

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

**OFFICER-INVOLVED SHOOTING – 053-16**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Hollenbeck	08/09/16		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	4 years, 10 months
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**Reason for Police Contact**

Officers responded to a call of suspects vandalizing an apartment complex. Upon contact, officers attempt to detain the suspects, and a foot pursuit was initiated. One of the suspects who fled was armed with a handgun and fired a round, resulting in an officer-involved shooting (OIS).

<b>Subject(s)</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Subject 1: Male, 14 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 July 25, 2017.

## **Incident Summary**

Communications Division (CD) received a 9-1-1 call from an anonymous caller who stated that there were four male vandalism suspects to the rear of the location. CD broadcast the call to any Hollenbeck unit, advising the call was a vandalism incident with the suspects still at the location, to the rear, next to the trash bins. CD provided a description of the suspects and advised that they were under the influence of narcotics and using a black spray can to graffiti walls.

Hollenbeck Area Gang Enforcement Detail (GED) uniformed Police Officers A and B responded in a marked black and white police vehicle. On this evening, Officers A and B were deployed to work gang-related crimes. Officer B recognized the location as a known gang location for one of their assigned gangs. Officer B had been to the apartment complex on prior occasions for other gang-related activity. He informed Officer A that he was familiar with the location and told Officer A to advise CD they would handle the call. Officer A advised CD accordingly via the police radio.

Officer B discussed the various ways to approach the rear of the location with Officer A, while giving Officer A a description of the building. He also added that, generally, suspects were known to flee when the police arrive, and their common escape route was along the south walkway. They determined the best approach would be to enter the front door, if accessible, and then proceed down the long hallway to the back door.

Officer A activated his Body Worn Video (BWV) as the officers proceeded to walk to the location. They entered the front door of the building and walked east down the hallway, with Officer B activating his BWV slightly later than Officer A. The officers stopped briefly to discuss their tactics prior to confronting the suspects. Both officers agreed that if they observed a significant crime, such as a weapon, they would pursue the suspect.

From the hallway, Officer A observed, through the rear back metal mesh gate, an unidentified male (Subject 3) seated on the steps, and he heard the sound of others talking. Officer A opened the gate and entered the rear patio area, followed by Officer B. As they did so, they observed two additional males, later identified as Subject 1 and Subject 2. Subject 2 immediately turned and ran from the officers west along the apartment building, while Subject 1 grabbed his front waistband with both hands. Subject 1 then turned and began to run west, continuing to grasp the front of his waistband with both hands.

Based on Subject 1's actions, both officers formed the opinion that he was possibly armed. Officer A responded by unholstering his pistol and holding it in a two-hand low-ready position. Once Subject 1 fled west along the side of the apartment building, Officer A holstered his pistol and chased after Subject 1 on foot. Officer A turned the corner of the building, pausing briefly to ensure that Officer B was following.

Officer B observed Subject 1 flee the rear area as Subject 3, still seated on the steps, put up his hands and remained seated. Subject 3 did not appear to have anything in

his possession; therefore, Officer B joined Officer A in the foot pursuit of Subject 1 along the south walkway.

In prior discussions regarding foot pursuits, the officers had agreed that whoever was assigned contact (Officer A) would focus on the suspect, while the cover officer (Officer B) would broadcast the foot pursuit. Officer B broadcast a backup request for a "415 man with a gun."

As Subject 2 exited the west gate of the apartment complex, he turned south onto the street, while Subject 1 went north. Officer A heard Officer B yell, "Go right, go right." Officer A exited the apartment complex through the northwest gate and immediately turned right, traveling north. Officer A said that based on the information his partner was broadcasting and hearing him say, "Go right," he believed they were both chasing the same subject and that they had the similar belief that Subject 1 was armed.

The officers continued to pursue Subject 1 east onto the south sidewalk of the next cross street. Officers A and B maintained visual contact with Subject 1 until Subject 1 turned right onto the next cross street. Officer A heard Officer B following behind, broadcasting the foot pursuit information. At the time of the foot pursuit, there were several open businesses on the street and multiple pedestrians walking on the sidewalk.

As Officer A ran after Subject 1, he twice ordered him to, "[s]top running," but he did not comply. Subject 1 continued to run east, while grasping his waistband with both hands and looking back over his shoulder, toward the officers. According to Officer A, Subject 1's actions of continuously grabbing his waistband, looking back at them, and refusing to comply with his orders, further validated his belief that Subject 1 was armed with a gun.

As Subject 1 continued running east, a white and silver 4-door vehicle, driven by Witness A, was traveling in the same direction. Also inside the vehicle were front passenger, Witness B and right rear passenger, Witness C. Witness A drove past Subject 1 and the officers with the intent to negotiate a right turn onto the cross street. Witness A said she saw the officers chasing Subject 1, who was running holding onto his shorts, and believed they were intending to cross the street and continue east. Not wanting to interfere, Witness A slowed her vehicle and stopped prior to turning southbound onto the cross street at the pedestrian crosswalk.

Witness A said her driver side window was completely down, the front passenger window was half-way down, and the rear windows were closed. Witness A waited for Subject 1 and the officers to pass in front of her, but Subject 1 instead turned right onto the cross street, running south on the west sidewalk.

Witness A stated, "When I got to half of the block I was able to see a young guy - young kid with a gray shirt, light-gray shirt. He was running and I hear the officers, "Stop, don't run. Stop." And I was going to make a turn on [cross street] but I stopped. I totally

stopped because I - I thought they were going to go straight. I didn't want to run over them or interfere with their chase but I [saw] he made a turn. The kid made a turn."

As Subject 1 neared the end of the building, Witnesses A, B, and C, who were still stopped, said they observed Subject 1 throw a handgun. Per the witnesses, the handgun struck the fence and fell to the ground next to Subject 1, at which time they heard a gunshot. At that time, according to Witness A, Subject 1 seemed startled and turned toward the officers, who had not yet turned the corner, and bent down with his arms outstretched in a northern direction, toward the officers' direction. The officers then turned the corner onto the cross street, at which time Officer A fired his pistol, and Subject 1 fell to the ground.

Witness C stated the bullet struck a car, causing a car alarm to activate. Witness B initially stated she only heard the gunfire and did not see the object fall to the ground, although she stated the gun fired when it struck the sidewalk. Witness B later stated she observed the gun strike the gate and heard the sound of the gate being struck. She then observed the gun fall to either the sidewalk or the dirt parkway and discharge. Witness B did not see Subject 1's position after he threw the object, but saw that he turned toward the officers. Witness A stated she yelled, "no" to the officers when she observed Subject 1 throw the gun, as they had not yet turned the corner onto the cross street; this comment could not be heard on a review of the officers' BWV.

Minutes before Subject 1 turned onto the cross street, Witness D was inside her blue 4-door vehicle, seated in the driver seat and parked along the east curb of the street, facing north. The vehicle was positioned approximately 75 feet south of the cross street. Witness D said she was speaking with a friend by phone, with the windows up, when she saw Subject 1 turn the corner, running south on the street toward her from the cross street.

Witness D observed an officer with his gun drawn and another officer using the police radio, chasing after Subject 1. While running south, Subject 1 raised his right arm over his shoulders, in an upward and northern direction, to fire what she believed to be a BB gun with a long thin barrel. Witness D believed Subject 1 fired two to three times while he had the gun in his right hand, moving his right hand over his left shoulder, head and right shoulder behind him, toward the cross street as he continued to run. Witness D believed he was shooting at birds, as she saw what appeared to be a possible blackbird fall from the fence, west of Subject 1's location, after Subject 1 fired the gun. Subject 1 then stopped and turned toward the building with the gun in his hand. Witness D believed that as Officers A and B turned the corner, Subject 1 fired additional shots toward the officers. Witness D further believed that an officer (Officer A) then returned fire, and Subject 1 fell to the ground.

Witness D stated the officers gave verbal warnings prior to the shooting while Subject 1 continually fired at the officers.

**Note:** The investigation determined that one round was fired; a revolver recovered at scene contained one discharged cartridge case and eight live cartridges in the cylinder, with two cartridges having light primer strikes.

Witness D stated, “[Subject 1] was reaching over both his shoulders and above his head. At first I thought he was shooting at the sky, because I thought he was shooting birds or something. And that’s when I saw two officers a couple seconds later running behind him. He stopped for a second in front of the vehicle where he was shot.”

As Officer A neared the corner, he slowed down, unholstered his pistol, and brought it into a two-hand low-ready position. Simultaneously, he heard his partner tell him to move around the corner. As Officer A was approximately one foot from the corner, the officers heard a single gunshot. Both officers then knew Subject 1 was armed with a gun and believed he fired the shot in their direction. Officer B immediately positioned himself against the building, unholstered his pistol, and held it in a two-handed, low-ready position.

Officer B broadcast that shots had been fired and requested “officer needs help” at their location. At that point, Officer A believed that Subject 1 had stopped running and was positioned immediately around the corner, ready to fire additional rounds at him or come around the corner and engage him.

Officer A believed he had no other options to stop Subject 1’s deadly threat but to turn the corner and engage him. When Officer A turned the corner, he observed Subject 1 squatted down in a seated position, with his torso to the east. His head was facing north, and his right arm was fully-extended in Officer A’s direction. Officer A stated he did not focus on Subject 1’s hand, but believed he was still armed, because he believed Subject 1 had already fired one round in the officers’ direction. Officer A, fearing for his life, held his pistol with both hands, aimed and fired two consecutive rounds at Subject 1 in a southern direction, from an approximate distance of 58 feet. The bullets impacted Subject 1’s torso.

From Officer B’s position, which was approximately nine to 10 feet west of Officer A, Officer B observed Officer A moving around the corner, then heard two shots fired. Officer B was not able to see south onto the cross street or see Subject 1 from his position.

After the shots were fired, Officers A and B approached Subject 1. Subject 1 was lying supine on the sidewalk. The officers gave verbal commands to Subject 1 not to move as they approached. As they neared Subject 1, they observed a black revolver on the ground, west of Subject 1 on the interior (west) side of a wrought iron fence.

Officer B requested a Rescue Ambulance (RA) via his police radio. As additional police officers arrived, Officer B holstered his weapon and, along with Hollenbeck Patrol Division uniformed Police Officer C, handcuffed Subject 1 and conducted a pat down

search while Officer A provided cover. Officer A then advised CD that Subject 1 was in custody. Officer A then holstered his pistol.

Hollenbeck Patrol Division uniformed Police Officers D and E responded to the location and secured the parking lot where Subject 1's revolver was located.

Hollenbeck Patrol Division Sergeant A arrived, separated Officers A and B, and obtained a Public Safety Statement (PSS) from Officer A. Hollenbeck GED Sergeant B responded and obtained a PSS from Officer B. Hollenbeck Patrol Division Sergeant C designated himself as the Incident Commander (IC) via CD.

Officer A advised responding units, via CD, of an outstanding suspect (Subject 2), along with a description and last known location. Subject 2 was observed by Hollenbeck Area officers and was detained for positive identification. Officer A was transported to their location by Sergeant A and identified Subject 2 as the second suspect who fled from the rear of the original location along with Subject 1. Subject 2 was transported to Hollenbeck Station, where he was interviewed and released to his mother.

Force Investigation Division detectives interviewed Subject 2, who stated he was to the rear of the location with only his ten-year-old brother. He denied anyone else being present. When the police entered the area, he ran west on the south walkway, followed by the police. Subject 2 then ran from the rear of the location until he was detained by the police.

LAFD personnel arrived at scene to treat Subject 1, however, Subject 1 did not respond to the treatment and was determined to be deceased at the scene.

### **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, by a vote of 3 to 1:

#### **A. Tactics**

The BOPC found Officer A's tactics to warrant Administrative Disapproval. The BOPC found Officer B's tactics to be in policy and to warrant a Tactical Debrief.

## **B. Drawing/Exhibiting**

The BOPC found Officers A and B'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**

### **Detention**

- Officers A and B responded to a radio call of vandalism suspects to the rear of an apartment building. Upon their arrival, they observed three individuals matching the description of the suspects in the comments of the radio call. As the officers approached to investigate, two of the suspects fled, resulting in a foot pursuit. The officers' actions were appropriate and within Department policies and procedures.

### **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 officers were faced with a rapidly unfolding tactical situation when Subject 1 grabbed his waistband and fled out of the apartment complex onto a busy pedestrian sidewalk. Believing that Subject 1 was possibly armed with a weapon, the officers pursued him, while broadcasting and repeatedly ordering Subject 1 to stop running.

Subject 1 ignored the officers' commands and fled around the corner of a building out of the officers' view. As the officers approached the corner of the building, they heard a gunshot and believed Subject 1 was shooting at them. As one of the officers stepped around the corner, he observed Subject 1 with his right arm extended out toward the officer's direction and believed that Subject 1 was still holding the gun and was going to shoot him. Faced with what he reasonably believed to be an imminent threat of serious bodily injury or death, the officer utilized lethal force to address the deadly threat.

### **A. Tactics**

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

## **1. Pursuing Armed Suspects**

Officers A and B went in foot pursuit of a suspect they believed was possibly armed with a weapon.

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.

It is the BOPC's expectation that officers are decisive in their actions during a rapidly unfolding, life-threatening situation, while taking into consideration police work is inherently dangerous.

In this case, the officers were dealing with a non-compliant subject (Subject 1), who was running down a public street, and dodging pedestrians. The officers attempted to minimize the threat to the public by pursuing Subject 1 together, in containment mode, while broadcasting necessary information for units to respond and assist with the containment of Subject 1.

The BOPC determined that Officers A and B's actions were reasonable and their decision to pursue Subject 1 was in the best interest of the public's safety and was not a substantial deviation from approved Department tactical training.

## **2. Utilization of Cover**

The utilization of cover enables officers to confront an armed suspect 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 made a split-second decision to move away from cover to engage a subject whom he believed was an immediate threat to his life. He believed Subject 1 was going to come back and pop out from around the corner and shoot him. At that moment, he felt he did not have the opportunity to communicate his intent to his partner.

Based upon the totality of the circumstances, the BOPC determined that in this circumstance Officer A's decision to leave cover and to engage Subject 1 was a substantial and unjustified deviation from approved Department tactical training and warranted Administrative Disapproval. The BOPC determined that Officer B's tactics were not a substantial deviation from Department tactical training and found his tactics to warrant a Tactical Debrief.

- The BOPC also considered the following:



## 1. Foot Pursuit Broadcast

The investigation revealed that Officer B broadcast an incorrect unit designation. In addition, when the officers initiated the foot pursuit, Officer B broadcasted a back-up request, but never identified that the officers were in foot pursuit. The officers are reminded of the importance of broadcasting the correct unit designation and circumstances when faced with a critical incident.

## 2. Simultaneous Commands (Non-Conflicting)

The investigation revealed that Officers A and B were giving simultaneous commands to Subject 1. Although the commands were non-conflicting, the officers are reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

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 also 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 the officer's individual actions that took place during this incident.

The BOPC found Officer A's tactics to warrant Administrative Disapproval. The BOPC found Officer B's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

- According to Officer A, as he exited the rear door of the apartment building, Subject 1 immediately caught his attention because one of his hands went to his waistband. Based upon his movement, Officer A believed Subject 1 was armed with a weapon and drew his service pistol.

According to Officer A, as Subject 1 continued to run, he was convinced Subject 1 was armed. As he came up to the corner where the OIS occurred, he drew his service pistol, and within seconds, he heard a single gunshot.

According to Officer B, he heard one gunshot coming from a southeast direction and believed Subject 1 was shooting at he and his partner. Officer B immediately broadcast a help call and then drew his service pistol.

Based on the totality of the circumstances, the BOPC determined an officer with similar training and experience as Officers A and B, 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.

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

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

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

According to Officer A, he observed Subject 1 in a squatting position, facing him, bladed at a 45-degree angle towards the corner with his back towards the street. Subject 1 was not moving and had his right arm extended out toward Officer A's direction. At that moment, he believed that Subject 1 was still holding the gun and was going to shoot him. In fear for his life, he fired two rounds at Subject 1 to stop the deadly threat.

*Officer A indicated he could "clearly hear a shot. Which just confirmed [Subject 1] was armed. There is no doubt in [Officer A's] mind. What really hit me at that point was I thought he, I thought, at that moment, I thought he stopped running [...] now he's coming back at me.*

*"So, I came out. And when I came out, it was the way he bladed towards me and the way his arm was like extended out. I still believed he was still armed with that gun and he was going to fire a second round at me, so that's when I made the decision to use deadly force and fire at him."*

The BOPC reviewed all the evidence in this case, including the statements of all the eyewitnesses at the scene. 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 presented an imminent threat of death or serious bodily injury and the use of lethal force would be objectively reasonable to stop the threat.

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