

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

OFFICER-INVOLVED SHOOTING – 037-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	5 years, 11 months
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Reason for Police Contact

Officers attempted to contact a subject who ran from them and appeared to be hiding a weapon in his waistband. As officers made contact with him, he brandished a pistol, pointing it at an officer, resulting in an officer-involved shooting (OIS).

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 23 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 suspect 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 29, 2016.

Incident Summary

Officers A and B were in a black dual purpose police vehicle when both officers observed the Subject walking on the side of the roadway.

Officer B noticed the Subject look in their direction with a surprised expression on his face. The Subject immediately turned and walked away from the officers, holding his waistband with his right hand. Officer B observed a bulge in the Subject's waistband area, as he turned away. Believing the Subject was concealing a weapon, Officer B stated to Officer A, "Watch this guy. He's gonna run."

Officer A observed the Subject run south. The Subject approached a closed white wrought iron gate located at a residence mid-block, and with his left hand, attempted to slide the gate open. The Subject was still holding his waistband with his right hand, and looked at the officers. Officer B believed that the Subject was trying to ascertain if the officers were going to approach him because he had a "panicked" look on his face. The Subject jumped over the gate and ran down the driveway. Officer B stopped their vehicle and Officer A exited and followed the Subject over the gate.

Officer B exited his vehicle, looked through the closed gate, observed the Subject grab his waistband and run in the yard.

Officer B broadcast that officers were in foot pursuit and requested a backup. Officer B got back into his vehicle and drove south. While looking through a walkway between two residences, Officer B observed a silhouette jumping over a wall. Officer B believed it was the Subject because he did not believe his partner had run that far. Officer B conducted a U-turn and parked his vehicle adjacent to the walkway.

In the interim, Officer A ran after the Subject and observed him holding his waistband as he ran in the driveway. The Subject then turned south, ran a short distance and jumped over a wall topped with razor wire. Officer A lost sight of the Subject and transitioned into containment mode.

Note: According to Officer A, he was in apprehension mode as he initially chased the Subject down the driveway, and then transitioned into containment mode after he lost sight of the Subject. Officer A stated, "I exited the passenger side vehicle, followed the suspect at which time he turned southbound. He went westbound in the driveway and then southbound through the driveway, jumped over another fence, where I lost sight of him. At which point I went to containment mode with my partner."

Officer A jumped on top of a blue trash dumpster in order to have a clear view of the rear yard south of his location and a clear view of the alley west of him, in case the Subject continued to run. Officer A yelled to Officer B, "Put it out, put it out!" meaning broadcast their location.

While standing on top of the dumpster, Officer A observed the Subject come out from behind a red utility vehicle parked in the rear yard south of his location. The Subject came out from the east portion of the vehicle holding a blue-steel semiautomatic pistol in his right hand and raised it toward Officer A. Officer A believed the situation could escalate into a deadly force situation, unholstered his weapon with his right hand and held it in a two hand grip, standing in a weaver shooting stance. Officer A yelled to the Subject, "Drop the gun. I'm going to shoot, I'm going to shoot." The Subject did not comply and Officer A fired one round in a southeast direction at the Subject's center body mass from an approximate distance of 32 feet.

The Subject ran north behind a red sedan that was parked just north of the utility vehicle. The Subject came out from behind the sedan with the pistol in his hand raised and pointed at Officer A. Officer A, in defense of his life, fired one round in a southeast direction at the Subject's center body mass from an approximate distance of 28 feet.

The Subject then ran back toward the utility vehicle, while still raising and pointing the pistol at Officer A. Officer A, in defense of his life, fired a third round in a southeast direction at the Subject's center body mass from an approximate distance of 31 feet. The Subject ran behind the utility vehicle out of Officer A's sight.

Officer A believed he struck the Subject with the second shot because he heard the Subject squeal when he fired his weapon. Officer A indicated that he assessed between each round, looked for the Subject and acquired his target. He believed it was seconds between each round fired.

Meanwhile, Officer B was standing on the sidewalk of the street, directly in front of a walkway leading to the rear parking area when he heard three gunshots. Officer B immediately observed Officer A approximately 115 feet away, standing on a dumpster. He yelled to Officer A from his location and Officer A stated he was not injured. Officer B broadcast that shots were fired and an officer needed help. The responding officers secured a perimeter of the surrounding area.

Officer A stood on the dumpster and was pointing his weapon in a southeast direction when he observed the Subject run east through the property and jump over a wrought iron fence in the rear yard of next residence. When Officer A observed the Subject jump over the fence, the Subject did not have anything in his hands. Officer A subsequently observed the Subject on the roof of the residence, and then run out of sight.

An Air Unit arrived at the scene. Officer A made contact with the Air Unit, shined his flashlight on the roof where the Subject was last seen, and advised the Air Unit the Subject ran south, providing the Subject's physical description.

Officers C and D responded to the back-up, arrived at scene and observed Officers A and B standing on the roadway. Officer C parked his vehicle at the corner. Officer D

remained and held the corner while Officer C made contact with the officers. Officers A and B were broadcasting a description of the Subject and his last known location.

Officers E and F arrived at the scene and observed Officers A and B standing in the roadway. Officer A advised them he had been involved in an Officer-Involved Shooting (OIS) and that the Subject may have dropped his weapon behind the apartment complex. Officer F retrieved his shotgun from the rear of his vehicle, while Officer E stood by. Officers A, C and F walked to the rear of the apartment complex, near the dumpster. Officer A advised the officers that the Subject may have dropped his weapon in the rear yard south of the residence. Officer A walked back to the front of the location, and Officers C and F stayed to the rear of the location.

Sergeant A arrived at the scene and made contact with Officer A, who advised him he had been involved in an OIS. Sergeant A separated Officer A from everyone. Sergeant B arrived at the scene, and Sergeant A directed him to monitor Officer B.

Sergeant A obtained a Public Safety Statement (PSS) from Officer A. According to Sergeant A, prior to taking the PSS, Officer A advised that the situation was still a tactical incident. Officer A said that he fired three rounds at a suspect, believed that he struck the suspect and that Officer A was not injured. He also said he was the only officer who fired and that his partner was not injured.

Sergeant A assessed the area and verified no civilians had been injured. Sergeant A and Officer A drove to the station located on the corner of the nearest intersection and established the Command Post (CP). Sergeant A became Incident Commander (IC) and obtained a tactical frequency. He made sure they had a secure perimeter and made notifications.

Sergeant B obtained a PSS from Officer B. Officer B stated that he was on the sidewalk in front of the location when Officer A fired his weapon. Officer B believed the suspect was outstanding and was injured. He described the suspect and said he was last seen running from the location. Officer B advised the suspect's weapon was possibly to the rear of the location. Sergeant B drove Officer B to the CP and monitored him.

K9 Sergeants C and D, along with K9 Officers G, H, I, J, K, L M, and N, responded to the CP.

Sergeant C, who was the K9 sergeant in charge at scene, assigned Officer G as the primary K9 officer on this incident and Officer K as the secondary K9 officer. Sergeants C and D, along with Officers G and K were briefed by Sergeant A and Officer A about the incident. Officer G came up with a search plan in which different officers would search different directions. The search plan was approved by Sergeants A, C and D.

Sergeant E arrived at scene and took over monitoring of Officer A. Sergeant A continued his duties as IC.

The K9 officers went to their respective search start locations. Officer L advised Sergeant D that he was going to make the K-9 announcement. Officer L was at the opening of the alley west of the location and broadcast the K9 announcement in English and Spanish, from his police car. Officer G advised Sergeant D that the K-9 announcement would be broadcast from his location. Officer I, who was on Officer G's search team, was in front the location and broadcast the K9 announcement in English and Spanish. Officers K and L were in the alley west of the location and confirmed that they heard the announcement. Sergeant D requested that the Air Unit give the K-9 announcement. The Air Unit provided the K9 announcement in English, ensuring it was heard within the entire perimeter. Sergeant C and Officer C were at the CP when they heard the K-9 announcements.

While Officers C and F stood to the rear of the location, a neighbor came out of a nearby residence and opened the gate to the alley. Officers C and F were in the alley and observed a handgun in the rear yard. Officer C notified the CP and was advised to stand by. Officer K advised Officers C and F that his team was about to search the alley and directed them to walk north to his location. The officers did so and Officer K, with his K9, and Officers C and F, searched the alley up to where the Subject's weapon was located. Due to the Subject still being outstanding and believed to be in the immediate area, Officer K made contact with the CP and verified that the weapon could be recovered. Sergeant C stated he did not want a live firearm unattended in the perimeter when they began the search for the suspect, so he ensured the firearm was removed.

Officer C donned gloves, recovered the Subject's weapon from the side of the utility vehicle and marked the location of recovery with a Field Interview (FI) card. The officers walked north and continued to the CP. Sergeant A directed Officer C to place the Subject's weapon on the front passenger side floor board of his vehicle, which was located within the secured area of the CP. Officer C did so and Sergeant A locked the vehicle.

Officer K and his search team continued to search in the alley, while Officer G with his K9 dog and his team continued their search. Officer K was south of Officer G's location and advised the Air Unit that his K9 dog had interest to the rear of a residence. Air 3 used the Forward Looking Infrared (FLIR) and detected a heat source under a wood pile. Air 3 directed Officer G's team to the location, and they observed a locked wrought iron gate preventing them from entering the yard. Officer G requested bolt cutters and Sergeant D advised he would respond. Prior to Sergeant D's arrival, Officer H was able to unlock the gate.

Officer G gave a verbal K9 announcement, warned the Subject of their presence, and ordered his K9 dog to enter the yard. Immediately, the Air Unit advised Officer G that the Subject had appeared in the yard with his hands in the air, surrendering. Officer G called his K9 dog to his side, leashed him, and stood on the sidewalk.

Officer H ordered the Subject to walk toward them. The Subject complied and once on the sidewalk was ordered onto his stomach. The Subject did so and was handcuffed. The Subject was bleeding and one of the officers on scene applied pressure to the Subject's wounds.

Sergeant A heard a broadcast that the Subject had been located and taken into custody, and requested an RA to respond to treat the Subject.

An LAFD Rescue Ambulance arrived at the CP and was directed to the Subject. LAFD personnel treated the Subject for his injuries and at then transported the Subject to the hospital for further treatment. Officer F rode in the back of the RA with the Subject, and Officer E followed. In the RA, when asked questions by LAFD personnel, the Subject stated that he had been smoking "meth."

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 the BOPC's review of the instant case, the BOPC, made the following findings:

A. Tactics

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

B. Drawing/Exhibiting

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

C. Use of Lethal Force

The BOPC found Officers A's use of lethal force to be in policy.

Basis for Findings

A. Tactics

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

1. Tactical Communication

Officers are trained to work together and function as a team. In order to ensure officer safety and help ensure an appropriate outcome, the primary officers and cover officers must effectively communicate with one another. Appropriate communication involves advising the primary officer of any critical occurrences or safety issues.

Officers A and B did not effectively communicate their observations to each other that they believed the Subject was concealing a weapon.

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. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

Based on their independent observations, both officers believed the Subject was armed with a handgun and believed he was going to run from them as they drove closer to his location. However, the officers only verbalized that they believed the Subject was going to run and did not communicate information about a possible gun.

The BOPC considered that this was a rapidly unfolding situation and determined that based on the totality of the circumstances, the shortcomings in the communication between the officers was not a substantial deviation from approved Department tactical training.

2. Pursuing Possibly Armed Suspects

When pursuing a suspect believed to be armed, officers should generally do so in containment mode while considering the available tactical advantages, including cover and concealment where available. The goal is to maintain observation of the suspect and the tactical advantage while coordinating the response of additional units and other resources for a perimeter with the objective of containing the suspect and taking him into custody safely. The decision to pursue an armed suspect in apprehension mode may be appropriate when the suspect is at a tactical disadvantage and an arrest can be accomplished with limited risk to officers or innocent parties.

Officer A initiated a foot pursuit of a suspect that he believed was likely armed with a handgun. 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, Officer A pursued the Subject despite the fact that he believed the Subject was concealing a handgun. It would have been tactically prudent for Officer A to have recognized the need to transition into Containment Mode upon exiting the vehicle and, with the assistance of his partner, begin establishing perimeter containment. Officer A's actions placed both officers at a distinct tactical disadvantage and unnecessarily risked their safety.

The BOPC determined that Officer A's decision to pursue a possibly armed suspect was a substantial deviation, without justification, from approved Department tactical training.

3. **Separation**

Separation occurs whenever the distance between the two officers is so great that one cannot render aid to the other when confronted by the suspect or barriers exist that would unreasonably delay the partner officer from being able to render aid.

Note: While in containment mode, partner officers may separate a reasonable distance for the limited purpose of setting up a perimeter, as long as they have line of sight with each other. When separated, officers should not normally transition back into apprehension mode and attempt to take the suspect into custody alone.

Officers A and B separated from each other. Officer A pursued the Subject on foot while Officer B drove south on the roadway.

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.

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 distinct tactical disadvantage.

As a result of the separation, the officers were not in a position to effectively communicate or render immediate aid. The separation occurred without sufficient articulable facts to support that the separation was reasonable under the circumstances.

Based on the totality of the circumstance, the BOPC determined that Officers A and B's decision to separate was a substantial deviation, without justification, from approved Department tactical training.

4. Utilizing Cover

Cover is defined as any object that will stop the opponent's bullets. Officers should attempt to seek cover when involved in any tactical situation and especially when there are weapons involved. Officers should be aware of what items in their surrounding areas can be used as cover and what type of cover is required to stop certain rounds (gun, shotgun, or rifle rounds).

Whenever possible, officers should place an object between themselves and the suspect as cover or a barrier. A barrier could be a chain link fence, wrought iron gate or any similar object that prevents the assailant from reaching the officer. If the suspect is contained and does not pose an immediate threat to officers, the public or himself/herself, time is the best tool. Time allows more opportunity to communicate with the suspect and helps to calm the situation.

Officer A did not utilize cover when he jumped onto a dumpster to look over a wall and confronted a suspect armed with a handgun.

The utilization of cover enables an officer to confront an armed suspect while simultaneously minimizing the officer's 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's intention was to seek an elevated position so he could see into the rear yard and also obtain a view of the alley to the west of his location. However, his position unnecessarily exposed himself to danger and placed himself at a significant tactical disadvantage. A position of cover would have provided Officer A with an opportunity to have more time to react, formulate a plan, and wait for additional resources.

Officer A's decision not to seek cover and engage a person armed with handgun, limited his tactical options and unnecessarily endangered his safety. Officer A acted without sufficient articulable facts to support that not seeking cover was reasonable under the circumstances.

The BOPC concluded that Officer A's decision not to utilize cover was a substantial deviation, without justification, from approved Department tactical training.

These topics will be discussed during 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 conclusion, the BOPC found Officers A, and B's tactics to warrant Administrative Disapproval.

B. Drawing/Exhibiting

- As Officer A was standing on top of the dumpster, he observed the Subject come out from behind the rear of the utility vehicle holding a handgun in his right hand. Officer A drew his service pistol.

Based on the totality of the circumstances, the BOPC determined that that an officer with similar training and experience as Officer A, while faced with similar circumstances, would reasonably believe that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found that Officer A's drawing and exhibiting of a firearm to be in policy.

C. Use of Lethal Force

- **Officer A** – (pistol, three rounds)

First Sequence of Fire: Round No. 1 – from a distance of approximately 32 feet.

As Officer A was standing on top of the dumpster, he observed the Subject come out from behind the rear of the utility vehicle holding a handgun in his right hand. The Subject ignored Officer A's commands to drop the weapon and pointed the firearm at Officer A. In defense of his life, Officer A fired one round from his service pistol at the Subject to stop his actions.

Second Sequence of Fire: Round No. 2 – from a distance of approximately 28 feet.

According to Officer A, he assessed and observed the Subject run closer to his position, then duck behind the rear of the vehicle out of his line of sight. The Subject then popped out from behind the vehicle pointing the handgun in his direction. In defense of his life, Officer A fired one round from his service pistol at the Subject to stop his actions.

Third Sequence of Fire: Round No. 3 – from a distance of approximately 31 feet.

Officer A assessed and observed the Subject run back towards the utility vehicle. The Subject continued to point his handgun in Officer A's direction. In defense of his life, Officer A fired one round from his service pistol at the Subject 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 that the Subject's actions of pointing a handgun in his direction presented an imminent threat of death or serious bodily injury and therefore, the lethal use of force would be objectively reasonable. Therefore, the BOPC found Officer A's use of lethal force to be in policy.