

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

OFFICER-INVOLVED SHOOTING – 027-15

<u>Division</u>	<u>Date</u>	<u>Duty-On () Off (X)</u>	<u>Uniform-Yes () No (X)</u>
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Outside City	3/29/15		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Officer A	27 years, 3 months
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Reason for Police Contact

Officer A was driving his vehicle with Witness A when the Subject made a U-turn in front of Officer A's vehicle causing him to aggressively apply his brakes in order to avoid colliding with the Subject's vehicle. After an exchange of words, the Subject followed Officer A's vehicle, and fired a gun at it. Officer A followed the Subject's vehicle into a cul-de-sac, exited his vehicle and ordered the Subject to stop. The Subject accelerated his vehicle toward Officer A, and an officer-involved shooting (OIS) occurred.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
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Subject: Male, 20 years old.

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 22, 2016.

Incident Summary

Officer A, while off-duty, was driving his personal vehicle. Witness A was seated in the front passenger seat of the vehicle. Officer A and Witness A had just left the gym and Officer A was driving Witness A home.

Officer A came to a stop at a posted stop sign where he waited for southbound vehicle traffic to pass before negotiating a right turn. After four to five vehicles had passed, Officer A turned behind a vehicle, driven by Subject 1.

Note: Subject 1's girlfriend, Subject 2, was seated in the front passenger seat of his vehicle during the incident. Officer A, along with Witnesses A and B, recalled that the driver was the only occupant in the subject vehicle.

As Subject 1 traveled south, approximately three to four car lengths ahead of Officer A, he veered his vehicle toward the sidewalk, appearing to park along the curb. As Officer A continued driving, Subject 1 negotiated a sudden U-Turn, crossing lanes of traffic in front of Officer A's vehicle, and causing Officer A to aggressively apply his brakes in order to avoid colliding with Subject 1's vehicle.

Note: Subject 1 indicated that he pulled to the curb to park his car. When he realized there was insufficient space to park, he pulled out from the space onto oncoming traffic and almost collided with a vehicle.

As Officer A steered around Subject 1's vehicle, he sounded the horn of his vehicle and, with the windows up, yelled at Subject 1. After passing Subject 1, Officer A looked in his rear view mirror and observed Subject 1, traveling northbound, negotiate a second U-Turn and approach from behind at a high rate of speed.

Note: According to Subject 1, after pulling forward from his parking space, the driver of the vehicle stopped and began to yell at him. Subject 1 became angry, rolled the driver's side window down just enough to reach his right hand through the window, across his body, and display his middle finger. Subject 1 further stated he then pulled into the lane of traffic in front of the vehicle, and proceeded south. The vehicle then followed him, never passing him nor pulling along-side his vehicle.

Subject 2 recalled that the driver of the vehicle rolled his window down and yelled at Subject 1.

Officer A reached the intersection where he entered the left hand turn lane and began to come to a stop at the posted stop sign. He continued monitoring Subject 1 in the rear view mirror and observed him pull along the passenger side of his vehicle, then continue through the stop sign into the intersection. Officer A and Witness A observed the muzzle of a blue-steel, or black, semiautomatic handgun being pointed out from the partially opened front driver's side window as Subject 1's car proceeded into the middle

of the intersection. The handgun appeared to be held in the driver's right hand as he reached across his body and over his left shoulder. The muzzle of Subject 1's gun was pointed back and upward in the direction of Officer A's vehicle. Subject 1 then fired two shots as he continued through the intersection.

Note: According to Witness A, he had rolled the passenger side window down anticipating an exchange of words with the driver of the white sedan as it approached the passenger side of Officer A's vehicle. Officer A, however, believed Witness A's window was up at the time the shots were fired.

Note: There were no ballistic impacts identified on Officer A's vehicle.

Note: Subjects 1 and 2 denied ever having a gun in their vehicle. They also indicated that there was nothing in Subject 1's hand that could have been mistaken for a gun.

Officer A and Witness A simultaneously alerted each other that the driver had just shot at them. Officer A advised Witness A he was going to follow the vehicle in an attempt to obtain a license plate number and instructed Witness A to call 911.

Note: Witness A did not recall Officer A advising him to call 911 and was unsure of what was said after the initial shots had been fired other than acknowledging to each other that the suspect had fired a gun at them. Officer A believed Witness A was attempting to make the call to 911, but was unable to do so because Witness A's headphones were plugged in to his cellular telephone. Witness A does not recall attempting to make the initial 911 call; however, later during the incident; he attempted to access his cell phone, but struggled with a headphone cord that was wrapped around it.

Subject 1 accelerated through the intersection, and continued south. From approximately 100 yards behind, Officer A observed Subject 1's vehicle slow down as he approached traffic and then negotiate a left turn, out of his view.

Unaware that the street was a dead-end street, Officer A made the left turn. Officer A did not see Subject 1's vehicle on the street in front of him. Officer A slowed his vehicle and began monitoring the houses that lined the north and south sides of the street, in the event the car had pulled into a garage. As he reached mid-block, Officer A observed Subject 1's vehicle backing out from a south side driveway at the end of the street. Believing that the driver was armed with a handgun, Officer A stopped his vehicle on the street, and exited.

Officer A then removed his personally owned firearm from its holster that was resting on the driver's seat between his legs and utilized the driver's door for cover. Officer A, with his pistol pointed at Subject 1's car, yelled, "Police, police. Get out of the car!"

Simultaneously, Subject 1 began rapidly negotiating a three point turn, ultimately facing his vehicle toward Officer A.

Note: According to Subject 1, after turning around at the end of the street, he observed the driver of the vehicle approach and exit the vehicle holding a handgun. He noted that the driver was yelling but was unable to determine what was being said because his windows were up.

Witness A stated he heard Officer A yell, "Hey, police, police," after he exited the vehicle.

Witness C recalled hearing the screeching of tires, then low inaudible voices. As she approached her window, she heard a male voice yell once or twice, "Get out of the car." As she looked out her window, she observed a person run and crouch by her neighbor's vehicle and saw him fire five times in a westerly direction. The shooter then ran back to his vehicle. Witness C could not see what the person was firing at, but he may have been shooting at a white small vehicle.

Note: According to Subject 2, she observed a man exit the white vehicle with a gun in his hand. The man shouted something; however, she was unable to hear it because her windows were up.

Officer A, fearing he would be rammed by Subject 1's vehicle, moved north away from his vehicle, leaving his driver's door open. He repositioned himself near the rear passenger side quarter panel of a vehicle parked head first in the driveway, located immediately north of his parked vehicle.

As the suspect's vehicle faced him, Officer A observed Subject 1 pointing a handgun at him in his right hand, with his arm extended toward the front windshield.

Note: According to Subject 1, he was going to "smash" Officer A (strike him with his vehicle) as he fled from the location. Evidence of tire marks consistent with a vehicle's quick acceleration was observed on the street where the OIS occurred. Additionally, Subject 1 denied being in possession of a handgun during the course of the entire incident. However, the gunshot residue kits concluded the presence of gunshot residue particles on Subject 1's hands, neck and the vehicle's interior.

Subject 1 accelerated forward, westbound toward Officer A. Fearing Subject 1 was going to fire a shot, Officer A aimed his pistol at Subject 1 with a two-handed grip and fired one round in a southeast direction, from a distance of approximately twenty feet. The round penetrated the front windshield and impacted the dashboard just in front of Subject 1's seated position. Subject 1 momentarily slowed his vehicle, almost coming to a stop, and then began to accelerate toward Officer A.

Subject 1 drove toward Officer A, passing between him and his vehicle. Subject 1's vehicle collided with the open driver's door of Officer A's vehicle, slamming it shut, then side-swiped the driver's side rear vehicle bed.

According to Officer A, Subject 1 continued to point the handgun at him, tracking him from left to right with the muzzle as Subject 1 drove by. Due to the windows of Subject 1's vehicle being tinted, Officer A lost sight of Subject 1 as he passed him; however, he believed Subject 1 was still pointing the weapon at him.

Note: Even though Subject 1 continued to point the handgun at Officer A as he passed, Officer A did not fire his pistol because he was unsure of Witness A's location. Officer A last knew Witness A was positioned near his vehicle and did not want to fire his weapon in that direction for fear Witness A may be in his line of fire.

According to Witness A, he had exited Officer A's vehicle and positioned himself toward the front passenger side. He only heard shots and assumed the shots were being fired by Officer A as Subject 1's car passed on the opposite side of the vehicle.

As Subject 1's car reached the tail end of his vehicle, Officer A believed Subject 1 had continued to point the handgun at him and feared Subject 1 would fire at him, or Witness A, from the vehicle or stop the vehicle and fire. Officer A utilized a two-handed grip and fired four additional rounds in rapid succession, in a westerly direction, at Subject 1's rear window, aiming at the driver's position of the vehicle as it increased distance to approximately 31 feet from him. Officer A stopped firing when he believed Subject 1 was not going to engage him and was attempting to flee.

Subject 1 continued westbound and then made a northbound turn. Once Officer A ensured that Witness A was not injured, they both entered the vehicle. Officer A decided to attempt to locate Subject 1's vehicle, concerned Subject 1 may have crashed his car and posed a danger to citizens in the area, as well as to notify the Sheriff's Department of Subject 1's location. Officer A then backed his vehicle out of the street and looked east; Subject 1's vehicle was no longer in his view.

Simultaneously, per Officer A's request, Witness A called 911 and contacted the Los Angeles County Sheriff's Department (LASD) dispatch. Unsure of what to report, he handed his cellular telephone to Officer A. Officer A advised the emergency operator that he was "LAPD" and that a suspect with a gun had just shot at him. He requested assistance and provided his location. Officer A reported Subject 1's last direction of travel and described Subject 1's vehicle as a small white car with damage to the front driver's side. Officer A stated he had shot at Subject 1 and struck the front window of Subject 1's car. He described Subject 1 as a male and explained that he was off-duty. Officer A informed the operator that that the suspect may have gone east or west from that point. He repeated that the subject had shot at him and had also collided with the front and side of his vehicle. Officer A described the handgun as black in color, appearing to be a Glock type of weapon. Unable to locate Subject 1's vehicle, he

advised the operator he was returning to where the Officer-Involved Shooting (OIS) incident occurred and would await the responding units.

While speaking with the 911 operator, Officer A returned to the scene of the OIS. Several citizens were outside, on the street. Officer A identified himself as a police officer and ensured them that everything was okay.

While awaiting the arrival of LASD units, Officer A telephonically contacted his immediate supervisor Detective A and advised him that he had been involved in an off-duty OIS. Detective A ordered Officer A, "not to talk to anyone concerning the incident except for any sheriff deemed appropriate for the criminal investigation." He advised Officer A he would respond to the scene from his residence.

Los Angeles County Sheriff's Department deputies arrived at scene and began an investigation into the shooting.

Moments after the deputies' arrival, Los Angeles Police Department (LAPD) Sergeant A was off-duty when he passed the crime scene. He stopped and was informed by Officer A what had occurred. He remained with Officer A until Detective A arrived on scene. According to Sergeant A, Officer A did not speak with anyone during that period of time, including Witness A.

Detective A arrived on scene and contacted Officer A and Deputy A. Deputy A informed Detective A that he had rendered Officer A's pistol safe.

Note: According to Officer A, he advised LASD Deputies that his pistol was inside of his vehicle and asked that they secure the weapon. Deputy A advised Detective A that he had taken the gun from Officer A, unloaded it and had monitored it until his arrival.

Detective A was directed to the driver's seat of Officer A's vehicle and observed the pistol. After consulting with LASD Deputies, the pistol was transferred to Detective A's custody along with the pistol magazine and ammunition. Detective A placed them into a secured lock box within his police vehicle.

Detective A obtained a Public Safety Statement (PSS) from Officer A, who described the incident leading to the OIS and indicated he had fired one round in an easterly direction then four additional rounds in a westerly direction. He identified Witness A as a witnessing passenger in his vehicle and advised that Subject 1 was outstanding. Detective A ensured the separation and monitoring of Officer A. All protocols were followed and appropriately documented.

While at the shooting scene, Detectives were advised that LASD had conducted a follow-up investigation where they were able to establish that after fleeing the scene of the OIS, Subject 1 drove to the home of Witness D. Subject 1 pulled his car into Witness D's garage where he changed a flat tire, then left the location. Subject 1 then

returned to his residence, changed clothes and subsequently responded with Subject 2 to the Sheriff's Station to report the incident.

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 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 a finding of Administrative Disapproval.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Officers A's first round to be in policy. The BOPC found Officer A's remaining four rounds to be out of policy.

Basis for Findings

A. Tactics

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

1. Off-Duty Tactics

Officer A followed an armed suspect rather than facilitating the response of the local law enforcement agency.

According to Officer A, he followed Subject 1 in an attempt to obtain his vehicle's license plate number and provide responding law enforcement personnel with the Subject 1's updated location. However, the evidence reflects that Officer A did not ensure that the appropriate law enforcement agency was notified until after he had been involved in an OIS.

The BOPC determined that Officer A's off-duty tactics during this incident were a substantial deviation, without justification, from approved Department tactical training.

2. Reverence for Human Life

Officer A followed Subject 1, an armed suspect who had just shot at him, with a civilian passenger in his vehicle.

In this case, Officers A made the decision to follow Subject 1 with a civilian in his vehicle after Subject 1 had already fired two rounds at Officer A's vehicle. As the incident unfolded, Subject 1 once again pointed his handgun in Officer A's direction, resulting in an OIS.

Placing an uninvolved civilian in physical jeopardy should be avoided at every opportunity. Officer A's decision to pursue Subject 1, an armed suspect who had already shot at him, with a civilian in his vehicle, was unreasonable and unnecessarily jeopardized the safety of that civilian.

The BOPC determined that Officer A's decision to pursue an armed suspect with a civilian inside his vehicle, was a substantial deviation, without justification, from approved Department tactical training.

3. Utilization of Cover

Officer A did not utilize cover when he exited his vehicle and confronted an armed subject.

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

In this case, Officer A exited his vehicle and assumed a position of cover behind his open driver's door but then moved from his position of cover in order to avoid being struck by Subject 1's vehicle.

Officer A's movement from his position of cover at the driver's door to avoid being struck was reasonable. However, not seeking additional cover, when cover was available, while engaging an armed subject, limited his tactical options and unnecessarily endangered his safety.

The BOPC determined that Officer A's decision not to seek a position of cover during this incident was a substantial deviation, without justification, from approved Department tactical training.

4. Shooting at a Moving Vehicle

Officer A fired four additional rounds at Subject 1 as he drove away from the scene.

According to Officer A, he fired four additional rounds at Subject 1 as he drove away from the scene, due to the possibility of Subject 1 firing at him or Subject 1 getting out of his vehicle and firing in his direction.

The BOPC determined that Officer A's actions of firing his four final rounds at a moving vehicle as the suspect drove away was a substantial deviation, without justification, from approved Department tactical training.

- 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.

In conducting an objective assessment of this case, the BOPC found that the Off-Duty Tactics utilized by Officer A substantially, and unjustifiably, deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

Each tactical incident also merits a comprehensive debriefing. In each incident there are always improvements that could be made individually and collectively, and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the individual actions that took place during the incident.

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

B. Drawing and Exhibiting

- As Officer A followed Subject 1, he observed Subject 1's vehicle turning around at the end of the street, causing both vehicles to face each other. Officer A stopped his vehicle, drew his service pistol, exited, and stood behind his open driver's door.

The BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Officers A's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- **Officer A** (pistol, five rounds)
- First Sequence of Fire – one round, from a distance of approximately 20 feet (Shooting at Moving Vehicle).

Officer A exited his vehicle and redeployed to the north side of the street, opposite from his vehicle. According to Officer A, Subject 1 accelerated his vehicle towards him while pointing a handgun in his direction. In fear for his life, Officer A fired one round from his service pistol at Subject 1 to stop his actions.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe Subject 1's actions of pointing a handgun in Officer A's direction 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 that Officer A's use of lethal force when firing his first round was objectively reasonable and in policy.

- Second Sequence of Fire – four rounds, from a distance of approximately 31 feet (Shooting at Moving Vehicle).

According to Officer A, he fired four additional rounds at Subject 1 as he drove away from the scene, due to the possibility of Subject 1 firing at him or Subject 1 getting out of his vehicle and firing in his direction.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would not reasonably believe that Subject 1's actions, while driving away from Officer A, 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 that Officer A's Use of Lethal Force when firing his second through fifth rounds was not objectively reasonable and out of policy.