

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

**OFFICER-INVOLVED SHOOTING – 062-16**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No (X)</b>
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Hollenbeck	09/28/16		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Detective A	28 years, 6 months
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**Reason for Police Contact**

The Subject was in custody and transported by officers to a hospital for an examination. The Subject escaped from the officers and car-jacked a vehicle, resulting in an officer-involved shooting (OIS).

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject: Male, 36 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 August 22, 2017.

## **Incident Summary**

The District Attorney's Office requested that Detective A conduct a follow-up investigation before the DA would file a case against the Subject. This follow-up investigation included transporting the Subject to the hospital for an examination.

Detective A and Officer A picked up the Subject from the jail and transported him to the hospital for the examination.

**Note:** According to Detective A and Officer A, they had never worked together prior to the incident.

The officers arrived at the location and Officer A parked the police vehicle directly in front of the building. The officers entered with the Subject and proceeded to the interior lobby, past a security desk, to check in with the medical staff. Detective A completed the admission forms while Officer A watched the Subject. Once Detective A completed the forms, a member of the staff requested the Subject's signature giving permission for the testing be administered. The Subject requested that his right hand be released from the handcuff so he could sign the form.

**Note:** According to a Communications Division (CD) printout of the incident, the first time the officers made any notification regarding their location was during the foot pursuit.

Officer A stood in front of the Subject and Detective A stood behind him. The nurse handed a clipboard with the form to Officer A. Detective A removed the handcuff from the Subject's right hand but held onto the left handcuff still secured to the Subject's left wrist. According to Detective A, as the Subject took hold of a pen, he began moving his left arm around and stated that he wanted to hold the clipboard. Detective A, who believed that the Subject would quickly sign the form and they could continue with the examination, let go of the Subject's left handcuff. The Subject then took hold of the clipboard, immediately dropped it, and ran out of the door.

Detective A and Officer A chased after the Subject as he fled out of the front lobby. As they ran, the Subject increased the distance between them, up to an estimated 20 yards, as he ran up a ramp in the direction of street, causing Detective A to lose sight of him for a few seconds because of the rise in the road. Detective A then broadcast they were in foot pursuit.

Detective A ran slightly ahead of Officer A, who stayed with Detective A throughout the foot pursuit. When Detective A turned left onto the street, he looked down the block and observed a large amount of pedestrian traffic on both sidewalks and in the crosswalk. Detective A observed the Subject, approximately 40 yards away, stopped in the roadway by the driver's door of a sedan. The driver accelerated away and the Subject ran further down the street.

Detective A continued to pursue but estimated the Subject had increased the distance between them to approximately 60 yards. The Subject ran to the next car and started banging on the driver's side front door and pulling up on the door handle. The Subject then ran to an SUV occupied by a lone driver, which was stopped immediately behind the sedan, and attempted to open the driver's side door. The Subject could not get in and ran around to the passenger side of the vehicle where he opened the door and entered the vehicle. Detective A closed the distance.

As the Subject entered the vehicle, Detective A approached to a distance of approximately 15 feet and considered his options. He reasoned he was not close enough to use OC Spray and did not have a baton or TASER. Detective A was aware of the Subject's propensity for violence and his criminal history and unholstered his pistol. Detective A held his radio in his left hand and his pistol in his right hand with his finger along the frame, which he pointed down toward the ground.

According to Officer A, as he continued to run down the street, he approached the SUV's location and observed the Subject stopped at the driver's door. Officer A heard the Subject say, "Get out of the car." The Subject then ran around to the passenger side of the SUV and got in. Officer A was to Detective A's left approximately three feet from the SUV as it started to move. As the vehicle travelled past him, Officer A heard the Subject saying, "Go, go, go," and observed the Subject reaching over and taking hold of the steering wheel.

According to Detective A, the SUV moved forward with the Subject in the front passenger seat. It then stopped and the driver got out. Detective A did not know if the Subject forced her out or if she got out on her own. The Subject got in the driver's seat and drove approximately 15 to 20 yards to where a car was stopped in front of the Subject's vehicle and another vehicle in front of that was exiting a parking structure and blocking his way. As the Subject attempted to move around the stopped vehicles, a small construction Bobcat tractor exited the driveway near the crosswalk, entered the street, and intentionally blocked the Subject's way.

Detective A ran up to the passenger side of the SUV. As Detective A arrived, he heard the sound of screeching tires and observed the SUV strike the tractor. The tractor was a heavy vehicle but Detective A observed the tractor move a little bit from the impact. Detective A approached the SUV and stopped approximately 6 to 10 feet from the front passenger side window. The Subject was the only person in the vehicle. Detective A was unable to see the driver of the tractor and did not know if he was injured or knocked off the tractor. The Subject backed up and then drove forward and struck the tractor a second time.

Detective A again considered his options and due to his observations of the large amount of pedestrian traffic in the area and the Subject's actions, Detective A was convinced the Subject would injure or kill civilians if he was allowed to continue his attempt to escape.

Detective A approached the passenger side window and positioned himself at an angle because he did not want to risk shooting across the front passenger compartment of the vehicle and possibly striking pedestrians who were on the sidewalk in front of the medical buildings. Detective A raised his pistol and fired one round at the Subject through the closed passenger side window, causing the window to crack but not shatter. Detective A's target was the Subject's chest and his background was the vehicle and front driver's seat.

Officer A heard the sound of the tires screeching as the vehicle moved forward and became concerned that the vehicle was going to strike him as it drove past him. In order to avoid being struck by the vehicle, he began to move out of the way of the vehicle and did not hear the first shot.

Immediately after the first shot was fired, the SUV reversed its direction, moving at a high rate of speed, then turned and traveled over the curb and struck a retaining wall adjacent to a parking structure. At the time of the first shot, Officer A was behind Detective A. When the Subject backed up, Detective A observed Officer A drop to the ground. Detective A did not know if Officer A was struck by the car, jumped out of the way, or fell. The glass from the passenger window shattered and fell out when the car jumped over the curb and hit the wall.

Detective A again approached the passenger side of the SUV. Detective A looked into the passenger compartment of the vehicle and observed the Subject struggle to place the car in gear. Detective A believed the Subject was still attempting to flee so Detective A raised his pistol a second time, aimed at the Subject's midsection, and fired a second round from a distance of 6 to 7 feet. The background behind the driver's side of the SUV was a brick wall.

**Note:** According to Officer A, after he dove to the ground, he was facing away from the vehicle and immediately heard the vehicle speed away. As a result of his position, Officer A did not see the Subject's actions prior to the second OIS, nor did he see or hear the second shot.

As the vehicle began to reverse its direction, Officer A was still on the street. As the vehicle continued, Officer A jumped onto the sidewalk and dove out of the way of the oncoming vehicle. Officer A landed on his right side, striking his head on the concrete, momentarily stunning him.

The vehicle accelerated forward and moved across the street, over the curb, then turned left and through the bushes, striking a tree before coming to a stop. Detective A looked over and observed Officer A still lying on the ground. Detective A, with his pistol in his right hand, walked over to the SUV and ordered the Subject to exit the vehicle. The Subject opened the driver's door, exited, and laid down on the ground. Responding officers arrived at the scene and took the Subject into custody. Detective A holstered his pistol after the Subject was in custody. The Subject sustained gunshot wounds and was transported to the hospital by ambulance.

## **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 Detective A and Officer A's tactics to warrant a finding of Administrative Disapproval.

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

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

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

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

## **Basis for Findings**

### **Detention**

- The officers picked up the Subject from the jail where he was already in custody, and then transported him to a medical facility for an examination at the request of the District Attorney's Office. While at the facility, the Subject fled from the officers and attempted to escape from custody by car-jacking a vehicle. 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 a suspect who was already in custody attempted to escape and a foot pursuit ensued.

As the officers followed the Subject, the Subject attempted to gain entry into two occupied passing vehicles and then ultimately gained entry into an SUV.

A civilian witness observed the carjacking of the SUV and then attempted to stop the Subject by blocking the roadway with a Bobcat utility vehicle. The Subject then began ramming the Bobcat utility vehicle with the SUV.

Faced with an imminent threat of serious bodily injury or death to the driver of the Bobcat and other people in the immediate area, an 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. Body Armor (Substantial Deviation – Officer A)**

Officer A was not wearing his Department-approved body armor as required when conducting field related duties.

The BOPC determined that Officer A's decision not to wear his body armor was a substantial deviation, without justification, from approved Department tactical training.

### **2. Code Six (Substantial Deviation – Detective A and Officer A)**

Detective A and Officer A did not advise Communications Division (CD) of their Code Six location when they assumed custody of the Subject at the jail and transported him to the hospital.

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

In this situation, the officers were not faced with a rapidly unfolding tactical situation and had sufficient time to broadcast their Code Six location, as well as any other relevant information prior to initiating their investigation.

Based on the totality of the circumstances, the BOPC determined that Detective A and Officer A's decision not to advise CD of their Code Six location was a substantial deviation, without justification, from approved Department tactical training.

### **3. Maintaining Control of Suspect (Substantial Deviation – Detective A and Officer A)**

Detective A removed the handcuff from the Subject's right wrist and did not maintain control of the handcuffed left wrist.

In this case, the investigation revealed Detective A removed the handcuff from the Subject's right wrist to allow him to sign a required form and then released control of his handcuffed left wrist believing that the Subject would comply with signing the form.

Based upon the totality of the circumstances, the BOPC determined that Detective A and Officer A's failure to control the Subject was a substantial deviation, without justification, from approved Department tactical training.

- The BOPC also considered the following:
  1. Tactical Communication – The investigation revealed that it was the first-time Detective A and Officer A were working together and they did not discuss tactics. The officers were reminded that when working together, no matter the assignment, it would be prudent to discuss the generalities of tactics in the event they are faced with a critical incident.
  2. Running with a Service Pistol Drawn – The investigation revealed Detective A pursued the Subject with his service pistol drawn. Detective A was reminded there is a heightened concern for an unintentional discharge when running with a drawn service pistol.
  3. Stable Shooting Platform – The investigation revealed that Detective A fired his service pistol with his right hand, while maintaining a handheld radio in his left hand. Detective A was reminded that the utilization of a two-handed pistol grip and shooting stance will provide him with a more stable shooting platform when firing his service pistol.
  4. Body Armor – The investigation revealed Officer A was not wearing his body armor at the time of the incident as required by Department policy.

The investigation revealed that Detective A did not have his body armor available to him. Although in this circumstance the detective was not required to have his body armor on at the time of the incident, it would have been tactically prudent to have his body armor in their vehicle in the event that it was needed.

5. Required Equipment – The investigation revealed that Officer A was not equipped with a baton and did not have a Hobble Restraint Device on his person at the time of the incident. The officers were reminded to have all their required equipment on their person while performing field patrol duties.

These topics will be discussed at 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.

In conducting an objective assessment of this case, the BOPC found that the tactics utilized by Detective A and Officer A substantially and unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident.

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

## **B. Drawing and Exhibiting**

- Detective A observed the Subject banging on the window and then jerking on the door handle of the civilian's vehicle. Believing that if the Subject gained entry into the vehicle he could kill or seriously injure the driver, he drew his service pistol.

Based on the totality of the circumstances, the BOPC determined an officer with similar training and experience as Detective 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. Use of Lethal Force**

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

First Sequence of Fire – One round from an approximate distance of six feet.

According to Detective A, the Subject backed up and began driving forward towards the Bobcat again. Fearing for the life of the Bobcat driver, and for the lives of the pedestrians in the area if the Subject was allowed to leave, Detective A fired one round at the Subject through passenger side window in an attempt to stop his actions.



Second Sequence of Fire – One round from an approximate distance of six to seven feet.

According to Detective A, after firing his first round, the Subject put the vehicle in reverse and gunned it backwards. He observed Officer A going back and then fall to the ground. As he approached the passenger side of the SUV, Detective A observed the Subject trying to put the SUV in gear to move forward. Fearing for the safety of his partner as well as for the lives of the pedestrians in the area and the community at large if the Subject was allowed to leave, he fired a second round at the Subject in an attempt to stop his actions.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Detective A, would reasonably believe that the Subject'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 Detective A's use of lethal force to be objectively reasonable and in policy.