcast that the Subject was in custody.

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

### **Basis for Findings**

#### **Detention**

- While on patrol, the involved officers observed two men standing on the sidewalk in front of a residence. As the officers continued driving, one of the officers observed one of the men look in his direction, grab his right front pant pocket, and begin to quickly walk up the driveway of the residence. Believing the Subject was armed,

and possibly concealing a handgun, the officers exited their police vehicle and ordered the Subject to stop. The Subject ignored the commands and then fled from the officers. 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 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 Subject immediately fled from the officers while holding onto his front right pant pocket, causing the officers to believe he might possibly be armed. The Subject then produced a handgun while climbing over a residential gate. When one of the officers ordered the Subject to drop the gun, the Subject ignored the commands and turned toward the officer with the gun in his right hand.

Faced with an imminent threat of serious bodily injury or death, the officer utilized lethal force to stop the deadly threat.

- In its analysis of this incident, the BOPC identified the following tactical considerations:
  1. Tactical Communication/Tactical Planning (Substantial Deviation – Officers A and B)

Officers A and B did not effectively communicate their observations or actions with one another on multiple occasions throughout the incident.

Operational success is based on the ability of officers to effectively communicate during critical incidents. Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, the officers' lack of planning and inability to effectively communicate with one another throughout this incident placed the officers at a distinct tactical disadvantage.

Based on the totality of the circumstances, the BOPC determined that Officers A and B's actions were a substantial deviation, without justification, from approved Department tactical training.

2. Tactical Vehicle Deployment (Substantial Deviation – Officer A)

Officer A stopped the officers' police vehicle parallel to the Subject, who he believed was possibly armed with handgun.

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

In this case, Officer A stopped the officers' vehicle in close proximity to the Subject, whom he believed to armed with a handgun, placing himself and his partner at a significant tactical disadvantage.

Based on the totality of the circumstances, the BOPC determined that Officer A's vehicle deployment was a substantial deviation, without justification, from approved Department tactical training.

### 3. Code-Six

Officers A and B did not advise Communications Division (CD) of their (Code-Six) location prior to conducting a pedestrian stop on the Subject and the unidentified man.

The purpose of going Code-Six is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

In this case, as the officers' vehicle came to a stop, they immediately exited and focused their attention on the fleeing Subject, whom they believed was possibly concealing a handgun. After a couple of seconds, Officer A broadcast the officers were in a foot pursuit of a man with a gun, along with their location and the Subject's description.

Based on the totality of the circumstances, the BOPC determined that in this situation, Officers A and B's actions were not a substantial deviation from approved Department tactical training.

### 4. Passing an Unsearched Suspect

Officer B ran past an individual, who was a potential threat, to pursue a possibly armed suspect.

In this case, as Officer B ran up the driveway, he observed that the unidentified man had his hands up in a surrender position. Based upon his observations, he believed the man was not an immediate threat and made the decision to focus his attention on the Subject, who was possibly armed.

Although the officer's decision to not address the individual potentially placed him at a tactical disadvantage, he maintained his situational awareness and believed the Subject posed a greater risk to himself and the community.

Based on the totality of the circumstances, the BOPC determined that Officer B's actions were a substantial deviation, with justification, from approved Department tactical training.

5. Separation/Pursuing Possibly Armed Suspects (Substantial Deviation – Officers A and B)

Officers A and B separated from each other as they engaged in a foot pursuit of a possibly armed suspect.

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 and successful resolution.

Generally, officers are discouraged from pursuing armed suspects on foot. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their decision to engage in a foot pursuit of an armed suspect.

In this case, the officers pursued the Subject, whom they believed was possibly armed with a handgun. In this specific circumstance, it would have been tactically prudent for the officers to have recognized the need to transition to containment mode, upon exiting the vehicle, and begin establishing a perimeter.

In addition, Officers A and B's decision to separate from each other with a possibly armed suspect in the immediate vicinity was unreasonable and placed both officers at a tactical disadvantage. As a result of the separation, the officers were not in a position to effectively communicate or render immediate aid to one another if required.

Based upon the totality of the circumstances, the BOPC determined that Officers A and B's decision to separate from each other in order to pursue a possibly armed suspect was a substantial deviation, without justification, from approved Department tactical training.

6. Utilization of Cover (Substantial Deviation – Officer A)

Officer A left a position of cover when he encountered an armed suspect climbing over a gate.

The utilization of cover enables an officer to confront an armed suspect while simultaneously minimizing 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, Officer A utilized two parked vehicles for cover as he monitored the Subject's actions and gave him commands to drop the gun. As the Subject climbed over the gate and then landed on the driveway with a handgun in his hand, Officer A indicated that he attempted to stop behind the vehicle but his momentum carried him forward past the front of the vehicle. Consequently, when the Subject turned and pointed the handgun in his direction, Officer A was forced to engage the Subject without the benefit of cover.

Based on the totality of the circumstances, the BOPC determined Officer A's actions were a substantial deviation, without justification, from approved Department tactical training.

#### 7. Contact and Cover (Substantial Deviation – Officer B)

Officer B initiated contact with a Subject, whom he believed could still be armed with a handgun, without the benefit of a cover officer.

Operational success is based on the ability of officers to effectively establish designated roles and communicate during critical incidents. Officers improve overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, although the Subject was compliant, Officer B took an unnecessary risk by contacting the Subject without waiting for additional resources to assist, placing himself at a tactical disadvantage.

Based on the totality of the circumstances, the BOPC determined that Officer B's decision to initiate contact with a possibly armed suspect without the benefit of a cover officer was a substantial deviation, without justification, from approved Department tactical training.

- The BOPC additionally considered the following:

##### 1. Situational Awareness

The investigation revealed that Officer A incorrectly broadcast the location of the foot pursuit. In addition, Officer B was looking down at the in-car computer that was on his lap as they drove to determine the correct location. The officers were reminded of the importance of maintaining constant awareness and broadcasting the correct location to ensure responding units arrive in a timely manner.

##### 2. Securing of Police Vehicle



The investigation revealed that the officers left their police vehicle unsecured when they exited to pursue the Subject.

### 3. Supplemental Information Broadcast

The investigation revealed that Officers A and B did not broadcast information regarding a possible second suspect after the OIS. The officers were reminded that the omission of this information can create a circumstance wherein responding personnel are not fully aware of the evolving tactical situation.

These topics were 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 also 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, 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 grab his waistband with his right hand and run up the driveway. Believing the Subject was armed and the situation might escalate to the use of deadly force, he drew his service pistol.

According to Officer B, as he approached the driveway of the residence where the Subject was detained, Officer B observed a black handgun lying on the sidewalk. Believing the Subject may have more weapons, he drew his service pistol for a second time, having previously re-holstered, as he approached the Subject.

According to Officer A, he observed the Subject holding the handgun in his right hand, with his elbow tucked into his ribcage and his forearm parallel to the ground. Officer A then 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 A** – (pistol, two rounds)

#### First Round

According to Officer A, the Subject took a couple of steps towards the porch and then turned towards him with the handgun still in the close contact position. Believing the Subject was going to shoot at him, Officer A fired one round from his service pistol at the Subject to stop the threat.

#### Second Round

According to Officer A, after firing his first round, the Subject crouched down and then took a couple of steps on the porch. Officer A assessed and observed that the Subject still had the handgun in his right hand. The Subject then turned his upper body toward him again. Believing that the Subject was going to shoot him, Officer A fired a second round from his service pistol at the Subject to stop the threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe 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 A's lethal use of force to be in policy.