

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

**OFFICER-INVOLVED SHOOTING – 043-17**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On (X) Off ( )</u></b>	<b><u>Uniform-Yes (X) No ( )</u></b>
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Hollenbeck	6/8/17		
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<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
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Officer A	16 years, 11 months
Officer B	1 year, 4 months

**Reason for Police Contact**

Officers initiated a consensual encounter and during the contact, the officers observed a bulge to the front of the Subject's shorts that they believed was a possible weapon. The officers attempted to conduct a pat down search, at which time the Subject attempted to flee and a physical struggle ensued. The Subject removed and pointed his pistol toward an officer, which resulted in an officer-involved shooting (OIS).

<b><u>Subject</u></b>	<b><u>Deceased ( )</u></b>	<b><u>Wounded (X)</u></b>	<b><u>Non-Hit ( )</u></b>
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Subject: Male, 18 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 May 22, 2018.

## **Incident Summary**

Officers A and B were conducting extra patrol in a marked police vehicle. As they were driving, approaching an intersection, Officer B observed the Subject standing near the sidewalk area in front of a residence. Officer B described the Subject as a male with a shaved head who appeared to be taking off his shirt.

Both officers believed the area was a known gang neighborhood and they agreed to conduct a consensual encounter. Due to the road being a dead-end street and blocked by a chain link fence, Officers A and B had to drive around the block. As they drove around the block, Officer A reminded Officer B that all they had was a consensual encounter with the unknown male.

As they drove, they observed that the Subject was no longer along the street. As the officers drove past the long drive way of a residence, both officers observed the Subject sitting on the stairway of a two-story, multi-unit building. The officers conducted a U-turn at the end of the block and entered onto the property via the long driveway. Officer A stated the driveway and adjacent building was long, which did not provide any real cover. Officer A decided to drive up the driveway to at least have the officers' vehicle as cover, if needed. Officer A drove toward the rear of the property and stopped their vehicle in the open middle yard area.

According to both officers, the Subject stood up, walked forward from the stairs, and stood facing the officer's vehicle. The Subject had his shirt lifted up, which exposed his stomach area, including the top of the waistband of his shorts.

The officers exited their vehicle and approached the Subject. Officer A began talking to the Subject, while Officer B stood nearby. From an approximate distance of four to five feet, Officer A asked the Subject for his name and how long he had lived at that residence. Officer A asked the Subject if he "had anything on him." The Subject did not answer the question, and instead asked if he was being arrested. Officer A advised that he did not need to be arrested. According to both officers, they each noticed a bulge to the front area of the Subject's shorts as the initial verbal contact was made with the Subject. Both officers acknowledged they did not communicate with each other about their observation because they did not want to alert the Subject.

Officer A pointed to the front of the Subject's shorts and asked what he had in his pocket. The Subject ignored Officer A's question. The Subject stated that if he was not arrested, he could keep moving on to his business.

According to Officer A, he believed the bulge in the Subject's shorts was possibly a handgun or some type of contraband. He additionally recognized the Subject from an arrest two weeks prior, involving a use of force, in which he assisted with recovering a handgun from the Subject's waistband area. Based on the above information, Officer A came to the conclusion that the consensual encounter had now become a detention.

Officer B stated he believed the shape of the bulge in the Subject's shorts resembled that of a handgun. Based on his observation, he additionally concluded that the incident had moved from a consensual encounter to a detention. Officer B broadcast the officers' location.

Officer A again pointed to the front of the Subject's shorts and asked what he had there. Officer A stepped forward and used his left hand to reach for the Subject's right shoulder. Officer A positioned himself to turn the Subject around for a search, while directing the Subject to turn around and to place his belongings down on the ground. The Subject did not follow Officer A's instructions; instead, he pulled his right shoulder back and took a step back, avoiding Officer A's grasp. Officer A stopped his attempt to conduct a search of the Subject and continued to converse with him, advising the Subject that he was recording the incident on his BWV camera.

The Subject placed his left hand near his left pocket. Officer A told the Subject not to put his hands in his pockets. The Subject advised that he was recording the incident with his cellphone, and Officer A again advised he was also recording the incident. Officer B stated that they had the right to ask him for identification.

According to Officer A, he observed that the Subject was getting agitated. He took into account the arrest from two weeks prior, the bulge the Subject currently had to the front of his shorts, and the belief that the Subject's family lived in the front residence.

Officer A's goal was to detain and search the Subject. Officer A advised he chose not to request any additional units or backup because he was unsure what the Subject had in his possession, if he had anything at all. Additionally, Officer A felt he could talk the Subject into being detained and searched. He attempted to de-escalate the situation by advising the Subject that all he wanted to do was identify him, confirm he lived at the location, and ensure that he did not have weapons on him.

When the Subject placed his right hand in his right shorts pocket, Officer A again advised him not to place his hands in his pockets. Officer A advised the Subject that Officer B would check his identification, while Officer A was going to check with a resident in the front house, whom he had observed upon initially driving down the driveway. Officer A asked if the resident was a family member, and the Subject said she was.

**Note:** According to the resident, Witness A, the Subject was not family, nor did he live at the residence. She knew the Subject as her son's friend.

The Subject again placed his left hand in his left pocket and both officers advised the Subject not to place his hands in his pockets. Officer A then directed Officer B to search the Subject.

Officer B moved forward toward the Subject and used his left hand to attempt to grab the Subject's left arm. The Subject moved backward toward a parked car. As the Subject neared the front of the car, he stopped moving backward. The Subject moved

to his right, again avoiding Officer B's grasp, then immediately moved forward and to his left, avoiding Officer A, who had both arms stretched out toward the Subject. The Subject swung his right elbow in Officer A's direction as he attempted to run past him. Both officers were able to grab portions of the back of his shirt, arms, and body as they attempted to control him. According to both officers, they wanted to control his arms so that he could not reach the possible weapon he had in his shorts.

The Subject was bent forward, still struggling with the officers, when he dropped a firearm onto the ground at his feet. The Subject passed over the firearm, turned around, and moved back to where he had dropped the firearm. Both officers continued to struggle to control the Subject. According to both officers, they were unaware that the Subject had dropped a firearm, and this was supported by the recording on the officers' body-worn video (BWV) where Officer A could be heard saying, "What are you doing?"

At this point, the Subject was crouched, with his face facing down toward the ground, on his knees with his upper body parallel with the ground. Officer A was on top of the Subject's back. Officer A's face and BWV camera were facing down to the ground as Officer A struggled to control the Subject.

Officer A's BWV captured the Subject holding a firearm in his left hand, with the barrel pointed in Officer A's direction. According to Officer A, he could see the barrel of the gun pointed in his direction.

According to Officer A, after he observed the Subject's firearm pointed at him, he either lost his grip of the Subject or let him go, and then unholstered his firearm. As the struggle continued, Officer A observed the Subject in a standing position with Officer B in a bear hug type position behind the Subject. Officer A stated he believed he had a cross-fire situation (where he might hit his partner if he were to shoot at the suspect). He continued to struggle with the Subject while holding his firearm in his right hand.

At one point, Officer A yelled, "Gun, gun, gun! Watch out, watch out, watch out! Move, Move, Move!" Officer B heard Officer A yell, "gun," recalled the bulge to the front of the Subject's shorts, and believed the Subject was in possession of a gun. Officer B additionally heard Officer A yell something that sounded like "...get off or...push or let go." Officer B pushed the Subject away from him and stepped off to the side.

**Note:** Although Officer B would have been in a position to observe the Subject in possession of a firearm, he advised that he did not observe the firearm until after the OIS incident, while it was on the ground.

Officer B was still positioned behind the Subject, with both arms around the Subject's torso, as Officer A was struggling with the Subject's upper body, which was bent forward at the waist. Officer A was holding his pistol in his right hand as he pulled the Subject's shirt off using his left hand. Officer A stood along the Subject's left side as Officer B pushed the Subject away from him. The officers' BWV captured the Subject holding a firearm in his right hand as he is moving away from Officers A and B.

According to Officer A, he observed that Officer B had created distance from the Subject, which eliminated the cross-fire situation. He observed the Subject move a few steps, facing away from him. Officer A described the Subject turning back in his direction. He was unsure if the Subject was turning his back left or right and was unsure of the position of the Subject's firearm, as he turned his body. Officer A believed the Subject was still armed at that time and was going to shoot either him or his partner. Fearing for his and Officer B's safety and life, Officer A stated he used a standing, one-handed firing stance and fired three rounds from his pistol at the Subject as the Subject moved away from him. Officer A stated his first shot was from a close contact position.<sup>1</sup> The second and third shots were fired as he extended his arm out from the close contact position to a two-handed position. He indicated the third shot was fired prior to fully extending his arm and reaching a two-handed shooting stance. According to the audio on the officers' BWV, three quick and consecutive gunshots were fired. Officer A's BWV partially depicted him tracking the Subject's movement past him.

Officer B stated he unholstered his firearm as Officer A fired his pistol, but did not fire any rounds.

Officer B broadcast, "Shots Fired! Shots Fired! Officer needs help," and provided their location. Officer A directed Officer B to take the Subject into custody. According to the audio from the officers' BWV, Officer B inquired about the Subject's firearm. Officer A stated the Subject's firearm was located near the rear of the parked car.

Officer B holstered his pistol, while Officer A remained unholstered and provided cover. Officer B handcuffed the Subject behind his back and conducted a search but found no weapons.

Officer A broadcast a request for an ambulance and Fire Department personnel responded to the scene. They contacted and assessed the Subject, then transported him to a hospital for treatment for gunshot wounds.

### **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.

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<sup>1</sup> A close contact position is when an officer holds his pistol against his side, tilted slightly outward.

## **A. Tactics**

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

## **B. Drawing/Exhibiting**

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

## **C. Non-Lethal Use of Force**

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

## **C. Lethal Use of Force**

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

## **Basis for Findings**

- **Detention**

In this case, the officers attempted to initiate a consensual encounter. During the encounter, they observed a bulge in the Subject's shorts and believed he was possibly armed; they then immediately transitioned the contact into a detention. Officer A also recognized the Subject as the same individual who was arrested for carrying a concealed weapon two weeks prior. Believing the Subject was armed, the officers attempted to detain him. The officers' actions were appropriate and within Department policies and procedures.

## **A. Tactics**

- **Tactical De-Escalation**

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

In this case, the Subject immediately fled from the officers and produced a handgun while he was running away from the officers. When one of the officers gave the Subject commands to stop, the Subject ignored the commands and turned toward the officer with the gun in his right hand.

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

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

## 1. Tactical Communication

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

In this case, both officers independently observed a bulge in the Subject's shorts and believed he was possibly armed. In an attempt to prevent the situation from escalating, Officer A indirectly communicated to his partner his belief that the Subject was possibly armed when he asked the Subject on two occasions what was in his shorts and pointed to the bulge. When the Subject ignored the question, Officer A directed Officer B to search the Subject.

Based upon the totality of the circumstances, the BOPC determined that, while identified as an area for improvement, the officers' actions were not a substantial deviation from approved Department tactical training.

## 2. Back-up Request

Officers A and B did not request a back-up unit after developing a belief that the Subject was possibly armed. Although officers are given discretion regarding the appropriate time to broadcast, a request for a back-up unit would have been tactically advantageous based on the officers' observations.

In this case, as Officers A and B initiated contact with the Subject, they observed a bulge in the Subject's shorts and focused their attention on his actions. The Subject appeared agitated and was uncooperative while Officer A continued to verbalize with him.

Based on the totality of the circumstances, the BOPC determined that the officers' actions were not a substantial deviation from approved Department tactical training.

## 3. High-Risk Stop (Substantial Deviation – Officers A and B)

When officers encounter a suspect whom they believe is armed with a weapon, they are trained to conduct a high-risk search technique to safely take the suspect into custody. This tactic provides the officers a tactical advantage and allows them to plan, communicate, redeploy, utilize cover, give commands, and approach the suspect from a position of advantage.

In this case, Officers A and B approached the Subject and attempted to grab him after the Subject repeatedly ignored their commands and placed his hands in his shorts pockets. Officer A believed he was concealing a firearm or contraband, and Officer B also believed he was concealing a firearm.

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

- The BOPC also considered the following:
  1. Tactical Vehicle Deployment – The investigation revealed that Officer A drove the police vehicle down a long driveway to make contact with the Subject, who was sitting on the stairs of an apartment complex, thus giving him an elevated platform. The officers were reminded of the importance of deploying their police vehicle in a more tactically advantageous position.
  2. Code-Six – The investigation revealed that Officers A and B did not broadcast their location (go Code-Six) as they drove down the driveway to initiate a consensual encounter with the Subject. The officers were reminded of the importance of going Code-Six prior to initiating contact.
  3. Initiating Physical Contact While Holding a Service Pistol – The investigation revealed that Officer A had his service pistol drawn when he initiated physical contact with the Subject. Initiating physical contact while holding a service pistol may inhibit an officer's ability to fully engage and can increase the risk of a suspect getting control of the service pistol.
- 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 discuss 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 and Exhibiting**

- According to Officer A, as he looked down at the Subject, he observed a barrel of a handgun pointed up in his direction. He then tried to reposition himself away from the barrel, lost his grip on the Subject, and drew his service pistol.

According to Officer B, he heard his partner repeatedly state "gun," then directed him to get off, push, or let go of the Subject. He then pushed the Subject away, stepped off to the side, and drew his service pistol.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, when faced with similar circumstances, would reasonably believe there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

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

### **C. Non-Lethal Use of Force**

- **Officer A** - (Firm Grip and Physical Force)

According to Officer A, the Subject tried to get around them, however, a car parked in the driveway obstructed his avenue of escape. His partner grabbed the Subject's right arm while he grabbed his left arm, and a struggle ensued.

- **Officer B** - (Firm Grip and Physical Force)

According to Officer B, he grabbed the Subject's shirt or arm to stop him from fleeing. The Subject then started moving forward, trying to run past them. Thinking about the bulge in his waistband, Officer B assumed a position behind the Subject and attempted to control his arms to prevent him from reaching for his waistband.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, when faced with similar circumstances, would believe the same application of non-lethal force would be reasonable to overcome the Subject's resistance.

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

### **D. Lethal Use of Force**

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

According to Officer A, after his partner let go, the Subject started to run down the driveway and then turned back to either his left or his right. Believing the Subject was still armed and was going to shoot him or his partner, Officer A utilized a one-handed, close contact shooting position and fired three rounds from his service pistol at the Subject to stop the lethal threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, would reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would be objectively reasonable.

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