

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

OFFICER-INVOLVED SHOOTING – 038-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Pacific	5/5/15		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	7 years, 4 months
Officer B	9 years, 6 months

Reason for Police Contact

Officers A and B confronted the Subject and attempted to place him under arrest for public intoxication. A struggle ensued and an officer shot the subject.

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 26 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 April 12, 2016.

Incident Summary

Witness A, an employee of an open business, called Communications Division (CD) to report a disturbance. Witness A informed CD that a male (the Subject), with a dog, was being loud and obnoxious, and refused to leave his place of employment. Witness A described the Subject as wearing a black shirt and gray sweat pants, and was in possession of a large black Labrador/Pit Bull mix. Prior to the call ending, Witness A stated that the Subject had exited the business, but was lingering around outside.

CD created a "415 Man" call for service, and the call was assigned to uniformed Police Officers A and B.

Note: "415" refers to the California Penal Code section for Disturbing the Peace.

Within the comments of the call was a description of the Subject (Male transient wearing a black shirt and grey sweatpants) and his dog (black Labrador/Pit Bull mix). The narrative advised that the Subject was harassing customers and refusing to leave. The comments also reported that the Subject was with a female transient and that no weapons had been observed.

Within minutes, Officers A and B arrived at scene and approached the Subject, who was standing on the sidewalk, just west of where Witness A's business was located. Also present with the Subject, were two unidentified males and one identified female, all whom were blocking pedestrian traffic. Officer B activated his body camera, which captured their contact. The officers told the group that they needed to collect their belongings and to leave. The Subject exhibited signs of intoxication, including slurred speech. When the Subject started to step into the street toward the officers with his leashed dog, Officer A told the Subject not to bring his [expletive] dog near him or he would shoot the dog.

The Subject stepped back onto the sidewalk and handed the dog's leash to the unidentified female who was seated in the middle of the sidewalk. Without being directed to do so, the Subject stepped back into the street, faced Officer A and yelled, "What's up boy?" The Subject then then raised his hands above his head, and yelled a racial slur at Officer A.

Following additional requests by the officers for the Subject to leave, he finally walked away from officers on the sidewalk. At this point, they opted not to arrest the Subject for being drunk in public because he cooperated by starting to leave the area, and he appeared able to care for himself. When the Subject reached another open business, just over 50 feet west of his original contact location with the officers, he loitered out front and yelled racial epithets at people who were walking into the business. Officers A and B observed this and started walking toward the Subject, now with the intention of arresting him for public intoxication.

Officer A contacted CD and requested that an additional unit respond to his location. The Subject then became involved in a minor scuffle on the sidewalk with Witness B.

The officers decided not to wait for an additional unit to arrive before making contact because the Subject and Witness B were physically engaged with each other. Also, Officer B knew that several units were very close by, as they had just cleared a radio call with those units.

Note: A security camera affixed to the exterior of the business captured images of the scuffle between the Subject and Witness B, as well as of Officers A and B as they approached on foot. This camera would later capture the Officer-Involved-Shooting (OIS). A second security camera was affixed to the exterior of the business; however, a sign affixed to the building north of the camera significantly obscured video of the activity.

As the officers made their approach, Witness B pushed the Subject to the ground. The Subject rose to his feet, and Witness B began pushing the Subject against the northern exterior wall of the business. Officer A told Witness B to stop and instructed him that he and his partner would deal with the Subject. Officer B grabbed onto the Subject's right arm with both hands and told him to turn around. The Subject tensed up and started moving his right arm. Officer A instructed the Subject to turn around and put his hands behind his back, twice. The Subject yelled expletives and did not comply with Officer A's order. As the Subject started to pull his arm away from Officer B, he and Officer A decided to force the Subject onto the ground and use it as a controlling agent.

Note: According to Witnesses B and C, the officers first told the Subject to get on the ground, but he did not comply.

Officer A made a quick right-handed reach for the Subject's chest area in an attempt to grab onto his shirt, but he was unable to grasp it. Immediately thereafter, Officer A was able to grab onto the chest area of the Subject's shirt with his left hand, and he used his right hand to grab onto the Subject's hair.

Note: Officer A did not recall grabbing the Subject's hair.

Officer B held onto the Subject's right arm as both officers forced the Subject down into a prone position with his head facing southeast on the sidewalk. Initially, Officer A was positioned on the Subject's left side, with his right knee on the Subject's back, while Officer B was positioned on the Subject's right side, with his left knee on the Subject's back.

Officer A tried controlling the Subject's left hand, while Officer B attempted to pull the Subject's right arm behind his back to handcuff him; however, the Subject resisted by pushing himself upward into a crouched position. According to Officer A, while the Subject was pushing himself upward with his left hand, the Subject used his right hand underneath his own body, to grab the bottom portion of his holster. Officer A did not see the Subject's hand on his holster; he only felt a tug on it very briefly. Officer A then

pushed himself away and arose to his feet near the left side of Subject, who was now in a crouched position.

Note: Officer A's holster was attached to the right side of his utility belt. The security camera did not depict a hand on Officer A's holster.

According to Officer A, he heard his partner say, "Oh, [expletive]," and observed the Subject's left hand reaching across and behind the Subject's own body and grabbing the top portion of Officer B's holster. Officer A observed Officer B trying to push Subject's hand away from his holster.

Officer A believed that the Subject was trying to take possession of his partner's gun. Fearing for his life, his partner's life, and the lives of the people in the area, Officer A unholstered his pistol, held it in a right-handed grip, and fired one shot in a downward direction at the Subject's lower back.

Note: Officer B's holster was attached to the left side of his utility belt. Officer B's left side was not fully exposed to the security cameras. At this point in time, the west facing camera depicted the Subject's left hand planted on the sidewalk. The east facing camera depicted the Subject's right arm wrapped around Officer B's right thigh and his left arm extended downward toward the sidewalk.

According to Officer A, after his first shot, the Subject seemed not to react. Officer A did not know where the Subject's hands were, but believed that the Subject was still trying to get his partner's gun. Fearing for the lives of himself and his partner, Officer A fired a second time. Officer A held his pistol in a right-handed grip and fired in a downward direction at the Subject's lower back.

Note: The Technical Investigation Division (TID), Electronics Unit conducted an analysis of the video. It was determined the video played at 20 frames per second, and that after Officer A's first muzzle flash, his second muzzle flash occurred 22 frames later, which is a time lapse of one and one tenth of a second.

According to Officer B, he did not feel any movement on his utility belt or gun and he did not know where the Subject's left hand was. Officer B was unaware that the Subject's right arm had wrapped around his right thigh. Officer B's recollection was that the Subject's right palm was planted on the sidewalk with his right arm extended, as the Subject was pushing himself up from the ground. Officer B told the Subject to put his hand behind his back while attempting to pull the Subject's right arm behind his back for handcuffing. Officer B's left hand was on the Subject's right wrist and his right hand was holding the Subject's right arm below the elbow. Officer B then heard two gunshots in rapid succession and saw the Subject fall to the ground on his back. Officer B did not see his partner fire his pistol, and he did not recall saying anything just prior to the shooting. Officer B broadcast an "officer needs help" call and requested a Rescue

Ambulance (RA) for the Subject, while Officer A started administering chest compressions on the Subject.

At the time of the OIS, the video captured images of six males who were standing just outside the entrance of the business. They were identified as Witnesses B, C, D, E, F and G.

According to Witness B, just before the officers took the Subject to the ground, one of them told the Subject to get on the ground. Witness B was not able to say which officer. Once the Subject was on the ground, he resisted being handcuffed. Also according to Witness B, with his chest initially on the ground, the Subject pushed himself upward into a hunched over position causing Officer A to slip off of the Subject. Officer A said something to the effect of, "Are we going to do this?" or "Is this how it's going to be?" Officer A then drew his gun from his holster.

Officer B was still struggling with the Subject when Witness B observed Officer A fire two shots into the Subject's back. Because Officer B was in close proximity to the Subject when the shots were fired, and Officer B stumbled away immediately afterwards, Witness B thought that Officer A had shot his partner, too. Witness B observed Officer A check on his partner and then administer cardiopulmonary resuscitation (CPR) to the Subject.

Witness B did not see the Subject reach for Officer A's gun. Witness B also did not recall seeing the Subject's hands near Officer B's gun. It was not until Witness B viewed the video several days after the OIS that he realized the Subject's right arm was wrapped around Officer B's right thigh.

According to Witness E, Officer A fired his pistol while the Subject was on the ground with Officer A on top of him, and his gun pressed against the Subject's back. Witness E did not see the Subject's hands.

Witness D described the Subject as being in a crawling position with both hands on the ground when the shots were fired.

According to Witness G, when the officers were on the ground with the Subject, his hands were at his side. Witness G did not pay close attention to what followed because he thought the officers were going to handcuff the Subject and the incident would conclude. Witness G then momentarily looked downward and did not observe the OIS.

Note: The video depicted Witness G's head facing the officers and the Subject when both shots were fired. Witness G was re-interviewed and was confronted with this discrepancy. Witness G stated that while the officers were struggling with the Subject on the ground, Officer B's body blocked his view of what Officer A was doing. Witness G looked downward for a second and then heard two gunshots. Witness G looked up and observed Officer A holding his gun, but thought it was a TASER.

According to Witness F, Officer B fired the shots, not Officer A. Witness F did not specify where the Subject's hands were when the OIS occurred.

According to Witness C, the Subject had his hands behind his back just before trying to get up from the ground. Witness C was not watching the officers at the moment the Subject was shot.

Witness H's vehicle was parked directly in front of the business, and when the OIS occurred, he was standing at the rear passenger's door. According to Witness H, the Subject resisted by elbowing and punching the officers while he was still standing, and both officers punched the Subject while he was in a crouched position before the OIS occurred. Witness H never saw the Subject fully on the ground with the officers on top of him. Witness H did not see the Subject's hands during the first shot, and Officer B pulled away and was separated from the Subject when the second shot was fired.

Witness I knew the Subject from hanging out with him on the streets. According to Witness I, she was standing on the sidewalk approximately thirty feet west of the Subject when the Subject was shot. Witness I stated the same officer who shot the Subject asked for the Subject's identification prior to the shooting. The Subject said that he did not need to show his identification because he did not do anything wrong. The Subject was then told to put his hands up. When the Subject reached for his rear pants pocket with his right hand, he was shot. The Subject was shot a second time while he was on the ground.

According to Witness J, he was walking across the street with his back toward the Subject and the officers. Witness J heard the officers tell the Subject to put his hands up and asked for his identification. Witness J then then heard at least four gunshots.

Witness K was across the street from the Subject and the officers when the OIS occurred. The Subject was asked for his identification and refused. Witness K could not see the Subject's hands. Witness K stated that both officers shot the Subject while they stood in front of him and that the Subject was shot once in the chest and once in the stomach.

According to Witness L, she was standing in the street just outside of the business, smoking a cigarette when the OIS occurred. The officers told the Subject to leave or they would arrest him. The Subject told the officers he was not going to leave. The officers then pushed the Subject to the ground facedown, told him that he was being arrested, and attempted to put his arms behind his back. Witness L indicated the Subject resisted by pushing himself up from the ground, while the officers tried pushing him back down. An officer shot the Subject twice on his left side. Witness L did not see the Subject's hands when he was shot.

Sergeant A arrived, assumed the role of Incident Commander, and ensured that Officers A and B were separated until the arrival of additional supervisors. Officer B then handcuffed the Subject with his hands in front of his body.

Los Angeles Fire Department (LAFD) arrived and began dressing the Subject's wounds as they awaited the arrival of an RA for transportation. The Subject was transported by RA to a nearby hospital, where he failed to respond to treatment and was pronounced dead.

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 Officer A and B's tactics to warrant a finding of Administrative Disapproval.

B. Drawing/Exhibiting

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

C. Non- Lethal Use of Force

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

D. Lethal Use of Force

The BOPC found Officer A use of lethal force to be out of policy.

Basis for Findings

A. Tactics

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

1. Tactical Communications/Planning

Officers A and B did not discuss tactics prior to making contact with the Subject and did not communicate with each other before attempting to take him into custody.

Operational success is based on the ability of the officers to effectively plan and approach each incident in a safe manner, keeping officer safety in mind at all times. Officers when faced with an ongoing tactical situation must remain alert to improve their overall safety, by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

In this case, Officers A and B knew they were responding to a radio call for a 415 man with a dog and did not discuss tactics prior to their arrival, including who would be the contact or cover officer. Upon making contact, the officers noted that the Subject appeared agitated and displayed signs of intoxication.

After observing the Subject walk over to the business and get into an physical altercation with Witness B, the officers made the decision to arrest the Subject for being drunk in public without having any communication or tactical plan, or waiting for an additional unit prior to engaging him, which would have afforded them a greater tactical advantage.

Based on the totality of the circumstances, the BOPC determined that the officer's decision not to communicate with one another or develop a tactical plan prior to making contact with the Subject was a substantial deviation, without justification, from approved Department tactical training.

2. Crossfire

Officer A fired two rounds at the Subject while his partner, Officer B, was standing in his line of fire.

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. The ability to adjust to a tactical situation ensures minimal exposure to the officers.

In this case, Officer A fired two rounds at the Subject while Officer B was standing directly in his line of fire on the Subject's right side, attempting to hold the Subject down.

The BOPC determined that Officer A's decision to fire his weapon was not reasonable and also compromised the safety of his partner, Officer B, who was in his line of fire at the time Officer A fired his weapon. As a result, Officer A's actions were a substantial deviation, without justification, from approved Department tactical training.

3. Handcuffing/Searching a Suspect

Following the OIS, Officers A and B did not handcuff or search the Subject for the possible possession of weapons.

Officers are trained to handcuff and conduct a search of an arrestees to ensure they are not armed with weapons and do not possess items of contraband on their person. This practice is necessary for the safety of not only the officers, but also for responding medical personnel and the public.

In this case, Officer B stated that he had to be reminded to handcuff the Subject and neither officer conducted a search of Glenn after he was handcuffed.

Based on the totality of the circumstances, the BOPC determined that the officers were focused on rendering aid to the Subject. As such, their actions did not represent a substantial deviation 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 this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident.

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

B. Drawing/Exhibiting

- According to Officer A, he observed Officer B trying to push the Subject's hand away from his holster. Officer A believed that the Subject was trying to take possession of Officer B's gun and drew his service pistol.

Note: Video footage obtained from the camera captured the struggle between the Subject and the officers and at no time during the struggle can the Subject's hand be observed on or near any portion of Officer A's holster. Officer B's holster was attached to the left side of his duty belt.

Based on the totality of the circumstances and supporting evidence, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances would not reasonably believe there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

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

C. Non- Lethal Use of Force

- **Officer A** – Firm Grip, Physical Force, Takedown, Bodyweight
- **Officer B** – Firm Grip, Takedown, Bodyweight

Officer B applied a firm grip on the Subject's right arm with both hands. Officer A then grabbed onto the Subject's shirt with his left hand while simultaneously grabbing the back of his hair, stepped back, and then pushed the Subject down to the ground as Officer B maintained a firm grip of the Subject's right arm.

After taking the Subject down to the ground, Officer B placed his left knee on the Subject's lower back and applied bodyweight in an attempt to prevent him from getting up and place him into handcuffs. Officer A held onto the Subject's shirt with his right hand, then pushed the Subject's upper body down toward the ground with his left hand. Officer A then placed his right knee on the Subject's back and applied bodyweight in an attempt to prevent him from getting up and place him into custody.

Officer A pushed away from the Subject, who continued to resist the officer's efforts to take him into custody. Officer B continued to hold onto to the Subject as he pushed himself up to his knees and began to stand up.

Note: The entire struggle and non-lethal force utilized by Officers A and B was captured on the video that was obtained from the business.

After a review of the incident and the non-lethal uses of force used by these officers, the BOPC determined an officer with similar training and experience as Officers A and B would believe this same application of force would be reasonable to overcome the Subject's resistance, prevent his escape, and effect an arrest.

Therefore, the BOPC found Officer A and B's non-lethal use of force to be in policy.

D. Lethal Use of Force

Officer A – (pistol, two rounds)

First Round Fired

According to Officer A, he observed the Subject's hand on top of Officer B's holster. Believing that the Subject was trying to take possession of his partner's weapon, Officer B drew his service weapon and fired one round at the Subject to stop his actions.

Second Round Fired

According to Officer A, after firing his first round at the Subject, it appeared to have no effect because he continued to struggle with his partner, so Officer A fired an additional round at the Subject to stop his actions.

The perception of officers using deadly force must be based on an objectively reasonable belief that an imminent threat exists.

The BOPC reviewed the totality of the circumstances and all the evidence in its entirety, including the video footage of Officer A's use of lethal force and statements of his partner. Officer B stated that he that he never felt any jerking movements or saw the Subject's hand near his handgun at any time during the incident. This, coupled with the fact that at no time during the incident did Officer B make any statements or actions that would have suggested that the Subject was trying to remove his service pistol from his holster, the BOPC determined that an officer with similar training and experience as Officer A would not have reasonably believed that the Subject's actions presented an imminent threat of death or serious bodily injury to Officers A or B. Additionally, the BOPC believed that the evidence did not independently support Officer A's perception that a deadly threat was present.

Therefore, the BOPC found Officer A's use of lethal force to be out of policy.