

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

OFFICER INVOLVED SHOOTING – 005-16

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Hollywood	1/16/16		
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Officer(s) Involved in Use of Force	Length of Service
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Officer C	4 years, 6 months
Officer D	4 years, 6 months

Reason for Police Contact

Officers C and D responded to a radio call of an armed robbery suspect. Officers C and D encountered the suspect, who had fled on foot, and as Officers C and D began to exit their police vehicle, the suspect pointed a replica semiautomatic pistol at them, resulting in an Officer-Involved Shooting (OIS).

Subject(s)	Deceased (X)	Wounded ()	Non-Hit ()
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Subject: Male, 34 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 December 13, 2016.

Incident Summary

Witness A was doing yard work in his backyard when he heard a noise that caused him to enter his residence, exit the front door, and look up the hill behind his home. Witness A saw a male, the Subject, climbing up the hill and was concerned that the Subject had been inside of his residence.

Witness A telephoned Communications Division (CD), advising the Emergency Board Operator (EBO) that the Subject was in his neighbor's backyard. Witness A also advised the EBO that he was going to check the inside of his residence because the Subject had been in his yard as well.

After telephoning CD, Witness A entered his residence, noted that one of the back doors was not in the same position that he had left it and believed the Subject had been inside his residence. Witness A quickly checked his residence and noticed that his wallet was missing. Witness A ran out of his residence, up the hill and grabbed at the Subject, possibly touching his foot. The Subject turned around, and Witness A asked for his property and wallet back. The Subject threw a bottle of BB pellets at Witness A, which Witness A recognized as being from his own BB gun and now believed that the Subject must have also taken his BB gun. Eventually, the Subject gave Witness A his wallet; however, when Witness A looked inside, he noticed the currency was missing. Witness A then told the Subject to return the currency, which the Subject initially refused to do, but then threw currency at him. Witness A saw that the Subject was carrying a bag and told the Subject to return any other property that he had taken from him.

Witness A also saw that the Subject was in possession of a jacket that he recognized as his because of a fleur-de-lis pattern that was on the inside of the jacket. After initially refusing, the Subject returned Witness A's jacket. Witness A then noticed the Subject also had a hat that belonged to him and requested it back. When the Subject refused, Witness A began to walk toward him, at which time the Subject threw the hat at Witness A. When Witness A then asked for the bag, the Subject removed a BB gun from the bag and pointed it at Witness A. At this time, Witness A backed away because he did not want to get shot in the face. According to Witness A, although he backed away, he remained behind a bush and continued to speak with the Subject for approximately 20 minutes trying to convince him to give back the BB gun. According to Witness A, during this same time, the Subject advised him that he was also in possession of a .22 caliber pistol, although the Subject never displayed it. The Subject then fled through the dense brush and out of Witness A's sight.

Due to Witness A's property being equipped with a home alarm monitored by ADT Security, an alarm was sent to ADT Dispatch, who subsequently called Witness A regarding the alarm. After providing ADT Dispatch with information, an ADT operator called the Los Angeles Police Department (LAPD) CD to report a trespass Subject at Witness A's residence.

CD called Witness A, who explained that the Subject was again in his backyard. The CD operator advised Witness A to stay in his house and lock the doors, and that the

police were on their way. CD broadcast to Hollywood units that the prowler complaint was now a “robbery Subject there now” call. CD provided a Subject description, male wearing a dark button down shirt, blue jeans. Uniformed officers and an Air unit responded to the location. CD provided further information that the Subject had entered Witness A’s residence and taken his wallet and a BB gun. Witness A confronted the Subject, who pointed the BB gun at him and then fled.

The Air Unit arrived and began searching for the Subject. Shortly thereafter, Officers A and B arrived and made contact with Witness A, who explained what had happened and provided the officers with the Subject’s description and direction he had fled. According to Officer A, the Air Unit was overhead, and he and his partner were providing information regarding the Subject’s last known location.

The Air Unit broadcast that they had possibly observed the Subject near a construction site and requested four additional units to respond. Hearing the broadcast from the Air Unit, Metropolitan K-9 Division units began responding to Hollywood Area to assist with the search for the Subject.

The Subject continued walking along the hillside, utilizing the heavy vegetation and tree lines in the area as camouflage. Hollywood Patrol Division units, along with Metropolitan Division K-9 units, attempted to set up a perimeter; however, due to the winding streets and dense shrubbery, they were unable to contain the Subject as he moved through the hillside, avoiding officers. The Subject made his way to a residence, where he broke the windows of a detached garage, in an effort to enter the garage and hide from the police.

Hollywood Patrol Division Watch Commander Sergeant A responded to the area and set up a Command Post (CP). Sergeant A assumed the role of Incident Commander (IC) and requested that additional units, along with a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA), respond to the area and stand-by during the search by Metropolitan Division K-9 units.

Meanwhile, Hollywood Area uniformed Police Officers C (driver) and D, (passenger) driving a marked black and white police vehicle, were monitoring the police radio for the robbery Subject. As Officers C and D monitored their radios, they heard a request for additional units and responded to the incident with emergency lights and siren (Code Three). As Officers C and D responded, they were aware of the Subject description and that Witness A had reported that the Subject had stolen his BB gun and that the Subject used it to threaten him.

Note: Officers C and D had worked together for the past two and one-half years and had discussed tactics on a regular basis.

The Air Unit, Tactical Flight Officer E, observed the Subject standing near the detached garage of a residence. Officer E requested units to respond, as the Subject began

descending the steep hillside. According to Officer D, they heard the Air Unit broadcast that the Subject was moving in a westerly direction toward a wooded area.

Note: The Air Unit utilized the Public Address (PA) system unit to communicate with the Subject and residents in the area.

Meanwhile, Witness B, who was standing in the driveway of a residence, indicated the Air Unit began to fly lower and, at one point, thought he saw the pilot motion to him with his hand; however, he did not know what the pilot wanted him to do. Witness B then looked across the street and saw the Subject sliding down the hillside in his direction. Witness B made eye contact with the Subject who was carrying a black bag in his right hand, headed in his direction, and believed the Subject would attempt to enter his friend's property.

Officer E observed Officers C and D driving north and began directing them to the Subject's location. As Officers C and D drove at approximately 40 to 50 mph, Officer D observed the Subject approximately 75 to 100 yards north of them and alerted Officer C. According to Officer D, Officer C replied, "I see him," as the Subject crossed the road.

At the same time, Witness B, who was still standing in the driveway, yelled out to the homeowner, and told her to close the sliding electric gate at the mouth of the driveway. According to Witness B, as the Subject ran into the mouth of the driveway, next to a parked maroon four-door vehicle, the Subject raised his right hand, placed it on the gate that had just finished closing and told him to open the gate. Witness B placed a shovel that he was holding on the ground and told the Subject to back up. According to Witness B, the Subject stepped back near the passenger side of the vehicle and appeared to be hiding from something. Witness B proceeded to back away into the driveway and noticed that the Subject came back toward the gate and suddenly produced a black 9mm semiautomatic pistol. The Subject pointed the pistol at Witness B and repeated his demand to open the gate. Witness B, fearing for his safety told the Subject to walk away. The Subject then walked over to the passenger side of the parked vehicle and ducked down.

Seconds later, as Officers C and D continued driving; they observed the Subject, with his arms down near his side, standing near the right rear quarter panel of the maroon vehicle. Officer C abruptly stopped their police vehicle approximately 27 feet south of the Subject. According to Officer D, he could not see the Subject's hands or body from the waist down due to the vehicle that the Subject was standing behind.

As Officers C and D began to open the doors on their police vehicle, Officer D exited the passenger door and, using the door's ballistic panel as cover, stood between the open door and windshield frame. Officer D unholstered his pistol with his right hand, held it in a two-handed, low-ready position for the Subject to put his hands up. According to Officer D, before he could finish saying the word "hands," the Subject raised his pistol, pointed it in his direction, and ran south along the west shoulder towards the officers.

While standing in the driveway, Witness B heard officers yelling, "Stop, put your hands up."

Simultaneously, Officer E, believing Officers C and D were going to initiate a chase, began to broadcast that Officers C and D were going to be in foot pursuit of the Subject. As the Subject continued running south, he kept his hand raised, while holding a black semiautomatic pistol that was pointed at Officers C and D as he ran along the driver's side of their police vehicle.

Note: The investigation determined that Subject was armed with a replica Colt Defender BB gun.

According to Officer E, as the Subject ran past Officer C and D's police vehicle on the driver side, the Subject raised his left arm and pointed it in Officers C and D's direction as if holding a gun.

Officer C stated no commands were given.

According to Officer D, as the Subject ran toward them, he yelled incoherently, appeared to be disoriented and under the influence of narcotics. Officer D raised his pistol to acquire a sight picture; however, the Subject ran south along the driver's side of the police vehicle and out of his sight. Officer D immediately redeployed to the passenger side rear quarter panel of the police vehicle to re-acquire sight of the Subject.

Note: Officer C stated that the Subject did not say anything as he charged at them.

Simultaneously, Officer C saw the Subject raise his hands up in front of his chest, while holding a black pistol that was pointed at him. Fearing he was about to be shot, Officer C, while still seated in the driver's seat, leaned his upper torso toward the passenger seat while extending his legs outward toward the open driver door and used the ballistic door panel as cover to prevent being shot by the Subject. While partially lying on his right side and back, Officer C had difficulty unholstering his pistol, which was partially under his body; however, he was eventually able to unholster his pistol with his right hand. According to Officer C, as the Subject passed the open driver's door of the police vehicle, the Subject's upper torso was turned in his direction while his lower torso faced in a southern direction as he was pointing his pistol at Officer C. Officer C exited the driver's door and, while faced in a southwest direction, raised both hands together as he held his pistol with two hands and his finger on the trigger. According to Officer C, everything was happening so fast, he did not have time to have any verbal communication with the Subject before he pointed his pistol at the Subject's upper torso, which was turned in Officer C's direction as he continued to point his pistol at him. Fearing for his life, Officer C discharged three rounds in rapid succession at the Subject.

Note: Officer C estimated that he fired two to four rounds at the Subject.

According to Officer C, he may have yelled, "Gun, gun, gun," to Officer D.

When asked what he thought was going to happen when he saw the Subject pointing a pistol at him, Officer C replied that it was clear to him that the Subject wanted to take his life. According to Officer C, after firing his final round, the Subject turned his upper torso in a southerly direction, bent over as if having been kicked in the stomach, and began to stumble, falling head first toward the ground.

Note: Officer D said the Subject stumbled backwards and fell onto his back.

Simultaneously, Officer D, who was now at the right rear quarter panel of the police vehicle, began to move around the corner of the vehicle to re-acquire sight of the Subject. As Officer D moved around the corner of the police vehicle, he saw the Subject moving at a fast pace in a south direction along the west side of the roadway. According to Officer D, the Subject's legs were facing south with his upper body turned in a northeast direction facing him. The Subject was holding his pistol in his right hand with his right arm extended out, and was pointing his pistol directly at Officer D. When asked what he thought was going to happen, Officer D replied that he thought the Subject was going to shoot him in an attempt to make his escape.

Within two seconds of seeing the Subject pointing his pistol at him, Officer D pointed his pistol at the Subject's center mass and discharged four rounds in rapid succession. According to Officer C, the Subject lowered his pistol, fell down, and landed on his right chest and shoulder area, with his arms under his body. According to Officer D, the Subject rolled toward the dirt shoulder on the west side of roadway and onto his stomach.

Note: According to Officer D, the Subject stumbled backwards approximately 10 to 15 feet, in a southern direction, before falling to the ground.

The distance from the rear end of Officers C and D's police vehicle to Subject's final resting position was approximately 41 feet.

Officer D stated the Subject's hands were near his waistband.

According to Officer C, the Subject was lying along the dirt shoulder on the west side of road, with his head facing south and his feet facing north. As Officer C began to approach the Subject, he couldn't see the Subject's pistol and yelled, "Drop the gun" to the Subject. Officer C then saw the Subject's pistol lying approximately four inches to the left of his body. Upon seeing Subject's pistol lying within close proximity to his body, Officer C yelled "Don't -- do not reach for the weapon or I will shoot."

Officer C, with his pistol in a low-ready position, approached the Subject on the right side of his body. Simultaneously, Officer D, with his pistol in a low-ready position,

approached the Subject's body in a southwest direction. According to Officer C, he reached the Subject before Officer D and believed he told him he was going to kick the Subject's gun away from him. Officer C proceeded to use his right foot to kick the Subject's pistol across the road to the dirt embankment, to prevent the Subject from grabbing it.

Note: Officer D thought the Subject threw his pistol across the road because of where he saw the pistol after the Subject was in custody.

Officer D stated the Subject fell onto his back, face up.

Officer D stated he broadcast "shots fired, officer needs help," however investigators were unable to locate any such broadcast.

Officer C advised Officer D that he would handcuff the Subject. As Officer D stood five to six feet from Officer C, he held his pistol in a low-ready position, with his finger alongside the frame so Officer C could handcuff the Subject. Officer C holstered his pistol and, while standing on the dirt shoulder to the right side of the Subject, bent down and rolled the Subject from east to west onto his stomach, with his right hand under his body. Officer C placed his left knee on the Subject's lower back and right knee on the ground for a steady base, while he grabbed the Subject's right elbow with his right hand and the Subject's left wrist with his left hand. Officer C then placed both of the Subject's hands behind his back. Officer C then placed a handcuff on the Subject's left wrist first, followed by his right wrist. Officer C conducted a quick pat down search of Subject for any additional weapons and did not find any.

As Officer D requested an RA, Officer C was handcuffing the Subject. Officers A and B were the first unit to arrive at the scene. As they exited their police vehicle, they observed Officer C placing handcuffs on the Subject. According to Officer A, he told Officer B to search the Subject for weapons and roll him onto his side. Officer B conducted a pat down search for weapons and did not find any. Officer B then placed the Subject onto his right side and held him there until LAFD personnel arrived at the scene.

LAFD arrived at scene and treated the Subject for multiple gunshot wounds. During the assessment of the Subject, it was determined that he showed no signs of life and was subsequently determined 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 C, D and E's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Officers C and D's lethal use of force to be in policy.

Basis for Findings

A. Tactics

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

1. Apprehension versus Containment

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, Tactical Flight Officer E's intent was to establish containment to keep the Subject from moving further out of the perimeter. As the officers got closer to the area, he lost sight of the Subject under a tree line and continued to direct the officers to the area that he last observed the Subject.

Although Tactical Flight Officer E directed Officers C and D to slow down, as well as advised them that the Subject was on the driver's side of their vehicle near a red car in the driveway, the officers were unable to observe the Subject and stop their vehicle until they were relatively close to the Subject.

Based on the totality of the circumstances, the BOPC determined that Tactical Flight Officer E's actions were reasonable and did not substantially deviate from approved Department tactical training.

2. Code Six

Officers C and D did not advise CD of their Code Six location as they exited their police vehicle to conduct a pedestrian stop on the Subject.

The purpose of going Code Six is to advise CD and officers in the area of the unit's 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 Code Six 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 Code Six broadcast.

In this case, as the officer's vehicle came to a stop, the officer's attention was directed to the immediate deadly threat of a Subject armed with a handgun.

Officer safety is of paramount concern and officers should always strive to maintain the tactical advantage during field duties. Officers C and D are to be reminded of the Department's requirement to go Code Six whenever tactically feasible when conducting a field investigation.

- The BOPC additionally considered the following:

1. Simultaneous Commands (Non Conflicting)

The investigation revealed that Officers C and D gave simultaneous commands to the Subject after the OIS. Although the commands were non-conflicting, the officers are reminded that simultaneous commands can sometimes lead to confusion and non-compliance.

2. Preservation of Evidence

The investigation revealed that Officer C used his foot to kick the Subject's handgun away, out of the Subject's reach. Officer C is reminded that whenever tactically feasible, it is preferable to leave the evidence undisturbed until FID investigators can properly document and preserve the scene.

These topics will 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 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, the BOPC determined that Officer C and D's tactics were not a substantial deviation from approved Department tactical training.

In conclusion, the BOPC found Officers C, D, and E's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- According to Officer C, as he stopped the vehicle and was opening his door, he observed the Subject advancing towards the driver's side of their vehicle with both arms raised, pointing a black pistol at him. Fearing for his life, he crouched down in the front seat of his vehicle and utilized his ballistic door panel for cover. As the Subject ran past his door, he drew his service pistol and exited the vehicle.

According to Officer D, as the vehicle came to a stop, he exited, drew his service pistol, and assumed a position of cover behind his ballistic door panel. Officer D recalled that he drew his weapon based on the tactical situation and his reasonable belief that the situation may escalate to a point where deadly force may be necessary.

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

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

C. Lethal Use of Force

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

According to Officer C, he observed the Subject turning toward his left with his firearm raised and pointing in the officers' direction. Fearing for his life, as well as for the life of his partner, he fired three rounds at the Subject to stop deadly threat.

Officer C recalled that he was in fear for his life. It was clear to Officer C that the Subject wanted to take his life and cause harm to him. According to Officer C, he wanted to stay alive, so he fired his weapon before the Subject could fire his. Officer C believed that it was at the point of it being his life or the life of the Subject.

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

According to Officer D, as he moved around the corner of the vehicle, he observed the Subject turning toward his direction with the firearm in his hand. Fearing for his life, he fired four rounds at the Subject to stop the deadly threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers C and D 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 objectively reasonable.

Therefore, the BOPC found Officers C and D's use of lethal force to be objectively reasonable and in policy.