

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

OFFICER-INVOLVED SHOOTING – 089-16

Division	Date	Duty-On (X) Off ()	Uniform-Yes () No (X)
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Southeast	12/30/16		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	10 years, 2 months
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Reason for Police Contact

Officers were pursuing an armed suspect when he turned toward the officers and pointed a semiautomatic pistol at them, resulting in an officer-involved shooting (OIS).

Subject(s)	Deceased ()	Wounded ()	Non-Hit (X)
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Subject 1: Male, 27 years of age.
Subject 2: unidentified male.
Subject 3: unidentified male.

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 December 19, 2017.

Incident Summary

Police Officers A and B were attired in plain clothes and driving in an unmarked vehicle. The vehicle had tinted windows and was not equipped with forward-facing emergency lights, siren, nor ballistic door panels. Officer A was the driver and Officer B was seated in the right rear passenger seat, allowing the officers to remain inconspicuous while conducting surveillance. Officers A and B had been partners for approximately four months. During that time, they routinely discussed tactics, contact and cover roles, as well as vehicle and foot pursuits.

On the day of the incident, but prior to their deployment, the officers attended a briefing where there was a discussion of what types of investigations were going to take place that day, the corresponding locations, the involved personnel, and an equipment checklist. The officers were then given their assignments.

As the officers were conducting surveillance as part of one of their assigned investigations, Officer B noticed a vehicle with three occupants driving past them, (Subject 1 was the driver). A short time later, the vehicle again passed the officers, and Officer B told Officer A that he thought the occupants looked suspicious because they kept looking around, and the vehicle was traveling slowly. Officer A began following the vehicle and once the officers were behind the vehicle, the three occupants looked back at the officers. The officers continued following the vehicle, and the occupants continued looking back at them. Officer A advised his partner of these actions and gave Officer B the vehicle's license plate to run.

The vehicle then appeared to be parking so the officers stopped following it and continued driving down the street. Officer B started to request a check on the license plate, but once the officers again observed the vehicle, it was driving down the street toward their location and then parked.

According to Officer A, as the vehicle stopped, all three occupants exited and began walking in the middle of the street in the officers' direction. Officer A described the driver (Subject 1) as holding a stainless-steel pistol in his left hand, with his arm down at his side, elbow slightly bent, and the barrel pointed at the officers. The front passenger (Subject 2) had his right hand to his right side, holding a black pistol. According to Officer A, the rear passenger (Subject 3) positioned his hand as if he was holding a pistol, but Officer A could not see a pistol in his hand. Officer A, in reference to Subject 1, told his partner he had a gun and directed him to broadcast the information.

Note: According to Officer B, Subject 2 simulated holding a pistol by placing his hand under his shirt at his waistband.

The investigation determined Subject 1 was armed with a stainless-steel semiautomatic pistol.

Officer B then initiated a broadcast requesting backup and an Air Unit, communicating that the officers had three suspects and at least one firearm in their sights, in addition to providing their location. Officer B's broadcast was acknowledged by Communications Division (CD).

With their police vehicle stopped, Officer B initiated the broadcast as Officer A stepped out of the police vehicle and faced the three Subjects. Officer A believed the Subjects saw his tactical vest identifying him as a police officer, causing them to run back and enter their vehicle.

Officer A, now back in his police vehicle, followed the Subjects' vehicle as Subject 1 drove in reverse. The Subjects drove in reverse for a short time and then opened their respective doors and jumped out of the vehicle as it was still in motion. As all three Subjects ran, the unoccupied vehicle collided with a tree.

Officers A and B believed the Subject's vehicle was clear of any additional occupants. They did not stop and visually inspect the vehicle, but concluded it was clear of additional Subjects after witnessing the three Subjects open their respective doors, exit the vehicle, and run away. Officer A continued to drive towards an intersection, with the intent of coordinating the response of additional units to establish a perimeter.

According to the officers, the three Subjects ran down the sidewalk out of sight. As Officer A turned, he observed Subjects 2 and 3 continue to run past the mouth of an alley and then through the houses.

Note: A video camera on a nearby building depicted two individuals (believed to be Subjects 2 and 3) wearing dark clothing running down the sidewalk. As the Subject in front is running, he jumps and appears to throw an item over the fence line. This is the same location where a K-9 search team located a revolver. The two Subjects continue to run before running out of the view of the camera.

According to Officer A, he and Officer B discussed establishing a perimeter. The officers then focused on Subject 1 as he ran into the alley. According to Officer A, Subject 1 was still holding the pistol in his left hand. Approximately two seconds later, Officer A followed Subject 1 into the alley and, upon entering the alley, told his partner that Subject 1 was armed with a gun.

Note: According to Officer A, he paused at the mouth of the alley before following Subject 1 into the alley. A surveillance video recovered from a nearby residence, however, depicts Officer A following Subject 1 into the alley without any delay.

Officer B broadcast that they had observed a man running and provided a description and location. According to Officer A, Subject 1, prior to entering the alley, was swinging both arms as he ran. However, once in the alley, Subject 1 ran with his left arm down at

his side. As Subject 1 looked back at the officers, he cocked his left wrist and the pistol back toward the officers. Subject 1 held the pistol upside down, with the extended magazine along his forearm, and pointed the muzzle of the pistol at both officers. According to Officer A, upon seeing the extended magazine, he feared that it was a fully automatic pistol and knew that if Subject 1 pulled the trigger, it would lead to rapid-fire rounds from the extended magazine.

Believing that Subject 1 was going to shoot at him and Officer B, Officer A stopped the police vehicle approximately three seconds after entering the alley and exited the driver's door. Officer A unholstered his pistol and took a standing, two-handed shooting position behind the driver's door. Officer A fired four rounds at Subject 1 from behind his driver's door as he moved forward with his slow-moving vehicle that he had failed to place in park. According to Officer A, he stopped firing when he observed Subject 1 throw the pistol over the fence just prior to climbing over the same fence and running through a rear yard. The rounds did not strike Subject 1.

Note: According to Officer A, he believed he fired his service pistol three times at Subject 1. The investigation determined Officer A fired four rounds based on the physical evidence at the scene and the post-incident examination of Officer A's service pistol and magazines.

According to Officer B, upon entering the alley, he saw Subject 1 had angled his body to the left and was holding the pistol in his right hand, in front of his chest, with the muzzle pointed at him and Officer A. Officer B heard Officer A opening his door as he (Officer B) opened and exited the right rear door. Believing the situation could escalate to one involving deadly force, Officer B unholstered his pistol as he moved to the rear of the vehicle. From the rear of the vehicle, Officer B heard what he believed to be three gunshots. Officer B did not have a visual of Subject 1, as Officer A was directly between him and Subject 1. According to Officer B, he moved to the side and saw Subject 1 jumping over the fence. Although Officer B could see Subject 1 still holding the pistol, he could not recall if Subject 1 was holding the pistol as he climbed over the fence or had thrown it over the fence before climbing over himself.

Officer B broadcast a "shots fired, officer needs help" call and provided the location and other pertinent information.

Note: Investigators reviewed surveillance video recovered from a nearby residence. The video depicts Subject 1 running into the alley, followed approximately two seconds later by Officer A, driving his police vehicle. Four seconds after Subject 1 entered the alley, the pistol, discarded by Subject 1, was captured by the video camera as it flew in the air and landed in the rear yard of a residence near the alley. According to the video, Officer A's police vehicle was continuing in the alley as Subject 1's pistol was in flight over the fence. The vehicle came to a stop approximately one second later before slowly rolling forward out of view of the video camera. The video did not capture the officers exiting the police

vehicle nor did it capture their, or Subject 1's, actions or positions at the time of the OIS.

Officer B ran to the police vehicle and placed the transmission in park. Officer B then went to where Subject 1 had jumped over the fence and stepped on a post to look over the fence. Officer B observed a pistol on the ground and Subject 1 jumping over another fence to continue fleeing.

Officer B maintained his position in the alley. According to Officer A, he ran back to the mouth of the alley to see if Subject 1 would come back through the houses. Upon reaching the mouth of the alley, he continued moving down the street. As he did so, he looked between the houses and saw Subject 1 continuing over a fence. Officer A continued running in the same direction.

Officer A broadcast a request to establish a perimeter, stating that Subject 1 was running through the houses. Assisting officers later detained Subject 1 nearby. Subject 1 was sweaty, appeared to be out of breath, had blood on his hands (this appeared to be due to scratches on his hands), and his description was consistent with Officer A's broadcast. Subject 1 was then transported to the local police station. Subject 1 was not struck by gunfire but was provided medical treatment for injuries to his hand and head following the incident.

In the meantime, Officer A had returned to the alley and rejoined Officer B. As responding units and supervisors began to arrive, Officers A and B holstered their service pistols. Sergeants A and B arrived at the scene, and Sergeant A designated himself as the Incident Commander (IC). Sergeant B separated Officers A and B and obtained a Public Safety Statement (PSS) from Officer A. Southeast Area Detective A responded shortly thereafter and obtained a PSS from Officer B.

K-9 units responded and conducted a tactical search of the area for the two outstanding Subjects without success. During the search, however, a revolver was located near where the other Subjects had fled. A pistol, consistent with the pistol Officers A and B observed in Subject 1's hand at the time of the OIS, was also recovered from the backyard, near the fence line, of the residence adjacent to where the OIS occurred.

Both officers later positively identified Subject 1 as the individual who pointed a pistol at them. A second male was eliminated as being involved and was released.

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 Administrative Disapproval.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC did not issue a finding for Officer A's use of lethal force.¹

Basis for Findings

Detention

- The officers had been monitoring a location as part of an investigation. As the officers were driving, they observed three suspects exit a vehicle, two of whom were armed with handguns.

When the officers exited their vehicle, the Subjects got back in their vehicle and 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 Subjects exited their vehicle armed with handguns and immediately fled when the officers exited their vehicle with tactical vests identifying them as police officers. As the officers followed the Subjects, they abandoned their vehicle and fled on foot. As the officers followed Subject 1 into an alley, Subject 1 pointed a handgun in the direction of the officers.

¹ The BOPC did not reach a majority decision as to whether the use of force was in or out of policy.

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

1. Apprehension vs. Containment Mode

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 of a tactical incident.

In this case, the officers indicated that they followed the Subjects to track them and establish a perimeter. As they followed the Subjects, the Subjects abandoned their vehicle and fled on foot. As the officers began to catch up to the Subjects, two of the Subjects (Subjects 2 and 3) continued running down the street, while Subject 1 ran into an alley. The officers then drove into the alley after Subject 1.

In this circumstance, it would have been more tactically prudent for the officers to stop their vehicle at the mouth of the alley. This would have allowed them to establish containment by securing each corner of the block while maintaining sight of each other and setting up the perimeter.

Officers A and B were reminded of the importance of maintaining the tactical edge while transitioning from apprehension to containment mode.

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

Officers A and B separated from each other while they attempted to establish a perimeter involving armed Subjects.

Containment of a fleeing 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, immediately after the OIS, Officer B remained in the alley by himself while Officer A ran out of the alley, and then down the street, in an effort to set up a perimeter and contain the Subject. As a result, the officers no longer had a line of sight of each other, and the distance between the officers hindered their ability to effectively communicate or render immediate aid to one another.

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

- The BOPC additionally considered the following:

1. Situational Awareness – The investigation revealed that Officer A exited his vehicle to engage an armed suspect without placing the vehicle in park. The vehicle continued to roll forward, alongside Officer A and towards Subject 1. Officer A was reminded that not placing the vehicle park can place officers and the community in danger.

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 Administrative Disapproval.

B. Drawing/Exhibiting

- According to Officer A, he observed Subject 1 running with a firearm in his hand with the magazine next to his elbow and the barrel of the handgun pointing in his direction. Officer A stopped and immediately exited the vehicle while unholstering his service pistol.

According to Officer B, when Officer A turned into the mouth of the alley he observed Subject 1 with the gun pointed in their direction. Officer A stopped the officers' vehicle. Officer B then opened the door, exited the vehicle, unholstered his service pistol, and moved to the rear of their vehicle.

Based on the totality of the circumstances, the BOPC determined an officer with similar training and experience as Officers A and B, when 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 of a firearm to be in policy.

C. Lethal Use of Force

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

According to Officer A, he observed Subject 1 holding a handgun with an extended magazine and the barrel of the handgun facing in his direction. Fearing that he was about to be shot at by Subject 1, Officer A fired four rounds at Subject 1 to stop the deadly 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 that Subject 1's actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would be objectively reasonable.

The BOPC did not issue a finding for Officer A's lethal use of force. As noted above, the BOPC did not reach a majority decision as to whether the use of force was in or out of policy.