

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

**OFFICER-INVOLVED SHOOTING – 055-16**

<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>
Southeast	08/16/16		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	9 years, 8 months

**Reason for Police Contact**

While assigned to a robbery suppression detail, a Motorcycle Officer attempted to conduct a traffic stop on a suspicious vehicle that had committed several vehicle code violations. When the vehicle pulled to the curb, a passenger got out and began to run from the officer. As the officer watched the Subject, it appeared that he was armed. The officer went in pursuit of the fleeing Subject, who produced two pistols as he ran, resulting in an officer-involved shooting (OIS).

<b><u>Subject(s)</u></b>	<b><u>Deceased (X)</u></b>	<b><u>Wounded ( )</u></b>	<b><u>Non-Hit ( )</u></b>
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Subject: Male, 18 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**

On the date and time noted, uniformed Police Officer A was conducting regular patrol on his police motorcycle. He observed a vehicle with windows that were heavily tinted and with no front license plate. Officer A also observed that the rear license plate was a paper plate.

Officer A had been assigned to monitor the immediate area for robbery suppression. He had been specifically briefed on the types of vehicles that had been reportedly used during robberies in the area, notably vehicles without license plates and having tinted windows. Street robberies were also reportedly being frequently committed near bus stops in the area. Officer A had also been made aware of a shooting in the vicinity that had occurred the day before but could not recall specific details of the incident.

Officer A conducted a U-turn to conduct a traffic stop for the observed equipment violations. Upon doing so, he noticed the driver's window to be slightly open, and the driver appeared to look in his direction. The vehicle accelerated and negotiated a right turn. As Officer A followed, the vehicle had already reached the next intersection approximately 600 feet away.

Officer A arrived at the intersection and observed the vehicle again turn. After making the turn, Officer A observed the vehicle negotiate another right turn, returning to the street where he had initially seen the vehicle.

Officer A briefly activated his forward-facing red light, but almost immediately shut it off due to the distance of separation between the vehicle and his location. Although he suspected criminal activity based on his observations of the vehicle, Officer A decided not to pursue the vehicle based solely on the equipment violations and did not reactivate his emergency lights during the remainder of the incident.

Officer A negotiated a right turn in an effort to monitor the vehicle's progress. He observed the vehicle maneuver from the number one lane to the east curb of the street and pull up next to a bus stop. A male, later identified as the Subject, exited the passenger side of the vehicle and walked under the awning of the bus stop, then onto the property of a gas station located at the corner of the intersection.

The Subject continued through the gas station property with both hands concealed under the front of his sweatshirt at his waistband. The unidentified driver of the vehicle sped away, out of Officer A's view.

Officer A pulled into the gas station via a driveway at the edge of the property. Based on the evasive actions of the driver of the vehicle and his observation of the Subject appearing to be holding something under his sweatshirt, Officer A, from approximately 10 feet away, ordered the Subject to stop and to show his hands.

The Subject turned his head and looked at Officer A over his right shoulder and began to run through the gas station, then onto the sidewalk, where he continued to flee. As he ran, the Subject continued to hold his hands under his sweatshirt. Based on Officer A's experience as a law enforcement officer, the prior information he had received about the type of vehicles being used to commit robberies in the area, and the Subject's behavior, he formed an opinion that the Subject was possibly concealing a gun in his waistband.

Officer A broadcast that he was in foot pursuit of a man with a gun, and then exited the gas station onto the street behind the Subject.

Officer A rode behind the Subject in the number 3 lane (the lane closest to the curb) remaining offset and behind the Subject. Officer A intended to stay out of the Subject's line of sight and maintain distance. Again, Officer A ordered the Subject to stop and show his hands. Officer A was unable to estimate the speed he was traveling, but stated that the Subject was running at full stride.

During his interview, Officer A was asked if he considered setting up a perimeter rather than continuing to follow the Subject. Officer A stated that he was still able to see the Subject, but if the Subject would have moved through the houses along the street, he would have stopped and set up a perimeter.

Officer A observed the Subject remove his hands from his waistband and begin running at a normal gait with his arms moving back and forth, from side to side. As the Subject began to slow his pace, Officer A observed that he was holding a small, semiautomatic handgun in his left hand and another handgun in his right hand.

At that point, Officer A discontinued acceleration by releasing the throttle of his motorcycle, engaged his clutch, and began to slow his forward progress. According to Officer A, his attention was drawn to the stainless-steel handgun in the Subject's right hand because of its longer barrel. A stainless-steel revolver was later recovered from the scene.

The Subject turned to his left, at the waist, toward Officer A, and looked at him. The Subject held the handgun that was in his right hand slightly above waist level, with his right elbow bent, pointing it at Officer A. The Subject simultaneously veered into a driveway between two residences on the street.

At that moment, while his motorcycle was still in motion, Officer A unholstered his weapon, believing the Subject was going to shoot him. Holding his pistol in a one-handed grip with his right hand and his right arm extended out from his body, Officer A aimed at the center of the Subject's body, at the left side of his back as the Subject turned, with the pistol, in his direction. While seated on his motorcycle, Officer A fired two consecutive rounds from an increasing distance of approximately 20 to 30 feet, as the Subject continued running, striking him once on the left side of his back. The Subject fell to the driveway, dropping the two handguns on the ground.

As Officer A slowed, the momentum of his motorcycle carried him slightly west of the driveway. He laid his motorcycle onto its left side in the southern-most lane of traffic and redeployed west of the mouth of the driveway to cover the Subject from a vantage point out of the Subject's line of sight.

Officer A broadcast his location, that shots had been fired, and that an officer needed help. Approximately 40 seconds later, he requested the response of a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) for a male with a gunshot wound.

According to Witness A, he was traveling eastbound on the same street as the officer. As he passed the intersection, he observed the Subject running from the gas station at the corner of the intersection. Witness A slowed his vehicle and observed the Subject holding a large handgun in his right hand and a smaller handgun in his left hand as the Subject continued eastbound on the sidewalk. Witness A believed that both handguns were semiautomatics.

Witness A then observed Officer A pull along the right side of his vehicle, between himself and the Subject. He observed the Subject turn to his left and look over his left shoulder in Witness A's direction. The officer raised his right arm, at which time Witness A heard two consecutive gunshots.

According to Witness A, the Subject was running with his arms moving in a circular motion, and his guns were pointed east when the OIS occurred. Witness A did not hear any verbal exchange between Officer A and the Subject.

Witness A then observed the officer lay his motorcycle on the ground and move west of the driveway while pointing his weapon at the Subject. He recalled observing the Subject laying in the driveway with his head pointing south and the two handguns on the ground, approximately three feet to the east.

According to Witness B, he heard a voice yell, "Get Down!" and "Stop moving!" He began to walk to his front door when he heard two consecutive gunshots. From his doorway, Witness B observed the Subject fall to the ground.

According to Witness B, the Subject's right side was exposed to Officer A. He did not see Officer A until after hearing the gunshots. He did not see anything in the Subject's hands.

Witness B observed Officer A standing approximately eight feet from the Subject, holding his pistol toward the ground in the Subject's direction, and remaining there until additional officers arrived. He did not observe handcuffs being placed on the Subject.

Officer B arrived at scene followed by Officer C. Additional officers arrived to the scene in support of the other officers. After assessing the scene, Officer B guided Officer A to

the cover of Officer D's vehicle. Officer D, upon his arrival, had pulled his vehicle into the mouth of the driveway, facing toward the Subject.

Sergeant A arrived at the scene and identified Officer A as having been involved in an OIS. Sergeant A remained with Officer A, toward the rear of Officer D's vehicle, immediately upon identifying him as having been involved in an OIS. He separated Officer A from the other officers once the Subject was in custody.

As directed by Sergeant A, Officers B, C, E, F, G, and H, formed an arrest team and approached the Subject to place him into custody. As the other officers provided cover, Officers E and H, designated as contact officers, holstered their pistols and placed the Subject in handcuffs with the assistance of Officer B.

When Officer E observed that the Subject was bleeding from his mouth and nose, he rolled the Subject onto his right side to assist his ability to breathe and held onto him in that position until the arrival of the RA.

Sergeant B arrived at the scene. Sergeant A communicated to Sergeant B that he would assume monitoring responsibility of Officer A. Sergeant A walked Officer A to his black and white police vehicle, obtained a Public Safety Statement (PSS), and later transported Officer A to the station.

Sergeant B assumed the role of Incident Commander (IC) and established a crime scene. He assigned officers to specific positions and ensured that the handguns in the driveway were monitored.

A Los Angeles Fire Department RA arrived at scene to the scene. The RA was in the area when they were waved down by officers at scene and had not been assigned the call. Upon their initial assessment of the Subject, they identified a single gunshot wound. Per LAFD protocol, they requested an Advanced Life Support (ALS) RA response via LAFD dispatch.

A second LAFD RA arrived at the scene. Upon the Fire Department personnel's assessment, they found that there were no signs of life and determined the Subject to be deceased. The Subject was transported to the Los Angeles County Morgue by the second LAFD RA.

Officers E and F spoke with the family that resided at the home adjacent to the shooting, to ensure their safety by ascertaining whether one of Officer A's rounds penetrated their home. They determined that no rounds penetrated the home, and the residents only heard gunshots and did not witness the OIS. The subsequent FID investigation confirmed their findings.

FID detectives responded to the scene and reviewed all documents and circumstances surrounding the separation, monitoring, and admonition to officers not to discuss the

incident prior to being interviewed by FID investigators. All protocols were followed and properly documented.

### **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's tactics to warrant a Tactical Debrief.

#### **B. Drawing/Exhibiting**

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

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

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

### **Basis for Findings**

#### **Detention**

- Officer A observed a black vehicle travelling northbound on the street without a front license plate and illegal tinted windows in violation of California Vehicle Code (CVC), Sections 5200(a), Display of Plates, and 26708, Windshields, respectively. Based on his observations, he decided to stop the driver of the vehicle for the two violations. When the driver pulled over to the curb, a Subject exited the vehicle and fled on foot, while continuing to conceal both hands in his front waistband area. Believing the Subject was concealing a weapon, Officer A pursued the Subject. The officer's 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 officer was faced with a rapidly unfolding tactical situation when the Subject exited the vehicle with his hands concealed in his waistband. When Officer A ordered the Subject to “stop and show his hands,” the Subject failed to comply and fled on foot. As the officer followed the Subject, he continued to give the Subject commands to stop and put his hands up. The Subject failed to comply and then armed himself with a handgun in each hand.

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

## **A. Tactics**

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

### **1. Code Six**

Officer A did not advise Communications Division (CD) of his Code Six location prior to conducting a pedestrian stop on the Subject.

The purpose of going Code Six is to advise CD and officers in the area of the officers' location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

Officers are required to balance officer safety considerations against the need to make a timely Code Six broadcast. Officers must be afforded some discretion in determining the appropriate time to make their broadcast. Department tactical training allows for officer safety concerns to take precedence over making an immediate Code Six broadcast.

In this case, the driver of the vehicle had pulled over to the curb on his own and then the Subject exited the vehicle with his hands concealed in his waistband. Believing that the Subject was possibly concealing a weapon, Officer A focused his attention on the immediate threat and ordered the Subject to stop and to show his hands. When the Subject ignored his commands and fled through the gas station property, Officer A immediately broadcast that he was in foot pursuit.

Based on the totality of the circumstances, the BOPC determined that in this situation, Officer A's actions were reasonable and consistent with approved Department tactical training.

### **2. Pursuing Possibly Armed Suspects**

Officer A followed a suspect on his police motorcycle that he believed was possibly armed with a weapon.

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 observed the Subject exit the vehicle with his hands concealed in his waistband and believed he was possibly armed with a weapon. When the Subject fled, Officer A continued to give the Subject commands to stop and put his hands up, while also tactically positioning his motorcycle in the roadway where he was offset to the rear of the Subject and out of his direct line of sight.

When the Subject armed himself, Officer A immediately rolled back on the throttle and pulled in the clutch to slow his motorcycle and create additional distance from the threat.

Based upon the totality of the circumstances, the BOPC determined that Officer A's actions were reasonable and was not a substantial deviation from approved Department tactical training.

These topics were 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.

Therefore, the BOPC found Officer A's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

- According to Officer A, he observed the Subject produce a handgun in his left hand and the long barrel of another handgun in the Subject's right hand. Fearing that the Subject was going to shoot him, he drew his service pistol.

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



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

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

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

According to Officer A, the Subject was still turning towards him. He observed that the Subject was looking directly at him and the barrel of the handgun was moving towards him. Fearing that the Subject was going to shoot him, Officer A fired two rounds at the Subject to stop the 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 lethal use of force would be objectively reasonable to stop the threat.

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