

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

OFFICER-INVOLVED SHOOTING – 078-16

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Officer(s) Involved in Use of Force	Length of Service
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Officer B	17 years
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Reason for Police Contact

Uniformed police officers were conducting regular patrol when they observed a possible burglary from a motor vehicle by the Subject. As the officers attempted to detain the Subject, he fled on foot to the rear of a nearby residence. When an officer located, and attempted to detain, the Subject, he reached into his waistband and began pulling out a handgun, resulting in an Officer-Involved Shooting (OIS).

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 23 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 November 14, 2017.

Incident Summary

Uniformed Police Officers A (driver) and B (passenger) were conducting regular crime suppression duties in a designated area due to an increase in violent crimes and other criminal activity.

The officers were driving when they observed the Subject, crouching down beside a vehicle that was parked along the curb. The vehicle was parked in front of a large building that had gang graffiti spray painted on the side.

According to the officers, the Subject was outfitted with a black backpack and was peering into the passenger side windows of a vehicle. As the officers drove past the Subject, he looked in their direction and ducked down behind the vehicle. The Subject's actions caused the officers to believe that he was in the process of or about to burglarize the vehicle. The officers communicated their observations to one another and decided to conduct further investigation.

Note: Unbeknownst to the officers, the Subject was a suspect in a murder that occurred in that same area weeks earlier. The murder occurred one block south of where they observed the Subject. The Subject also had an outstanding felony warrant for his arrest.

The officers conducted a U-turn when they reached an intersection, with the intention of conducting a pedestrian stop. The Subject looked in the direction of the officers as they conducted their U-turn and ran on the sidewalk, stopping in front of a residence. The property was surrounded by a white wrought iron fence that was approximately five and a half feet tall, with a spear railhead. The fence had a pedestrian gate adjacent to the sidewalk that was closed at the time of the incident. The location also had a seven-foot tall interior wrought iron fence located on one side of the property. The interior fence was approximately 21 feet away from the outer fence and divided the front yard from the rear yard.

The Subject reached over the pedestrian gate with one hand and attempted to open the gate latch. As he did so, he held his waistband with the opposite hand, causing Officer B to believe that he could be armed with a handgun. During this process, the Subject kept looking over his left shoulder at the officers as they approached.

Note: Officer B was unable to specify which hand the Subject used to open the gate and which hand was used to hold his waistband.

It appeared to the officers that the Subject was having difficulty opening the gate. Officer A parked their vehicle near of the pedestrian gate, diagonally, with the front of their vehicle partially blocking one lane of traffic. Officer A exited the vehicle and ordered the Subject to stop, but he did not comply. Officer B simultaneously exited the passenger side of the vehicle, utilized the front of his vehicle as cover and began giving

commands to the Subject, who was still attempting to enter the gate. Officer B verbally identified himself as a police officer and ordered the Subject to stop from an estimated distance of 25 feet.

Note: Officer A believed he parked his police vehicle in front of the pedestrian gate; however, a review of the Digital In-Car Video and crime scene photographs indicate that he parked slightly beyond of the gate.

The Subject looked back at the officers but did not comply with their commands. He opened the pedestrian gate and entered the front yard of the property, shut the gate behind him, and proceeded to run on the walkway, toward the driveway.

Note: According to Officer A, the Subject entered through the pedestrian gate prior to their exiting their police vehicle and giving commands.

Officer A ran to the corner of the property and attempted to climb over the wrought iron fence, but was unsuccessful due to the sharp spears located along the top portion of the fence. Officer A feared that the spears could cause him to get stuck on the fence, putting himself at a tactical disadvantage. He placed his foot on the horizontal bar located above the rectangular design on the fence and elevated his position by nearly four feet. From that position, Officer A had a clear view of the driveway and the side of the property. The Subject began climbing over the interior wrought iron fence, at which time Officer A gave him multiple commands to stop. The Subject did not comply.

Simultaneously, Officer B reached over the pedestrian gate and attempted to open the gate latch but was also unsuccessful due to the sharp spears. Officer B joined Officer A and positioned himself on the sidewalk just west of him. At that point, the officers switched from apprehension mode to containment mode. The Subject made it over the interior wrought iron fence and gained access to the rear yard.

Note: At the time of this incident, the rear yard contained two structures that had been modified/converted into living quarters, as well as an unoccupied garage. A large children's playset was located on the side of the yard and was visible from the driveway.

The Subject ran east down the driveway toward the playset. Officer A observed two women and a child standing at the end of the driveway near the playset. Officer A advised Officer B of the woman's presence. When the Subject reached the corner of the residence, he looked back in Officer A's direction. Officer A observed the Subject reach into the right side of his waistband with his right hand and began pulling a handgun out of his waistband. Officer A could see the grip of the gun and described it as a blue steel semiautomatic pistol.

Officer A advised Officer B that the Subject was running and that he was armed with a gun. Officer A directed Officer B to broadcast the officers' location (Code Six). Officer B advised Communications Division (CD) of their status and location and requested backup and a perimeter for a man with a gun. The Subject looked back at Officer A,

placed the handgun back into the right side of his waistband and ran out of Officer A's view.

Witness A observed the Subject run down the driveway and enter the backyard of the residence. Witness A was frightened by his presence and immediately informed the other women that there was someone in the yard. According to Witness A, the Subject was holding a black object that resembled a handgun in his right hand.

According to Witness B, Witness A sounded scared when she advised them of the Subject's presence. Witness B, who was facing east with her back toward the driveway, turned around and observed the Subject run toward the southeast corner of her residence. Witness B feared that the Subject would attempt to enter their homes, and therefore directed Witness A and others to lock themselves inside of their respective rooms.

Witness C stated that she was in the rear yard of the residence when she heard Witness A announce that there was someone in their yard. According to Witness C, Witness A sounded very frantic when she made the announcement. Witness C observed the Subject run through the backyard, then in between the main house and her home, out of her view. Witness C believed that the Subject was looking for somewhere to hide. Witness C observed Officer A standing on an elevated position near the driveway.

Witness C observed the Subject look inside her residence through the open front door. The Subject looked at Witness C, who was still standing near the play set, and asked her if she knew where the police were. Witness C pointed toward the driveway, in Officer A's direction, then grabbed her daughter and ran into her residence, locking the door behind her.

Officer B went back to the pedestrian gate and made a second attempt at opening it. This time he was successful. Officer A directed Officer B to take a position on the side of the residence for containment purposes. Officer B entered the property and positioned himself at the corner of the residence. From that position, Officer B had a view of a walkway that led to the rear yard. The officers were approximately 45 feet apart and still in line of sight of each other.

According to Officer A, Witnesses B and C appeared fearful and were frantically waving their arms, as if they needed assistance. Officer A observed Witness C point in his direction, then pull her young child closer to her. Officer A advised Officer B of his observations. A moment later, both officers heard the sound of a woman screaming coming from the rear of the residence. The scream was very loud and sounded urgent, as if someone was in danger.

Note: According to Witnesses A, B and C, they did not scream and did not hear anyone else scream.

The officers were unable to see the Subject from their respective positions yet knew he was armed with a handgun. The officers believed that the Subject posed an imminent threat to the residents and feared that their lives were in danger. The officers believed that they could not afford to wait for additional resources to arrive at scene and did not want the incident to escalate to a hostage situation. Based on these exigent circumstances, the officers switched from containment mode to apprehension mode.

Officer B, through the use of a hand signal, advised Officer A that he was going to move toward the rear of the location.

Officer A, who was still on the side of the property, climbed over the wrought iron fence and made his way toward Officer B. As Officer A was climbing over the wrought iron fence, Officer B ran on the walkway toward the rear of the residence. Officer A followed the same path as Officer B and estimated that he was approximately five to six seconds behind him.

When Officer B reached the end of the walkway, his view was blocked by various structures. Knowing that the Subject was armed with a handgun and believing that the situation could rise to the level of deadly force, Officer B unholstered his pistol and held it in a low-ready position. Officer B slowed his pace and carefully negotiated his way around the structure. Upon reaching the rear yard, Officer B observed the Subject on the side of the property, attempting to climb onto the roof of the garage.

The Subject was standing on a white metal shelf near the garage. The Subject reached up with both hands and was attempting to pull himself up onto the side of the roof when Officer B ordered the Subject to stop. He did not comply with the command. Officer B saw both of the Subject's hands and determined that the Subject was not holding a weapon.

Officer B could hear voices in the backyard, and believed they were coming from the side of the garage. Officer B feared that if the Subject made it onto the roof, he could negotiate his way to the side of the garage, jeopardizing the safety of the citizens. Officer B wanted to prevent the Subject from having the opportunity to take a hostage.

Officer B holstered his pistol and was able to grab the Subject by the backpack with what he believed to be his left hand. Officer B pulled down on the Subject's backpack, causing him (Subject) to lose his balance and fall to the ground. The Subject landed on his buttocks in a seated position, facing in a southeastern direction. Officer B remained standing and was positioned close to where the Subject landed. They were approximately three feet apart and facing one another. The Subject looked at Officer B and quickly leaned backward, which exposed his front waistband. The Subject then reached into his front waistband with both hands. Officer B ordered the Subject to stop, but he did not comply. The Subject's right hand was on the grip of the handgun.

Simultaneously, the Subject looked directly at Officer B and began pulling the handgun out of his waistband with his right hand. Officer B unholstered his pistol and held it in a

low-ready position with the muzzle pointed downward toward the Subject's front torso. Officer B ordered the Subject to stop reaching for the gun.

According to Officer B, the Subject was reaching for the gun to engage him and he feared for his life. As the Subject pulled the handgun farther out of his waistband, Officer B fired two rounds at the Subject, downward, from an approximate distance of six feet.

Officer B paused after firing the second round and assessed the situation. The Subject continued pulling the pistol out of his waistband. Officer B ordered the Subject to stop, and once again, he failed to comply with the command. Officer B fired a second volley of three rounds at the Subject from the same position.

Note: According to Officer A, he had just reached the end of the east/west walkway when he heard the gunshots. Officer A believed the shots were consecutive. Prior to hearing the shots, Officer A heard his partner talking loudly but could not make out what was said.

Upon hearing the shots, Officer A unholstered his pistol and held it in a low-ready position. Officer A arrived at the OIS scene immediately following the final gunshot.

Following the OIS, the Subject remained in a seated position, leaning slightly to his left. It was apparent to the officers that the Subject was injured, as his right hand was bleeding and twitching. The Subject's right hand was resting on top of the handgun, which was still inside his waistband. Officer B continued to give commands to the Subject, instructing him not to touch the handgun. Officer B, while holding his pistol in a low-ready position, approached the Subject and used his left foot to push the Subject's right hand away from the handgun, which remained in the Subject's waistband.

Officer B observed Officer A arrive at scene. Officer A's pistol was drawn, and he provided cover for Officer B. Due to the Subject's injuries and the fact that his hands were no longer near his waistband, Officer B believed it was safe to disarm the Subject. Officer B holstered his pistol and pulled the handgun out of the Subject's waistband, as well as a pocket knife from his right front pants pocket. Officer B placed the handgun and knife on the ground, out of the Subject's reach.

Note: According to Officer A, he was approaching the OIS scene when he observed Officer B use his foot to move the Subject's right arm. Once the Subject's right arm was moved, a handgun fell out of his waistband onto the ground. Officer A noted that the handgun appeared to be missing a piece and formed the opinion that the handgun may have been struck by gunfire during the OIS.

Officer B could not recall which hand he used to remove the handgun from Subject's waistband.

Officer B removed the backpack from the Subject's back and placed it on the ground next to him. Using his right hand, Officer B grabbed the Subject's right wrist and handcuffed it. Officer A holstered his pistol and assisted Officer B with handcuffing the Subject's left wrist. Officer B directed Officer A to request a Rescue Ambulance (RA) for the Subject. According to the officers, the Subject did not make any statements throughout the entire incident.

Note: According to Witness C, she heard who she believed to be the Subject yell at the officers that he was going to kill them, followed by sounds of a struggle and shots being fired. After hearing the shots, Witness C heard who she believed to be the officers ordering the Subject to stop resisting.

Immediately after handcuffing the Subject, Officer B broadcast a help call and advised that shots had been fired.

Officer A repeated the help call, provided the location and requested an RA for the Subject. Officer B conducted a search of the Subject's person and located what was later determined to be a large quantity of heroin in the Subject's front left pants pocket.

Uniformed Sergeant A and B arrived at scene. Sergeant A identified and separated the involved officers and requested additional supervisors to assist with the monitoring responsibilities. Sergeant A obtained a Public Safety Statement (PSS) from Officer A and admonished him not to discuss the incident.

Uniformed Sergeant C responded to the scene and assumed the role of Incident Commander (IC). Sergeant C obtained a PSS from Officer B and admonished him not to discuss the incident.

The Los Angeles Fire Department (LAFD) arrived at scene and rendered aid to the Subject, who was determined to be dead 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:

A. Tactics

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

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

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

D. Lethal Use of Force

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

Basis for Findings

Detention

- While on the patrol, the officers observed a Subject wearing baggy clothes with a backpack, who was crouching down, looking into a parked vehicle. Based upon their observations, they believed he was a possible Burglary from Motor Vehicle Subject. As the officers exited their vehicle, and attempted to make contact, the Subject fled from the officers. The officers' actions were appropriate and within Department policies and procedures.

A. Tactics

Tactical De-Escalation

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

In this case, the Subject immediately fled from the officers and produced a handgun while he was running through the yard of a residence occupied by two females and a child.

Believing that citizens were in immediate danger, the officers transitioned to apprehension mode and pursued the Subject. When one of the officers attempted to take the Subject into custody, the Subject grabbed a handgun that was in his waistband. When the officer ordered the Subject not to reach for the gun, the Subject ignored the commands and continued to pull the handgun out of his waistband.

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

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

1. Code Six – (Substantial Deviation – Officers A and B)

Officers A and B did not advise Communications Division (CD) of their 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 their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

In this case, the officers were not faced with an immediate threat, but rather with a Subject who was attempting to flee. As the situation rapidly unfolded, the officers made the decision to deploy to opposite ends of the residence to contain the Subject rather than broadcasting their location. When Officer A observed that the Subject was armed with a handgun, he communicated his observations to his partner, who immediately broadcast a backup request and their current location.

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

2. Tactical Vehicle Deployment

Officer A drove past the Subject, exposing the driver's side of the police vehicle to him.

The positioning of the police vehicle when conducting a pedestrian stop is critical in order to provide the officers a tactical advantage should the incident escalate.

In this case, Officer A did not believe that the Subject was possibly armed when he stopped the police vehicle and further believed that he had stopped the police vehicle with the Subject standing in front of it so that he and Officer B could triangulate on him.

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

3. Pursuing Armed Suspects

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

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.

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 attempting to minimize the threat to the public and safeguard the lives of the citizens in the rear yard of the residence while dealing with a non-compliant armed Subject.

Concerned for the public's safety, the officers pursued the armed Subject in apprehension mode, believing that if apprehension was delayed, the Subject could cause serious bodily injury or death to people in the rear yard.

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

4. Separation – (Substantial Deviation – Officers A and B)

Officer B separated from his partner and pursued a suspect whom he believed to be armed with a handgun.

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.

In this case, Officer B made the decision to pursue an armed suspect down a pathway on the opposite side of the residence, which caused the officers to lose their line of sight with each other. Officer A followed Officer B in foot pursuit through the walkway, but was approximately six to eight seconds behind him.

Due to the delay, Officer B became involved in a non-lethal use of force situation with an armed suspect and immediately thereafter, was presented with a deadly threat without the presence of his partner to render immediate aid.

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

5. Contact and Cover – (Substantial Deviation – Officer B)

Officer B initiated contact with a suspect whom he believed was armed with a handgun without the benefit of a cover officer.

Operational success is based on the ability of officers to effectively establish designated roles and communicate during critical incidents. Officers improve overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution.

Based on the totality of the circumstances, the BOPC determined that Officer B's decision to initiate contact with an armed suspect without the benefit of a cover officer was a substantial deviation, without justification, from approved Department tactical training.

These topics were to 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 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/Exhibiting

- According to Officer B, his partner observed the Subject armed with a handgun and advised him that the Subject had a gun. Officer B pursued the Subject to the rear yard, and when he reached the end of the house, he observed a small shed which obstructed his view to the rear yard. Believing the situation could escalate to the use of deadly force, he drew his service pistol.

According to Officer B, he holstered his service pistol and pulled the Subject to the ground to stop him from climbing on top of the garage. The Subject looked at him, then leaned back, and with both hands, began to pull the pistol out of his waistband. He then drew his service pistol a second time.

According to Officer A, he was running on the side of the house and heard the initial shot as he was approaching the shed. As Officer A got closer to the rear yard, he heard three or four more shots and 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 to be in policy.

C. Non-Lethal Use of Force

- **Officer B** – (firm grip, physical force, takedown and kick)

According to Officer B, he observed Subject attempting to climb on top of the garage, grabbing onto the Subject's backpack, and pulling him down to the ground.

According to Officer B, after the OIS, he used his left foot to kick the Subject's right hand away from the handgun that was still in his waistband.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B, while faced with similar circumstances, would believe this same application of non-lethal force would be reasonable to prevent the Subject's escape and overcome his resistance.

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

D. Lethal Use of Force

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

Rounds 1 and 2

According to Officer B, the Subject looked at him, then leaned back, and with both hands, began to pull the pistol out of his waistband. Officer B immediately drew his service pistol and yelled at the Subject to stop and not to reach for it, but the Subject continued to pull the handgun out. Believing that the Subject was going to shoot him, he fired two rounds at Subject to stop the threat.

Rounds 3-5

According to Officer B, after firing his first two rounds, he paused, assessed and observed the Subject continuing to pull the pistol out of his waistband. Officer B commanded the Subject to stop, but the Subject continued to reach for the handgun. In fear for his life, he fired three additional 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 B, would reasonably believe the Subject's actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would be objectively reasonable.

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