

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

**OFFICER-INVOLVED SHOOTING – 081-15**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Mission	9/15/15		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	8 years, 3 months
Officer B	6 years, 6 months

**Reason for Police Contact**

Officers were flagged down by a citizen who informed them about a man armed with a gun who was just around the corner. When the officers confronted the Subject, he pointed a handgun at Officer B, and an OIS ensued.

<b>Subject</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Subject: Male, 32 years old.

**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 30, 2016.

## **Incident Summary**

Witnesses A and B were working for a courier service and picking up a package at an apartment complex. Witness B went inside the location to retrieve the package while Witness A remained outside with their vehicle, double parked in the roadway. While Witness B was inside, Witness A was approached by a male, later identified as the Subject, who offered Witness A five dollars to use his cellular telephone. Witness A did not want to give the Subject his cellular telephone because he feared the Subject would flee with it. Therefore, Witness A asked for the telephone number he wanted to call and dialed it, receiving no answer. Witness A then observed what he described to be a silver handgun in the Subject's front-middle waistband area, but was unable to discern the type.

Witness A became concerned and told the Subject his telephone was not working and proceeded to walk toward the apartment complex where Witness B was retrieving the package. The Subject followed behind and, just as Witness B opened the exterior security door to the apartment complex, asked where he could find a payphone. Witness A advised the Subject he did not know because he did not live in the area. The Subject then walked away in a northerly direction.

Witness A called 911 and relayed what he had observed, but mistakenly provided the location.

Communications Division (CD) broadcast the information to patrol units. Numerous units responded to the radio call, but because of the inaccurate location provided by Witness A, were unable to locate the Subject. The call was completed with a disposition of "suspect gone on arrival."

Witnesses A and B completed the package pick up and drove north. They observed the Subject on the sidewalk, standing with unknown males. Witnesses A and B returned south to call 911.

During this time, three officer units, comprised of uniformed Officers A (passenger) and B (driver), Officers C (driver) and D (passenger), as well as Sergeant A, were in the area conducting an unrelated task. Upon completion of their task, the officers began to respond back to Mission Area Station.

**Note:** All of the officers heard the "man with a gun" radio call.

As the officers were all driving north, Officer B observed Witnesses A and B frantically waving at him.

Officer B stopped his vehicle near Witnesses A and B. Witness A advised him, "There's a man with a gun. There is a man with a gun. He's right there." Witness A went on to say the man was wearing beige colored clothing and pointed toward the southeast corner of the intersection.

Knowing that Sergeant A was behind him, and Officers C and D were in the area, Officer B broadcast over the police radio that a citizen had advised him about a man with a gun. Sergeant A and Officers C and D heard Officer B's broadcast. Sergeant A replied by advising Officers A and B to broadcast their status and location to CD.

Officer B continued driving north. When they arrived at the southeast corner of the intersection, Officers A and B observed the Subject standing on the sidewalk, approximately 130 feet east of them, with four unidentified males.

**Note:** Both Officers A and B noted that the Subject was wearing beige clothing as described in the original radio call and as described by the citizen who had flagged them down.

**Note:** Officer A stated he did not broadcast the officers' status and location (Code Six) because, "As I'm reaching for the radio, I see the suspect just to the right of our car. I let go of the radio and I start communicating with my partner, 'Hey, that's him. That's the suspect.'" Officer B stated he did not go Code Six because everything happened so fast.

Officer A told Officer B to stop the car as he slightly opened the passenger door. The Subject looked in the officers' direction and began to walk at a fast pace, away from them on the sidewalk. Officer B began to drive east. Officer B kept the Subject approximately 30 feet in front of him as he drove. Both officers observed that the Subject had a beer can in his left rear pants pocket as he continued walking at a fast pace.

According to Officer A, as the Subject continued to walk on the sidewalk, he reached to his front right side waistband/pocket area and retrieved a handgun. The Subject then began to run alongside a vehicle, which was parked on the south curb, and out of the officers' view. Officer A told Officer B, "Stop the car. Stop the car. He has a gun." Officer B stopped his vehicle approximately five feet northwest of the parked vehicle. Officers A and B both exited the vehicle and unholstered their pistols.

Officer A began to move south from the police vehicle to 'pie' around the west side/rear of the parked vehicle to get eyes on the Subject, while Officer B moved east along the driver's side of the parked vehicle.

**Note:** "To slice the pie" or "pieing" refers to a technique in which an officer takes short, deliberate steps into a threat area similar to cutting small slices of pie. The technique is designed to minimize exposure when turning a corner and maximize cover and the tactical advantage for the officer.

Officer A remained approximately eight to 12 feet west of the parked vehicle as he pied. Officer A could see the Subject's feet below the parked vehicle as he pied south and noticed that he was constantly moving left to right and back and forth. Officer A also

observed a beer can fall to the ground. Officer A continued pieing south until he observed the Subject facing in a northerly direction near the front of the parked vehicle. The Subject grabbed the top slide of the handgun with his left hand and moved it rearward in an attempt to rack the action. Officer A yelled to Officer B, "He has a gun. He has a gun. Look up. Look up."

**Note:** Officer A's position, approximately eight to 12 feet west of the parked vehicle, gave him the ability to see Officer B on the north side of the parked vehicle and the Subject on the south side of the parked vehicle simultaneously.

As Officer A raised his pistol, he observed the Subject raise his handgun with his right hand and point it in Officer B's direction and heard a "pop." Officer A fired two rounds in rapid succession at the Subject in an easterly direction, from a distance of approximately 41 feet. The rounds did not appear to have any effect on the Subject. Officer A took one step forward and fired one additional round at the Subject, from a distance of approximately 40 feet. The Subject then fell to the ground. Officer A stated, "I see him. He was -- before I shoot, I know that he was focused on my partner. And once I had that perfect angle where I was able to see him, he wasn't able to see me, I took another step. When I heard the shot, I see that he's -- he sees me on his peripheral vision. He -- I know he -- he made eye contact with me for that brief second. That's when he started to move up on my partner and that's when I took the shot. I took another step. I took another shot, that's when the subject went down."

**Note:** Officer A clarified during his interview that the "pop" he had heard was a gunshot. Officer A indicated he did not know where it came from, but he believed the Subject had engaged his partner.

There was no evidence located during the investigation to indicate that the Subject fired his gun during the OIS.

Simultaneously, Officer B approached the parked vehicle on the north side. He remained approximately five to six feet north of the parked vehicle as he 'pied' in an easterly direction toward the front of the vehicle, in order to locate the Subject. Officer B continued pieing east around the parked vehicle until he observed the Subject, who had now passed the parked vehicle. The Subject was moving quickly when he suddenly stopped and brought his right hand up in an arcing motion over his head with the handgun in his right hand until the handgun was pointing directly at Officer B.

Officer B stated, "He had, like, a look in his face. It wasn't like, I'm scared. It was -- it was just he was like very stern. And he was holding that gun. It wasn't like he took it out to toss it. It wasn't like he -- like I'm going to drop my gun right now. It was clearly pointed in my direction. And I thought he was going to -- I mean, at that point I thought he was going to kill me. Like, I'm going to go home -- I'm, you know, shot. I'm going to go home injured or I'm going to die. Like, there was no doubt in my mind he was going to shoot me."

Using the front portion of the parked vehicle as cover, Officer B raised his handgun and fired two rounds in rapid succession at the Subject in a south/southeasterly direction, from a distance of approximately 21 feet.

**Note:** Witness C observed the incident from a bus bench. Witness C indicated that he had observed the Subject drinking with a group of males. When the Subject saw the police vehicle, he placed his beer can in his pocket and began walking away, eastbound, approximately eight feet. According to Witness C, "At that time, he pulled out a gun. He put the beer here, and he couldn't run anymore, and he pulled out a gun from his clothing and (Inaudible) it was a pistol (Inaudible) and he just went like this, and the police fired. The interviewing detective stated, "And just for the record, he [Witness C] indicated the suspect took out the handgun from the right side of his waistband area, appeared to chamber a round, and in a two-handed position pointed the handgun at the officers' direction. So he pointed the gun at the officer?" Witness C responded, "Yes." After Witness C observed the Subject point his gun at the officer, he heard three gunshots, which he believed were fired by one of the officers.

Officer B observed the Subject begin to fall to the ground as soon as he fired his rounds. As the Subject was falling to the ground, Officer B heard a buzz near his left ear, which led him to believe that the Subject had fired at him.

**Note:** There was no evidence located during the investigation to indicate that the Subject fired his handgun during the OIS. No officers were injured during this incident. Additionally, Officer B was unaware if Officer A had fired any rounds.

The Subject fell to the sidewalk on his back, with the top of his head facing east. The Subject dropped his handgun to the sidewalk, inches away from where his right hand came to rest.

Officer B looked back to ensure there were no additional subjects. He walked west around the back of the parked vehicle to the sidewalk, where he met with Officer A. Officer A told Sergeant A to look out for the four unknown males the Subject was with when they first observed him.

At the same time, Sergeant A observed Officers A and B come to a stop in front of him. Sergeant A stopped approximately 18 feet behind Officers A and B's vehicle. As Sergeant A attempted to exit his vehicle, he hit his head, which momentarily prevented him from exiting. From his vehicle, he observed that the Subject was wearing clothing similar to the described suspect from the previous man with a gun call. Sergeant A observed the Subject remove a handgun from his waistband before disappearing behind the parked vehicle. Sergeant A observed Officers A and B triangulate around the parked vehicle and observed Officer A extend his arms, before hearing the gunshots.

Once Officer B reached Officer A, the two officers approached the Subject with their pistols drawn. Officer B told the Subject not to move as he approached. Officer A kicked the Subject's handgun away from his right hand. Officer A then told Officer B that he was going to handcuff the Subject.

Simultaneously, Officers C and D came to a stop behind Sergeant A. As their vehicle came to a stop, both officers heard gunshots. They exited their vehicle and unholstered their pistols. Officers C and D responded to the Subject's location on the sidewalk. Prior to Officer A handcuffing the Subject, Officer D holstered his pistol and handcuffed the Subject as Officers A, B, and C provided cover.

During this time, Sergeant A also responded to the Subject's location on the sidewalk. As Sergeant A approached, the Subject was already being handcuffed. Sergeant A used his radio to broadcast, "We got shots fired and suspect down. Get me about three units and a couple supervisors. Going to be a Code Four, suspect in custody. And can we have an ambulance for a male, approximately 20 years of age, 25, suffering from gunshot wounds."

Officers A, B, and C then holstered their pistols. Officer A picked up the Subject's 9mm handgun and locked the slide in an open position to make it safe because he was worried about the large number of children and foot traffic in the area and did not want to leave the handgun loaded. Officer A observed that the Subject's pistol did not have a round in the chamber, nor did it have a magazine in the magazine well. He then placed the handgun back down on the sidewalk.

**Note:** One 9mm cartridge was located on the south sidewalk near where the Subject fell.

Officers A and B responded west on the south sidewalk in an attempt to locate the citizens who had flagged them down and to look for the unknown males who were with the Subject prior to the OIS.

**Note:** At this time, Sergeant A was setting up the crime scene, waiting for additional resources, and he felt that it was important for Officers A and B to locate the witnesses and additional males who were with the Subject. Due to the ongoing tactical situation, Sergeant A did not immediately separate and monitor Officers A and B until after additional resources arrived.

When Officers A and B arrived, they observed Witness A and Witness B at the same location. Officer B directed uniformed officers to meet with Witnesses A and B.

Officers A and B did not locate the additional males who were with the Subject prior to the OIS. They walked toward the OIS location and were met by Sergeant A. Sergeant A took possession of Officers A and B's Body Worn Video (BWV) cameras. Sergeant A then monitored Officers A and B as he continued to direct incoming resources and set

up the crime scene until additional supervisors arrived. Sergeant A did not obtain Public Safety Statements (PSS) from Officers A and B because he felt he would be considered “involved” in the OIS.

Sergeant B arrived at scene and met with Sergeant A, who advised an OIS had occurred. Sergeant B took over monitoring duties of Officers A and B from Sergeant A. Sergeant B then obtained a PSS from Officer B. Sergeant B then took over as the Incident Commander (IC). Sergeant B ensured the crime scene was secure, coordinated responding units, ensured the outer perimeter was set and that no bystanders were injured in the direction of the fired shots, and coordinated canvassing for witnesses to the OIS in the immediate area.

Sergeant C arrived at scene. Sergeant B directed Sergeant C to begin monitoring Officer A and to obtain a PSS from him.

Sergeant D observed that Sergeants B and C were already at the crime scene and decided to set up the Command Post (CP). Sergeant D deployed officers to handle crowd control, and ensured the outer perimeter was set.

The Los Angeles Fire Department (LAFD) Rescue Ambulance (RA) arrived at scene. Firefighter/Paramedic A determined the Subject was dead.

### **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 weapon 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 Sergeant A and Officers A and B's tactics to warrant Administrative Disapproval. The BOPC found Officers C and D's tactics to warrant a Tactical Debrief.

## **B. Drawing/Exhibiting**

The BOPC found Officers A, B C and D'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**

### **A. Tactics**

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

#### **1. Broadcasting Status and Location**

Officers A and B did not advise CD of their location after they were flagged down by a citizen reporting a man with a gun.

The purpose of this broadcast 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.

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

In this case, Officers A and B were flagged down by two citizens who reported seeing a man with gun up the street from their location. The officers notified their supervisor of the situation over simplex frequency and were directed to go Code Six. Officers A and B then proceeded to look for the suspect without advising CD of the circumstances and their location.

Based upon the totality of the circumstances, the BOPC determined that Officers A and B's decision to not broadcast their status and location after being flagged down by citizens reporting a man with a gun was a substantial deviation without justification from approved Department tactical training.



## 2. Tactical Communication/Planning

Officers A and B did not discuss a tactical plan before proceeding to look for the armed suspect.

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.

Officers, when faced with a tactical incident, improve their overall safety by their ability to recognize an unsafe situation and work collectively to ensure a successful resolution. A sound tactical plan should be implemented to ensure minimal exposure to the officers, while keeping in mind officer safety concerns.

The BOPC took into consideration that this was a rapidly unfolding situation and fully understood that officers are often forced to make split second decisions under extremely stressful situations. The officers are reminded of the importance of tactical planning and communication when dealing with a suspect armed with a firearm.

## 3. Command and Control

The BOPC was critical of Sergeant A's lack of supervisory command throughout this incident and felt that he did not demonstrate the appropriate level of supervision necessary or expected from a nine year sergeant overseeing a specialized unit.

In this case, the following concerns were identified in regards to the lack of supervisory oversight displayed by Sergeant A.

- Did not ensure the officers their status and location after being flagged down by citizens reporting a man with a gun.
- Allowed the officers to proceed after an armed suspect without discussing a tactical plan.
- Did not broadcast his observations when he observed the suspect armed with a handgun.
- Did not separate the involved officers immediately after the OIS.
- Did not secure the scene after the OIS, resulting in the manipulation of the suspect's weapon by Officer A.

Based on the totality of the circumstances, the BOPC believed that Sergeant A's lack of supervision during the incident unnecessarily risked the safety of the officers and compromised the integrity of the crime scene. It was the responsibility of Sergeant A to ensure that his officers were operating in a safe and effective manner. As such, the BOPC concluded Sergeant A's lack of oversight and control during the incident was a substantial deviation without justification from approved Department supervisory training.

- 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 that the tactics be evaluated based on the totality of the circumstances.

In conducting an objective assessment of this case, the BOPC found that the lack of command and control displayed by Sergeant A and tactics utilized by Officers A and B unnecessarily compromised the integrity of the crime scene, jeopardized the overall safety of the officers, and was a substantial deviation without justification from approved Department tactical training, thus requiring a finding of Administrative Disapproval.

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

In conclusion, the BOPC found Sergeant A and Officers A and B's tactics to warrant Administrative Disapproval. The BOPC found Officers C and D's tactics to warrant a Tactical Debrief.

## **B. Drawing and Exhibiting**

- Officers A and B were flagged down by a citizen who was reporting a man with a gun up the street from their location. The officers observed the subject, exited their vehicle and drew their service pistols.

According to Officer C, as they were approaching Sergeant A's parked vehicle, he heard several gunshots and immediately slammed on the brakes. After coming to a stop, he exited the vehicle and drew his service weapon.

According to Officer D, he heard the broadcast of a "415 man with a gun standing on the corner." He and Officer C responded to the location. As their vehicle was coming to a stop, he drew his service weapon.

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

In conclusion, the BOPC found Officers A, B, C and D's drawing and exhibiting of a firearm to be in policy.

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

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

According to Officer B, as he “pied” around the corner of the parked vehicle, he observed the Subject holding a steel handgun in his right hand over his head and pointing it in his direction. Fearing for his safety, he fired two rounds at the Subject to stop the deadly threat.

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

According to Officer A, he observed the Subject raise his right hand and point his handgun in the direction of Officer B, followed by a gunshot. Believing that the Subject was shooting at his partner, he fired three rounds at the Subject to stop the deadly threat.

Based on the totality of the circumstances, the BOPC determined that officers with similar training and experience as Officers A and 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.

In conclusion, the BOPC found Officers A and B’s lethal use of force to be in policy.