

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

OFFICER-INVOLVED SHOOTING – 095-15

<u>Division</u>	<u>Date</u>	<u>Duty-On () Off (X)</u>	<u>Uniform-Yes () No (X)</u>
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Hollenbeck	12/14/15		
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<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
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Officer A	1 year, 1 month
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Reason for Police Contact

Officer A was off-duty when an armed Subject attempted to rob him and an officer-involved shooting (OIS) occurred.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
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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 October 25, 2016.

Incident Summary

Off-duty Officer A removed his duty bag and tactical equipment backpack that contained work-related equipment from the rear cargo compartment of a vehicle parked on a residential street. He then carried the equipment and bags west to the driver's side door of his vehicle, where he used his car key to open the door, because his key fob was not working. After he obtained access to the interior of the vehicle, he manually unlocked the doors and proceeded to the rear of the vehicle, where he opened the rear lift gate and placed the duty bag and tactical equipment backpack in the cargo area.

Officer A then observed the Subject running west in the middle of street with what appeared to be something over his face. According to Officer A, he became concerned because he felt it was unusual for someone to be running at that time of night. He was concerned to the extent that he opened the small zipper pocket on the side of his tactical backpack where he stored a pistol. He reached into the pocket with his right hand, took a one-hand grip with his index finger alongside the frame and maintained his grip on the handgun while it was still inside the zipper pocket, as he looked back toward the street to obtain a visual on the Subject.

Officer A observed the Subject was now standing in the street, approximately nine feet north of him with a bandana over his face. The Subject was holding a stainless steel handgun in his right hand with his arm extended, pointing the handgun directly at Officer A. The Subject repeatedly stated, "Give me your keys." Officer A replied, "Hold on, hold on. Let me give you my keys. Just calm down. It's all good." Officer A described the Subject as agitated and flustered; he believed the Subject wanted him to act quickly. Officer A then stated, "Hold on. Calm down. Let me get you my keys."

Officer A then reached into his left front pants pocket with his left hand, retrieved his keys and threw them to the Subject, who caught them with his left hand. Meanwhile, Officer A had continued to maintain his right hand grip on his handgun inside the zipper pocket of his tactical backpack and used the distraction of throwing the keys as an opportunity to remove it from the zipper pocket and place it to the rear of his right leg. Officer A was standing at a slight angle, which provided him the ability to conceal his handgun from view. As he did this, Officer A stepped slightly west, away from the rear of his vehicle.

The Subject continued to point his handgun at Officer A and motion with it as if to direct Officer A to leave. Officer A described that the Subject repeatedly flailed the muzzle of his handgun to the right and then back toward him, an indication that the Subject intended for Officer A to flee westbound. As the Subject motioned with his handgun, he stated, "Take off. What are you doing? Hurry up." Officer A considered that there were no witnesses present and was concerned the Subject would shoot him.

At a moment when the Subject's muzzle was pointed away from him, Officer A assumed a right-hand close contact shooting position and fired his initial round in a northerly direction at the Subject from a distance of approximately eight feet. Officer A fired a

total of five rounds in rapid succession as he moved to his right toward his vehicle for cover raising his handgun from the single-hand close contact position to a single-hand extended arm shooting stance, with the final round fired from a distance of approximately 10 feet.

Officer A believed that after he fired his second round, the Subject fired one to two rounds at him as the Subject was falling to the ground to his left.

The investigation determined that the Subject fired one round from his pistol during the officer-involved shooting. Officer A was not struck by the Subject's gunfire.

The Subject was wounded and was subsequently taken into custody by responding on-duty officers. He was later transported to a hospital.

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:

Tactics – Tactical Debrief, Officer A.

Drawing/Exhibiting – In Policy, No Further Action, Officer A.

Lethal Use of Force – In Policy, No Further Action, Officer A.

Basis for Findings

A. Tactics

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

1. Off-Duty Tactics

While off-duty, Officer A was confronted by the Subject armed with a handgun as he was moving his work related equipment into the back of his vehicle.

The decision to take enforcement action in the capacity of an off-duty officer requires that consideration be given to the fact officers are forced to make split-

second decisions under very stressful and dynamic circumstances. Each incident must be looked at objectively and areas of concern must be evaluated based on the totality of the circumstances.

Based on the totality of the circumstances, the BOPC found that Officer A's actions were reasonable and consistent with approved Department tactical training.

B. Drawing/Exhibiting

- According to Officer A, he was able to draw his pistol out of the backpack as he tossed his car keys to the Subject.

Officer A recalled, "So at that point, that's when I had a reasonable belief that the tactical situation escalated to the point where deadly force may be justified so that's why I drew my weapon." "I was able to draw it to my side as and I waited for a moment for him to look away. It was misdirection with the keys."

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 that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officer A's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

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

According to Officer A, the Subject caught his car keys with his left hand and then started flailing his gun at him while simultaneously stating, "[T]ake off, what are you doing, hurry up." It was at that point, Officer A felt, because there were no witnesses, that the Subject was going to shoot him. Fearing that the Subject was going to kill him, Officer A fired five rounds at the Subject to protect himself from what he believed to be an imminent threat of serious bodily injury.

Given the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe that the Subject's actions presented an imminent threat of death or serious bodily injury and that the use of lethal force would be justified.

The BOPC found Officer A's lethal use of force to be objectively reasonable and in policy.