

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

OFFICER-INVOLVED SHOOTING – 076-17

Division	Date	Duty-On (X) Off ()	Uniform-Yes () No (X)
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North Hollywood	11/30/17		
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Officer(s) Involved in Use of Force	Length of Service
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Detective B	21 year
Detective C	30 years

Reason for Police Contact

A specialized unit had been staking out the Subject, who was wanted in several robberies. The Subject attempted to evade the officers in a vehicle. He stopped suddenly, exited, and simulated a hand gun, resulting in an officer-involved shooting (OIS).

Suspect	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 37 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 October 30, 2018.

Incident Summary

During the month prior to this incident, a series of armed robberies occurred in the neighboring cities of North Hollywood and Burbank. The suspect in those robberies was described as a male wearing a black sweatshirt, camouflage shorts and dark blue shoes. The LAPD and an outside law enforcement agency investigated the robberies concurrently, eventually identifying the Subject as one of two suspects committing the robberies, as well as identifying the Subject's vehicle as the vehicle used in the robberies. A surveillance was set up on the subjects, who eventually drove to a motel. Due to the violent nature of the robberies, a specialized LAPD unit assisted in the surveillance.

Detective A established a tactical plan to arrest Subjects 1 and 2. In the event both subjects exited the hotel together and attempted to leave in a vehicle, the specialized unit detectives planned to immediately conduct a tactical vehicle maneuver (TVM) to prevent a vehicle pursuit. If only one subject was seen exiting, they planned to allow that person to drive away from the area. While some specialized unit detectives remained to conduct surveillance at the hotel, others would then follow the one subject and initiate tactical vehicle maneuver (TVM) away from the hotel, so as not to alert the other subject.

Detective A made the decision to pre-assign the personnel who would participate in the TVM. All of these vehicles used by the officers were unmarked and were equipped with emergency lights; however, none were equipped with sirens.

Special Weapons and Tactics (SWAT) Officers A and B were assigned to the specialized unit at the time as a uniformed resource. Their role was to trail the units assigned to conduct the TVM and provide traffic control. In the event of a failed TVM, they were to provide emergency vehicle support and initiate a pursuit.

Prior to leaving the TVM staging area, specialized unit detectives donned their Tactical Ballistic Vests, which had a Los Angeles Police Department cloth badge attached to the front, as well as the word "Police" written on the front and back. As part of their pre-planning tactical discussion, Detectives B and C discussed the weapon systems they planned to utilize during the TVM. Detective B indicated he intended to deploy his pistol due to the additional tasks required of him as the driver of the police officers' vehicle. Detective C planned to deploy his police rifle, which he stored in the center console of their vehicle.

Subject 1 exited the hotel by himself, entered his vehicle and drove away from the hotel. Detectives A, B, C, D, and E followed Subject 1 as he drove. Detective A announced that he planned to initiate the TVM when Subject 1 reached an approaching stop. As Subject 1 came to a stop, the detectives initiated the TVM; however, the Subject's vehicle escaped the move and continued speeding, losing his front bumper as he did so.

Officers A and B were approximately two car lengths behind Detective D's vehicle at the time the TVM was initiated and saw Subject 1 escape. They knew from their pre-planning that their role was now to pursue Subject 1 and attempt to take him into custody. Officer A activated his emergency lights and siren, while Officer B broadcast to Communications Division (CD) they were in pursuit of an armed robbery suspect, provided their direction of travel, and requested a back-up, Air Unit, and a supervisor.

Officers A and B pursued Subject 1 for approximately one mile until he pulled over and stopped in front of an industrial building. Officer A stopped his vehicle approximately 10 feet behind and offset to the left of Subject 1's vehicle. Both officers immediately exited, drew their pistols to a low-ready position, and stood behind their respective doors for cover. As Officer B broadcast the officers' Code Six location, Officer A began yelling commands for Subject 1 to put his hands up. Subject 1 complied and placed his hands out of his open driver's side window.

Within approximately 10 seconds, Detectives B and C arrived and parked to the left of the primary unit. Both detectives immediately exited their vehicle. Detective B unholstered his pistol to a two-handed, low ready position and stood behind his driver's side door. Detective C deployed his police rifle, moved two to three steps forward, and stood next to Officer A's open driver's side door as cover.

The specialized unit detectives involved in the TVM were not equipped to drive with emergency lights and sirens (Code Three) and did not participate in the pursuit. They monitored its progress via radio and arrived at the termination shortly after the primary unit went Code Six.

Officer A continued giving commands to Subject 1 and ordered him to open his driver's door, to step out, and to keep his hands up. When Subject 1's door started to open, Officer A told him to kick it open the rest of the way, using his left foot, and repeatedly ordered him not to lower his hands.

According to Witness A, who viewed the incident from approximately 400 feet away, he believed four to five officers gave Subject 1 commands to stay in his car and to put his hands up.

As Subject 1 exited his vehicle, Detectives B and C believed he was in the process of arming himself and consequently, fired their weapons at him. Based on the statements of the involved and witnessing officers, as well as the video evidence, it appeared that Detectives B and C discharged their firearms nearly simultaneously. The following is an account of their perceptions and the actions they took during the officer-involved shooting (OIS):

According to Detective B, as Subject 1's driver's door opened, he looked back in the officers' direction with his hands up, started to exit his vehicle, and appeared that he was going to comply with their commands. However, Subject 1 then hunched his

shoulders forward, dropped his right hand, and grabbed what appeared to be the handle of a blue steel semiautomatic handgun protruding from the top of his waistband. These observations were particularly concerning to Detective B, because he had just finished watching security video of Subject 1 committing an armed robbery where he retrieved a firearm from the same location on his person and used similar body posture.

Detective B believed Subject 1 was in the process of arming himself and was about to shoot at the officers. In fear for his safety, Detective B fired five rounds from a two-handed shooting position, in a northwesterly direction toward Subject 1, from a distance of approximately 30 feet. Despite discharging his rounds in rapid succession, Detective B indicated that he assessed as he shot and stopped firing when he observed Subject 1 fall to the ground.

According to Detective C, Subject 1 slowly exited his vehicle with his hands raised. Subject 1 then turned his body slightly away from him and placed his right hand directly on top of a black object that was secreted in his right front waistband. Based on the video footage he had just viewed showing Subject 1 retrieving a blue steel handgun from his right front waistband during a robbery, Detective C believed Subject 1 was arming himself and preparing to shoot him.

Detective C believed that Subject 1 was attempting to remove a blue steel handgun from his waistband. He described having observed a "black object" that contrasted against Subject 1's blue shirt. Detective C did not describe the shape of the object he observed, nor was he asked to do so.

In response to Subject 1's actions, Detective C raised his rifle, placed the selector switch to fire, and discharged five to six rapid shots at him in a northwesterly direction, from a distance of approximately 22 feet. The investigation determined that Detective C fired a total of eight rounds. At the time of the OIS, the shooting background for Detectives B and C was Subject 1's vehicle and the brick facade of a building.

Officers A and B both observed Subject 1 reach toward his front waistband just prior to the OIS. According to Officer A, as Subject 1 started to exit his vehicle, he used his right hand and quickly reached underneath his shirt and grabbed what appeared to be a black square object.

According to Officer A, as Subject 1 initially began to exit from his vehicle with his hands raised, he (Officer A) "explicitly" told him (Subject 1), "Do not drop your hands." Subject 1 then "quickly" reached underneath his shirt toward his waistband, "and as he was coming up, you could definitely see like a -- a black object."

As Officer A disengaged the safety on his weapon, he heard Detective C fire four to five rounds. He was unaware Detective B had fired. According to Officer B, as Subject 1 exited his vehicle and placed his left foot on the ground, he observed the Subject's right hand go out of view under his shirt or toward his waistband.

Available video evidence provides a partially-obscured view of Subject 1's actions at the time of the OIS. Although the video does not provide a view of Subject 1's hands at the time of the OIS, it does show that he moved his arms in a manner consistent with the detectives and officers' accounts. Video evidence also shows a dark item (the black cellular telephone) on the ground in proximity to Subject 1's position immediately following the OIS.

The Subject was pronounced deceased at the location.

Shortly after the OIS, officers were contacted by a citizen who saw the Subject throw a possible pistol out of his vehicle during the pursuit. The citizen led the officers to the possible pistol. There, the officers recovered a black BB gun. The BB gun was consistent with the weapon used in the robberies, based on surveillance video footage of the robberies.

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 Detectives A, B, C, D, and E's, and Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Detectives A, B, C, D, and E's, and Officers A and B's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

The BOPC found Detectives B and C'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 subject and enable an officer to have additional options to gain voluntary compliance or mitigate the Ad 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.)

A. Tactics

- 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.

The BOPC found Detectives A, B, C, D, and E's, and Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- According to Detective B, after the Subject stopped his vehicle, he positioned his vehicle to the left of Officer A and B's vehicle, exited, and drew his service pistol.

According to Detective C, after the tactical plan was formulated to arrest the suspect(s) during the TVM, he exhibited his patrol rifle while seated inside his vehicle.

According to Detective C, after the OIS, he transitioned from his patrol rifle to his service pistol to clear the Subject's vehicle.

According to Detective D, he drew his service pistol as he approached the location of the OIS.

According to Detective E, while conducting the TVM, he had his shotgun up front with him and it was loaded with a round chambered.

According to Officer A, after the Subject pulled over to the right curb, he stopped his police vehicle, stepped out behind his driver's side door, and drew his service pistol.

According to Officer B, they pulled up behind the Subject's vehicle and began to initiate a felony stop. He was the designated cover officer and drew his service pistol.

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

C. Lethal Use of Force

- **Officer B** – (pistol, five rounds)

According to Officer B, the Subject dropped his hands down to his waistband, to the exact area where he had observed the Subject secrete the firearm on the video of the gas station robbery. The Subject then curled his shoulders forward and grasped what he believed to be the butt stock of a blue steel semi-automatic handgun.

Based upon the manner in which the Subject grasped the handgun, he believed that the Subject was attempting to draw a concealed firearm from his waistband, exactly as he had done on the video he watched earlier in the day, so that he could shoot at both him and his partners. In an effort to protect himself and his partners from serious bodily injury or death, he fired five rounds from his service pistol at the Subject to stop the threat.

- **Detective C** – (rifle, eight rounds)

According to Detective C, the Subject opened his vehicle door, slowly stepped out with his hands up, and then slightly turned his body away from them officers. The Subject then reached down into his right front waistband, put his hand on top of a black object, and pulled the black object out of his right front waistband.

At that time, Detective C believed the Subject was arming himself with the same blue steel handgun that he had observed the Subject use in the video of the store robbery and believed the Subject was going to pull the gun out and shoot and kill any one of them. In fear for his life and the lives of the other officers, he fired several rounds from his rifle at the Subject to stop the threat.

According to Detective C, in his second interview, he clarified that he only observed the Subject put his hand on the black object but did not observe him pull it out of his waistband.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Detectives B and C, 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 Detectives B and C's lethal use of force to be in policy.