

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

**OFFICER-INVOLVED SHOOTING – 080-17**

<b>Division</b>	<b>Date</b>	<b>Duty-On ( ) Off (X)</b>	<b>Uniform-Yes (X) No ( )</b>
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Mission	12/20/17		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	9 year
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**Reason for Police Contact**

Officer A was off-duty and was confronted by the Subject, at which time a verbal dispute transpired. The Subject then struck the off-duty officer on the head with a metal flashlight and punched him/her numerous times with his fist, 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, 33 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 30, 2018.

## **Incident Summary**

After completing their duty shift, Officers A and B got together to complete a personal task for Officer B. Officer B was planning on buying a reticulated python snake from a seller on Craigslist. The seller advised Officer B that they could meet later that evening to complete the transaction.

In the interim, Officers A and B decided to meet with a female friend of Officer A's.

Accompanied by Officer A, Officer B drove his/her personal vehicle to meet with Witness A and her friend, Witness B. At that point, Witnesses A and B joined the officers in their vehicle. While waiting for the seller of the snake to contact them with instructions as to where they would meet and complete their transaction, the four went and ate dinner. Having still not heard from the seller, the foursome then decided they would pass the remaining time by driving around and looking at miscellaneous Christmas decorations.

The seller eventually called Officer B and the two arranged to meet. Once they arrived, Officer B purchased the snake. After doing so, Officer B observed the snake was cold to the touch and asked Officer A to place the snake inside his/her sweatshirt to keep it warm. Officer A agreed to do so, but was aware that Witness A was afraid of snakes. To keep from upsetting her, Officer A placed the snake in the pocket of his/her sweatshirt, but pretended that the snake was still in its plastic container and placed the container in the back of the vehicle. The four then drove away with Officer B driving, Officer A in the front passenger seat, and the two witnesses in the back seat.

The four arrived back at the location they had initially met. Witness A exited the vehicle and approached the front passenger window to say goodbye to Officer A. Officer A rolled down the window, but unbeknownst to him/her the snake had crawled out of his/her sweatshirt pocket. Witness A saw the snake, screamed, and ran across the street to the metal entry gate of her apartment complex. Once there, Witness A yelled across the street at Officer A, "I hate you! Why did you do that? It's not funny! How could you do that?"

As Witness A continued yelling, Officer A exited the vehicle, handed the snake to Officer B, and approached Witness A to calm her down.

In the meantime, Witness C, and several other people, including the Subject, were in Witness C's apartment at the same location.

Witness C had just put one child to sleep and heard a female screaming. Witness C turned down the volume of the television and waited. A few moments later, she heard the scream again. As the screams became louder, Witness C and the Subject exited the apartment and approached Witness A and Officer A. She asked Witness A and Officer A to quiet down because she had children in the apartment.

According to Witness A, Officer A advised her to be quiet and said, "Yeah, be quiet. She['s] got kids." The Subject replied, "You being disrespectful?" Officer A replied, "No, no, no. She just got scared of a snake. You know, I'm sorry." The Subject then stepped toward Officer A holding what Officer A perceived to be a small baseball bat. Officer A stepped back, put his/her hands up and stated, "Hey, man, no disrespect. We're, I'm sorry."

Witness C asked Witness A if she was okay. According to the Subject, Officer A and Witness A replied, "Oh we are just playing." According to Witness C, when she asked Officer A and Witness A to lower their voices, Officer A responded, "Yeah, whatever," and used profanity.

According to the Subject, Witness C asked Officer A and Witness A, "Hey guys, can you please keep it down because I got kids sleeping." The Subject said that Officer A replied, "Yeah, yeah, yeah, shut [...] up. Go, get out of here. Go back to sleep."

According to the Subject, he walked up to Officer A and stated, "Hey, man, what's up? What's with the disrespect, buddy? It's like you guys are doing this noise." He said that Officer A responded with profanity.

Witness A and Officer A contend that Officer A did not use any profanity and tried to deescalate the incident by apologizing and attempting to explain the situation to the Subject.

As the verbal altercation escalated, Witness C turned and started walking back toward her apartment. As she did so, the Subject, who was actually holding a metal flashlight, not a baseball bat, swung the flashlight at Officer A, striking him/her near his/her left temple.

The Subject explained that when he swung the flashlight, "I meant to hit him/her in the head, but I guess I missed and I hit him/her here in the neck."

According to the Subject, when he struck Officer A, the flashlight broke into two pieces. The Subject then punched Officer A three times in the face, causing him/her to stumble back. The Subject went on to say that he believed Officer A was in good shape and was bigger than he was. As such, he wanted to get his punches in before Officer A had the opportunity to punch back.

According to Officer A, as soon as he/she was struck, he/she began to hear a loud ringing noise in his/her ears and, "...everything was white for a second and then started to go black and fuzzy."

Officer A further stated, "All I knew, he was attacking me and he wasn't going to stop. And at that point, I thought to myself, he's going to kill me, I'm going to die. I didn't know where my partner was at that point. I assumed he/she was still back at the car. I thought if I don't stop him (the Subject), I'm going to die."

Officer A drew his/her revolver from his/her front pocket and, from a distance of approximately one to two feet, fired two rounds at the Subject.

In his/her interview relating to this investigation, the Subject stated that Officer A discharged five rounds. A post-OIS check of the revolver revealed two expended casing in the cylinder of the revolver. Also, two expended bullets were recovered from the scene of the OIS.

Officer B was standing next to his/her vehicle, heard the gunshots, and believed someone was shooting at the officers. He/she directed Witness B to get away from the location and began to search for Officer A. Moments later, Officer B observed Officer A staggering toward him/her from across the street. Officers A and B entered their vehicle and drove away from the location. As they did so, Officer A informed Officer B, "I just shot him." Simultaneously, Witness B began to look for Witness A. While doing so, she too observed Officer A stumbling toward Officer B's vehicle. She located Witness A and the two ran away from the location.

Officer A was asked what happened to Witness A after the shooting. Officer A replied that he/she did not know.

Officer A was then asked if he/she knew what happened to Witness B. He replied that it did not cross his/her mind and that he/she did not know.

Officer B was asked where Witness B was at the time of the shooting. Officer B responded that Witness B was in the back seat laying down and laughing at her friend. Officer B indicated he/she told Witness B to get out of the vehicle.

Officer B was then asked if he/she had any thought to take Witness B with him/her if there was a shooting and about his/her thought process in this regard. He replied, "My thought process at that point was that they - - they were shooting at us."

Neither of the officers indicated that they took any steps to ensure the welfare of Witnesses A or B following the assault and shooting.

Officer B drove to a nearby store. As Officer B parked the vehicle in the store parking lot, Officer A dialed 911 with his/her cellular phone and reported the OIS. Communications Division then broadcast an "officer needs help" radio call.

Additional officers responded to the OIS location and took the Subject into custody without further incident. The Subject was transported by Rescue Ambulance (RA) to the hospital where he was admitted and treated for gunshot wounds to the abdomen and right hand.

Patrol officers heard the "officer needs help" broadcast and responded to the store. Upon arriving, the responding officers recognized Officers A and observed a revolver on

the floorboard of Officer B's vehicle. At that point, Officer A began receiving medical treatment and was being placed in the RA. Officer B was going to follow the RA, but was advised that he/she should stay at the scene. He/she did so and then Officer B handed the responding officers Officer A's revolver, which he/she had recovered from the passenger floorboard of his vehicle.

A short time later, Sergeant A arrived at the store and took custody of Officer A's revolver. Sergeant A then accompanied Officer A in the RA as he/she was transported to the hospital for treatment. While en route to the hospital, Sergeant A obtained the Public Safety Statement (PSS) from Officer A. Officer A was treated for head trauma.

Sergeant B also responded to the store, where he/she admonished and obtained a PSS from Officer B.

FID Detectives reviewed all documents and circumstances surrounding the separation, monitoring and admonition not to discuss the incident prior to being interviewed by FID investigators. All protocols were followed and were appropriately 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). Based on the BOPC's review of the instant case, the BOPC made the following findings:

#### **A. Tactics**

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

#### **B. Drawing and Exhibiting**

The BOPC found Officer 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**

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 allow 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 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. 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**

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

### **1. Maintaining Control of Equipment**

The investigation revealed that after the OIS, Officer A entered Officer B's vehicle and placed his/her holstered revolver on the floorboard of the vehicle. Although it is understandable that Officer A was feeling the physical effects of being struck several times on the head, he/she was reminded of the importance of ensuring his firearms are properly secured.

- 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 discuss 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, the Subject hit him/her on the side of the head with a hard object. Officer A then began to experience a loud ringing noise in his/her ears, and for a second, everything was white and then started to go black and fuzzy. The Subject continued attacking and swinging at Officer A. Officer A believed the Subject was not going to stop and was going to kill him/her.

According to Officer A, he/she did not recall drawing his revolver prior to the OIS. However, prior to the OIS, his/her revolver was secured in a pocket holster in the right front pocket of his/her blue jeans.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would reasonably believe there was a substantial risk 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 continued attacking and swinging at him/her, and Officer A believed the Subject would not stop and was going to kill him/her. Officer A assumed Officer B was still back at the car. Officer A believed that if he/she did not stop the Subject, he/she was going to die. In fear for his/her life, he/she fired two rounds from his/her revolver 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.

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