

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

OFFICER-INVOLVED SHOOTING – 061-18

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
Harbor	11/11/18		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	19 years, 10 months
Officer B	18 years, 3 months

Reason for Police Contact

Uniformed officers were on patrol when they heard shots being fired and observed two armed subjects fleeing on foot from an ADW. One of the subjects turned and fired at the officers resulting in an officer-involved shooting (OIS).

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject 1	Male, 18 years of age		
Subject 2	Male, 17 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.

The following incident was adjudicated by the BOPC on October 8, 2019.

Incident Summary

Officers A and B were patrolling in an unmarked, dual purpose police vehicle. They were deployed to conduct crime suppression duties.

Residential security video captured a blue Hyundai Sonata driving down the street. As the Hyundai stopped just north of the parking lot entrance to a Park Recreation Center, one suspect exited from the front passenger door, while a second suspect exited the left rear passenger door. The suspects were identified as Subjects 1 and 2. They walked in the parking lot toward the side of the park's recreation center, while the Hyundai's unidentified driver continued driving. The driver conducted a three-point turn, and then again continued driving.

Officers A and B approached the T-intersection as the Hyundai completed its three-point turn. The officers conducted a right turn and followed behind the Hyundai, which ultimately stopped, just south of the parking lot entrance.

Unbeknownst to the officers, the Subjects had just approached two victims on one side of the recreation center and fired multiple shots at them. The victims were later identified as Witnesses A and B. Witness A and Witness B were conversing on one side of the recreation center when the Subjects approached them. At the time this occurred, Witness A was recording herself on her cellphone and captured a portion of the shooting on video. One subject can be heard yelling, "What's up homie!" followed by the sound of gunshots. Witness A and Witness B believed the Subjects fired approximately four to five gunshots at them. Witness A was struck in her left calf area and fell to the ground with Witness B. They both then stood up and fled toward a playground area in the park. The Subjects ran toward the parking lot.

As Officers A and B continued toward the entrance to the parking lot, they heard approximately 2-5 popping sounds coming from within the park. According to the officers, they briefly questioned each other as to whether the sounds they heard were fireworks or gunshots. Officer A indicated he/she did not initiate a broadcast at that point, because he/she had experienced many occasions in the past where he/she had heard sounds he/she initially thought were gunfire, but later turned out to be fireworks. Officer A wanted to be sure the sounds were not fireworks before he/she initiated a radio broadcast.

Security video captured the subjects walking toward the recreation center. Moments later they can be observed running toward the parking lot in the direction of the officers.

The following is an account of each officer's observations and specific actions during the OIS and their statements regarding their use of deadly force. It does not represent the sequence in which the officers discharged their weapons:

Officer B stated that as he/she approached the driveway of the parking lot, he/she observed the subjects running and was unsure if they were victims or suspects. Officer B asked Officer A, "Did you see that?" but did not recall if Officer A replied. Officer B

then made a left turn into the parking lot and observed the Subjects running in his/her direction.

Officer B described one of the individuals as taller and thinner [Subject 2] than the other [Subject 1]. Officer B focused on Subject 2, who was holding a black handgun in his right hand extended out in front of him, parallel to the ground. Officer B observed the muzzle of the handgun pointed in his/her direction, heard at least two gunshots and believed he/she was being fired at.

Officer B placed the vehicle in park in the driveway and quickly exited, because he/she believed he/she would be killed if he/she remained inside. Officer B unholstered his/her pistol, took a position of cover behind his/her driver's door and immediately returned fire using a two-handed shooting grip. Officer B fired approximately two rounds at Subject 2, from an approximate distance of 45 feet. Subject 2 then ran diagonally through the parking lot in a southwesterly direction. Officer B stopped firing to reacquire his/her pistol sights. In an effort to utilize the engine block as cover, Officer B redeployed around his/her driver's door to the front left wheel well of his/her vehicle. Officer B observed Subject 2 continuing to run with his arm extended and the gun pointed in his/her direction. Officer B used a two-handed shooting grip and fired an additional two to three rounds at Subject 2 in rapid succession, from an approximate distance of 34 feet. Officer B lost sight of Subject 2 as he ran between vehicles parked along the east curb of the street. Officer B then turned his/her attention to Subject 1 and observed him collapse on the grass area near the sidewalk. Officer B did not see Subject 1 with a gun and did not know if he was armed.

Officer A recalled that as Officer B turned into the recreation center parking lot, he/she stated "Oh, there they are. Here they come." The combination of hearing possible gunshots and observing subjects running in his/her direction, caused Officer A to unholster his/her firearm because he/she believed the situation could escalate to a situation involving the use of deadly force.

Security video captured Subject 1 momentarily falling to the ground as he started to run across the parking lot. He quickly rose to his feet and continued running. Neither officer indicated they observed this occur.

Officer A stated that the time he/she heard possible gunshots, until when he/she first observed the subjects, was very short. He/she felt he/she had to decide between broadcasting they were Code Six and drawing his/her pistol to protect himself/herself. Officer A chose to do the later.

Officer A observed Subject 1 holding a dark colored gun in his right hand with his right arm positioned along the right side of his body. Officer A then observed Subject 1 raise his gun, point it in his/her direction, and fire. Officer A heard gunfire and saw muzzle flash and believed Subject 1 was shooting at him/her. Immediately following, Officer A observed muzzle flash in front of Subject 2, which caused Officer A to believe both subjects were shooting at him/her.

Officer A felt a bullet impact their police vehicle, as well as heard what he/she believed was a round travel over the top of him/her. Officer A was afraid for his/her life and immediately exited his/her vehicle and assumed a left kneeling position behind the passenger door.

Using a two-handed shooting grip, Officer A fired one to two rounds at Subject 1 from an approximate distance of 51 feet. Subject 1 then began running diagonally through the parking lot. Although Officer A believed both subjects were firing at him/her and running together, Officer A focused on Subject 1, because Subject 1 was closer to him/her, and fired a second volley of 1-2 rounds from the same kneeling position.

Officer A noted that as the subjects advanced toward his/her side of the vehicle, the cover that had been provided by his/her passenger door began to diminish. Officer A did not redeploy however, because he/she felt he/she did not have time to do so. As Subject 1 continued to run in a southwesterly direction, he reached a grassy area between the parking lot and sidewalk. Officer A observed that Subject 1 was still pointing a gun at him/her and responded by firing an additional four to five rounds at him from an approximate distance of 47 feet. Officer A observed Subject 1 then fall to the sidewalk near his/her position.

Officer A redeployed from behind his/her passenger door and joined Officer B on the driver's side of their police vehicle. Approximately eight seconds after Subject 1 fell to the ground, Officer B broadcast, "Officer needs help! Shots fired! Shots fired!" Officer A then broadcast the officers' location.

Officer A did not activate his/her BWV until moments after the OIS. As a consequence, the first two minutes of his/her video, which captured a portion of the OIS, were recorded without sound.

<C:\Users\N3201\AppData\Local\Microsoft\Windows\INetCache\Content.Outlook\76Z80VB3\Video\Video 5.mp4>

Security video captured the Hyundai fleeing south [presumably with Subject 2] from the parking lot entrance. The vehicle then turned and drove out of view.

Meanwhile, Officer A noted that his/her pistol was out of battery and ejected his/her empty magazine near the left rear wheel well of the officers' vehicle and conducted an out of battery speed reload. After Officer A reloaded his/her pistol, Officer B conducted a tactical reload of his/her pistol and left the partially loaded magazine on the hood of the officers' vehicle.

Officer A then holstered his/her pistol and utilized his/her cell phone to obtain the officers' exact location. Officer A then broadcast the officers' updated location. We are going to need a perimeter around this area. We have two subjects down. Have units to respond southbound [...]."

Officer A recalled seeing Subject 2 dip down, which caused him/her to believe that both subjects had gone down to the ground.

Both officers observed Subject 1 crawl toward the curb of the street and in between parked vehicles. Officer A unholstered his/her firearm again and redeployed behind the cover of parked vehicles located on the side of the street and observed Subject 1 lying in the street. In an effort to triangulate on Subject 1 and obtain a better vantage point to observe him, Officer B also redeployed and moved to the opposite side of the street, behind a parked minivan.

From his/her position of cover, Officer B instructed Subject 1 to keep his hands where he/she could see them and requested a rescue ambulance (RA) on the Subject's behalf. The officers maintained their positions while waiting for additional units to arrive. Approximately two minutes later, Officer A initiated a broadcast indicating there was one outstanding subject who was last seen running south.

Unbeknownst to the officers, Subject 2 entered the Hyundai and was driven out of the area by an unknown individual. Subject 2 walked into a Medical Center with a gunshot wound to his right rear upper shoulder.

Sergeant A was the first supervisor to arrive at scene. He/she was followed shortly thereafter by several other LAPD officers and officers from a neighboring police department.

Subject 1 was not physically searched upon being taken into custody. According to Officer A, Subject 1's shirt had risen up and exposed his stomach and his pants had fallen down below his waist and partially exposed his buttocks. During the handcuffing procedure, Officer A rolled Subject 1 from his back to his stomach, which allowed him to visually clear his waistline area. Officer A indicated that Subject 1 appeared to be seriously injured and did not want to move him any further.

Sergeant B arrived at scene and contacted Officer B. Officer B advised that the officers had been involved in an OIS and that his/her partner was taking the subject into custody. Sergeant B requested that a non-involved officer stand by Officer B and replace Officer A. Sergeant B then began providing direction to officers at scene on several activities that were occurring, such as the establishment of a perimeter, protecting evidence and the ingress of the RA unit. Sergeant B also requested additional supervisors respond to the scene and collected the involved officers BWV cameras, while simultaneously receiving information that potential subjects were detained in the perimeter, and that a gunshot victim had shown up at a local hospital.

When Subject 2 presented himself at Medical Center, hospital staff alerted Communications Division (CD), who in turn notified assisting officers.

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). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

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

C. Lethal Use of Force

The BOPC found Officers A and B's lethal use of force to be In Policy.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Use of Force Policy, Los Angeles Police Department Manual.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in Graham v. Connor, 490 U.S. 386 (1989), that:

"The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation."

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a Subject and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. 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. (Tactical De-Escalation Techniques, October 2016.)

A. Tactics

Tactical De-Escalation

- *Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques).*

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 immediately confronted with two armed subjects who fired upon them without warning or provocation. Due to the rapidly unfolding event, the officers were unable to establish any lines of communication with the subjects prior to the OIS. When they were faced with an imminent threat of serious bodily injury or death, the officers reacted to the subjects' actions and utilized lethal force to stop the deadly threat.

Subject 1 was struck by an officer's gunfire and collapsed, while the second subject fled from the area. Once feasible, the officers lowered the intensity of the situation by immediately redeploying to alternate cover, which allowed the officers more time to assess, communicate with each other and to formulate a tactical plan. The officers utilized lines of communications with each other and Subject 1 by communicating Subject 1's location, movements, and position with one another and advising Subject 1 to show his hands and to not move. Additionally, the officers communicated with one another regarding their own actions, such as the reloading of their service pistols and their redeployment to positions of cover. The officers requested additional resources to their location and waited behind cover for their arrival, thus allowing for a methodical and safe approach and eventual handcuffing of Subject 1.

Upon the arrival of additional resources, the officers further assessed the situation and formulated a plan to approach the injured Subject 1, utilizing a ballistic shield as cover. After establishing contact and cover roles, and with consideration of the preservation of life, the officers approached Subject 1 to take him into custody without unnecessary delay, thereby allowing him to receive medical treatment as soon as possible.

- In evaluating this incident, the BOPC noted the following tactical considerations:

1. Code Six

Officers A and B did not advise Communications Division (CD) of their Code Six location prior to engaging the subjects.

In this case, the officers were reassigned to conduct crime suppression in an area unfamiliar to them. The officers heard the sounds of what they believed to be either gunshots or fireworks coming from the area of the recreation center. The officers briefly communicated with one another regarding the nature of the sounds, and then observed the subjects running toward them as they turned into the parking lot. The incident rapidly escalated as the subjects fired upon the officers.

Based on the totality of the circumstances, the BOPC determined that Officers A

and B not advising CD of their Code Six location was a substantial deviation, with justification, from approved Department tactical training.

The BOPC also considered the following:

1. Searches of Arrestees

The investigation revealed that Officer A did not complete a search of Subject 1 when he was taken into custody because Officer A could see portions of Subject 1's front and rear midsections. Officer A also believed that Subject 1 was seriously injured and did not want to move him until the RA was at-scene. It was noted that Officer A also did not advise responding officers that a thorough search had not been completed due to Subject 1's injuries.

2. Situational Awareness

The investigation revealed that Officer A incorrectly broadcast the officers' location. In this case, the officers were re-assigned to this area for crime suppression operations and were unfamiliar with the area.

3. Service Pistol Manipulations

The investigation revealed that Officer A's service pistol went to slide lock during the OIS. A review of Officer A's BWV indicated that approximately 40 seconds elapsed before he/she conducted an out of battery speed reload.

4. Maintaining Control of Equipment

The investigation revealed that after conducting a tactical reload of his/her service pistol, Officer B left his/her partially-loaded magazine on the hood of his/her police vehicle.

5. Preservation of Life

Officers A and B were involved in an incident in which Subjects 1 and 2 fired upon them, forcing the officers to utilize lethal force to defend their lives. Subject 1 fell to the ground as a result of the OIS, and Subject 2 fled the scene to an unknown location. Despite being the target of an Attempt Murder and not knowing whether the assault would continue, the officers knew that Subject 1 had been struck by gunfire and immediately requested an LAFD RA so they could provide medical treatment to Subject 1.

While maintaining a position of cover, the officers verbalized to Subject 1 that medical aid was enroute. Due to the possibility that Subject 1 may still be armed, a plan was formulated to take him into custody and an arrest team was organized. When the officers took Subject 1 into custody, he told the officers that he was injured and in pain. The officers demonstrated compassion and placed

Subject 1 in a position that was comfortable while waiting for the Rescue Ambulance. Due to the quick actions of Officers A and B, LAFD personnel were on-scene within minutes.

6. Command and Control

Sergeant A responded and oversaw the officers' approach to take Subject 1 into custody, after which he/she ensured that Subject 1 was placed onto his side while waiting for the response of the LAFD RA. Sergeant A also assisted in establishing a perimeter and the request for resources.

Sergeant B responded to the scene and assumed the role of IC. He/she separated, monitored and obtained a PSS from Officers A and B.

Sergeant C responded to the scene and assumed the monitoring responsibilities of Officers A and B from Sergeant B. The investigation revealed that Sergeant C did not adhere to established Post OIS protocols as he/she did not separate Officers A and B and instead, transported them together in his/her police vehicle to the Medical Center to conduct a Field Show-up of Subject 2. It was also noted that Sergeant C transported the officers to conduct the Field Show up without receiving prior approval from FID.

- 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. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

The BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- According to Officer A, he/she and Officer B were driving next to the park when they heard approximately four to five loud popping sounds. Officers A and B were unsure if the sounds were gunshots or fireworks. Officer B drove into the driveway of the recreation center and said, "Oh, there they are. Here they come." Due to the possibility that the sounds were gunshots, Officer A drew his/her service pistol because he/she believed there was a likelihood that a deadly force situation could occur.

According to Officer B, he/she was driving when the officers heard the sound of possible gunshots next to the recreation center. Unsure if they were gunshots or

firecrackers, he/she asked Officer A, "Did you hear that? I don't know if those were gunshots or not?" Officer B continued driving and as he/she approached the park's driveway, he/she observed Subject 1 and Subject 2 running in the park. Officer B made a left turn into the parking lot of the recreation center and observed Subject 2 running towards the officers while Officer B fired a handgun at them. Fearing for his/her life, Officer B drew his/her 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, while faced with similar circumstances, would reasonably believe that there was a substantial risk 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. Lethal Use of Force

- **Officer B** – (pistol, five rounds)

First Sequence

According to Officer B, as Subjects 1 and 2 ran toward the officers, one subject was holding a black handgun and pointed it in his/her direction. Officer B observed the barrel of the gun and heard at least two shots. Fearing for his/her life, and the life of his/her partner, Officer B exited his/her police vehicle and drew his/her service pistol. Officer B utilized his/her door for cover and fired approximately two rounds at Subject 2 to stop his actions.

Second Sequence

According to Officer B, he/she repositioned behind the engine portion of the driver side of his/her vehicle for better cover. Officer B then observed Subject 2 continue to run with his arm extended, while pointing a gun in his/her direction. Officer B then fired two to three additional rounds at Subject 2 to stop his actions.

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

First Sequence

According to Officer A, as he/she sat in his/her police vehicle, Officer A observed Subject 1 raise the gun up and fire in his/her direction. Officer A also observed muzzle flash in front of Subject 2 and a felt bullet impact their vehicle, causing Officer A to fear for his/her life and the life of Officer B. Officer A exited the vehicle, dropped to one knee, took cover behind his/her door, and fired one to two rounds at Subject 1 to stop the deadly threat.

Second Sequence

According to Officer A, after firing his/her initial rounds, Subjects 1 and 2 continued running diagonally and firing as they ran across the parking lot toward his/her side of the police vehicle. Officer A had no time to redeploy and was aware that his/her cover was becoming compromised as the subjects advanced toward his/her side of the police vehicle. Fearing for his/her life, Officer A fired one to two rounds at Subject 1 to stop the lethal threat.

Third Sequence

According to Officer A, Subjects 1 and 2 continued moving together as they crossed the parking lot and approached the grass parkway on the side of the parking lot. Officer A's attention was drawn to Subject 1, who was pointing a gun at Officer A as Officer A stood on the grass parkway. Afraid for his life/her life, Officer A fired an additional four to five rounds at Subject 1 to stop the lethal threat.

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

Therefore, the BOPC found Officers A and B's lethal use of force to be In Policy.