

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

OFFICER-INVOLVED SHOOTING – 024-16

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
Rampart	4/20/16		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	6 years, 7 months
Officer G	20 years, 7 months.
Officer H	21 years, 5 months

Reason for Police Contact

Officers were attempting to stop the Subject for committing a traffic violation as he rode his bicycle. The Subject initially refused to stop, and then dumped his bicycle and fled on foot. Officers attempted to take him into custody and an officer-involved shooting (OIS) occurred.

<u>Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded ()</u>	<u>Non-Hit (X)</u>
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Subject: Male, 27 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 March 14, 2017.

Incident Summary

Uniformed Officers A, B, and C, were in a black and white police vehicle. Officer B was the driver, and Officers A and C were the front and rear seat passengers, respectively. Officer C was also the designated communications officer.

It was Officer A's first day working in the Division. He was assigned to work with Officers B and C, who had been partners for approximately eight months. According to Officer A, prior to deploying in the field, the officers discussed three-man car tactics. Officer B was the designated driver, Officer A was the assigned contact officer, and Officer C was designated as the cover and communications officer.

The officers observed the Subject riding a bicycle on the public roadway. Officer B observed the absence of a forward-facing light during the hours of darkness and asked Officers A and C if they had observed the same. Officer A, who had also seen the Subject riding the bicycle in the periphery of his vision, did not have a good view of the Subject. However, Officer C who was seated in the rear informed Officer B that the Subject did not have a light on his bicycle.

Note: The California Vehicle Code (CVC) requires a bicycle operated during the hours of darkness to be equipped with a white light that, while the bicycle is in motion, illuminates the highway, sidewalk, or bikeway in front of the bicyclist and is visible from 300 feet (21201(d)(1) CVC). The Subject claimed to have been in possession of a handheld light. Security video in the alley depicts the Subject running from the officers with what appears to be an object in his right hand that provided illumination. A small flashlight was recovered from within a backpack that was in his possession.

Officer B conducted a U-turn in an attempt to stop the Subject. Officer C broadcast to Communications Division (CD) via his hand-held radio to provide the officers' status and location (that they were Code Six) on a pedestrian stop.

As the officers traveled north, the Subject maneuvered to the west sidewalk and continued to ride his bike north. The officers temporarily lost sight of the Subject as he rode behind a utility truck parked on the west curb. When they regained visual contact, Officer B yelled at the Subject through his rolled down window, "Police, stop." In response, the Subject shouted, "[Profanity], you always do this." Officer B again gave commands to the Subject, "Police, stop." Once again, the Subject responded by yelling a profanity. With their windows down, Officers A and C were also able to hear the Subject's response to Officer B's commands.

As the Subject reached an east/west alley, he made a left turn, traveling west in the alley. Officer B turned the vehicle into the alley and followed approximately five feet behind the Subject. The Subject then turned his head over his right shoulder and yelled, "[Profanity], just hit me."

According to Officer B, he was not able to activate the emergency lights and siren when the officers attempted to stop the Subject, because he was driving with one hand on the steering wheel and the other on the door handle, in case he had to exit the vehicle quickly.

The Subject continued riding the bicycle west in the alley, closely followed by the police vehicle. Suddenly, the Subject dropped his bicycle in front of the police vehicle causing Officer B to stop, as the Subject fled west on foot. With the bicycle blocking the police vehicle, Officer A exited from the front passenger seat and pursued the Subject on foot. Officer A was immediately followed by Officers B and C, respectively. According to Officer B he observed that the Subject was running with his hands in front of his body. Believing that the Subject was possibly armed with a weapon, as Officer B exited the vehicle; he unholstered his pistol to a low ready position. The Subject reached a chain link fence to the rear of an adjacent residence and entered a hole in the fence.

Officer A was the first officer to reach the opening in the fence. As soon as he reached the opening, Officer A observed the Subject standing in the backyard with his shoulders facing west. The Subject's head was turned north toward Officer A, as he stared directly at Officer A and reached for a shiny metallic object in his waistband. Believing that the Subject was reaching for a gun to use against him, Officer A unholstered his service pistol, crouched down, held his pistol in a single-handed grip, and from a close contact position, he fired one round in a southerly direction at the Subject from approximately 19 feet.

During the walk through, Officer A estimated he was nine feet from the fence when he discharged his service pistol. However, Officers B and C estimated he was approximately one foot from the fence when the round was fired. The expended cartridge casing was recovered from shrubbery approximately one foot from the fence.

As soon as Officer A discharged his service pistol, he backed away from the fence in a northerly direction. He then assessed and observed that the Subject was no longer in sight.

Officer A could not recall when he re-holstered his pistol. Officer B re-holstered as soon as Officer A informed him that the suspect had fled south. Officer C did not unholster his pistol. Also, all three officers were in line of sight of each other throughout the incident.

With Officer A maintaining his position covering the hole in the fence, Officers B and C then took positions on each end of the alley to establish containment. Officer B broadcast to CD via his hand-held radio, "...officer needs help...", and their location. He also requested additional units for a perimeter.

Lieutenant A, Sergeant A, Sergeant B, and Sergeant C arrived at scene. Sergeants A, B, and C obtained the Public Safety Statements (PSS) from Officers A, B, and C,

respectively, and transported them to a police station. Each PSS was obtained independent of other officers. The officers were also admonished not to discuss the incident with anyone other than his representative or investigators from Force Investigation Division (FID).

Sergeant A obtained the PSS from Officer A after he transported him to the station. Sergeant A explained he did this because the subject was still outstanding and the situation was tactical in nature.

As officers responded and assumed their posts on the perimeter and a Command Post (CP) was established. Captain A arrived at scene and assumed duty as the Incident Commander (IC). Officers assigned to Metropolitan Division K-9 and Special Weapons and Tactics (SWAT) also responded to assist in the search for the Subject. Metropolitan Division K-9 Police Officer D briefed the search team officers with a tactical plan to conduct a search. The search plan was approved by Metropolitan Division K-9 Sergeant D, and Captain A.

The search plan included the deployment of nine teams of K-9 officers, accompanied by members of SWAT. The primary K-9 search team with Officer D included Officer E, and Officers F, G, H, and I.

Officer D, his dog, and the aforementioned search team, searched the alley with negative results. They then began searching the property where the subject was last seen. The location consisted of two houses on the property. The house to the south was close to the street, whereas the house to the north was adjacent to the east/west alley, the location where the OIS occurred.

The south structure was searched and cleared. As searching officers approached the north structure, they observed an open door located on the southeast corner of the house. Once inside, the dog alerted to a door in the hallway. Officer G was posted to guard the door as Officer D and his dog cleared the rest of the house. As they made their way back to the door in the hallway, the dog once again alerted to the door. To verify his dog's indications that the subject might be behind the door, Officer D requested that a second dog respond to his location. Upon arrival, the second dog alerted on the same door.

Officer E requested additional officers to respond to the location for an outer perimeter and supplement the search team inside the house. Police Officers J and K arrived and assisted Officer G to secure the door where the dogs had alerted.

Officer J observed two hands protruding through the gap between the door and the floor. Officer F began giving commands for the Subject to open the door. After initially ignoring the officer's commands, the Subject finally opened the door and lay face down on the floor. Since the officers did not have a view of the space behind the open door, commands were given for the Subject to crawl toward the officers. The Subject resisted and told the officers to come get him. Upon being given repeated commands to crawl

toward them, the Subject finally crawled far enough for Officers G and H to safely approach him without exposing themselves to the space behind the open door.

Officer G applied body weight and placed his left knee on the Subject's back and shoulder blade area. In this position, Officer G's shin was across the Subject's face. With Officers G and H controlling the Subject's left and right arms respectively, Officer H handcuffed the Subject without incident.

After being taken into custody, the Subject told Officer G, "You know, I didn't want to ... go out like that. You know, they stopped me for no reason. Man, these [profanity] always stop me. They stopped me 30 times already and gave me a ticket for no light. I have like 30 tickets for no lights and it's bullshit. I didn't want to get stopped tonight so I ran."

According to Officer G, the Subject stated, "Man, I was asleep and I saw the lasers on the door. And I freaked out man. I just did a big line of coke and I was freaking out."

In his statement to FID investigators, the Subject admitted to using and being in possession of methamphetamine, not cocaine.

As Officer H walked the Subject outside the house, the Subject stated that his handcuffs were hurting him. Officer H adjusted the handcuffs to make them more comfortable.

Once outside the house, a field show-up was conducted. Officers A, B, and C positively identified the Subject as the suspect who was riding the bicycle and subsequently fleeing from the officers.

The Subject was arrested for Assault with a Deadly Weapon on a Peace Officer and was transported to the police station. The Subject was booked for Penal Code (PC) Section 245 (D)(2), Assault with a Deadly Weapon (ADW) with gun on a Peace Officer (PO).

Force Investigation Division personnel conducted a thorough search of the area where the Subject was located including the surrounding area for a firearm, with negative results.

Personnel from Forensic Science Division (FSD) Firearms Analysis Unit (FAU) responded and conducted an examination of the OIS scene for ballistic impacts, trajectories, and projectiles.

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, B, and C's tactics to warrant Administrative Disapproval, and found Officers G and H's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

The BOPC found Officers G and H's non-lethal use of force to be in policy.

D. Use of Lethal Force

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

Basis for Findings

A. Tactics

- In its analysis of this incident, the BOPC considered the following tactical issues:

1. Updating Status (Substantial Deviation – Officer C)

The purpose of going Code Six and updating the officers' location is to advise CD and officers in the area of the location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel.

In this case, the officers had previously discussed tactics and agreed Officer C would be the designated communications officer. Officer C anticipated they would be contacting the Subject at a specific location, so he advised CD they were Code Six at that location. However, the Subject ignored their commands, continued riding his bicycle for a significant distance, and then turned into an alley north of that location.

In this situation, Officer C had sufficient time to update the officers' status, as well as broadcast any other relevant information prior to initiating their investigation.

Officer C's failure to update their status as they followed the Subject into the alley placed the officers at a significant tactical disadvantage.

Based on the totality of the circumstances, the BOPC determined that Officer C's actions were a substantial deviation, without justification, from approved Department tactical training.

2. Initiating Contact While Seated in a Police Vehicle

Officers A, B, and C initiated contact with a subject on a bicycle while seated in their police vehicle.

The positioning of the police vehicle when conducting a stop of a bicycle is critical in order to provide the officers a tactical advantage should the incident escalate.

In this case, the officers observed the Subject commit a minor vehicle code violation on a bicycle. As they continued to follow him, the officers attempted to get him to stop by giving him commands while still seated in their police vehicle.

The BOPC determined that in this circumstance, the officers' actions were not a substantial deviation from approved Department tactical training.

3. Tactical Vehicle Deployment

During this incident, Officer B positioned the police vehicle adjacent to and directly behind the suspect's bicycle.

Positioning of the police vehicle is critical in order to provide the officers with a tactical advantage should the incident escalate.

The BOPC discussed Officer B's tactical decision to drive next to and directly behind the Subject during the incident and believed that positioning the police vehicle in that manner decreased the officers' tactical advantage. However, the BOPC concluded that in this instance, Officer B's actions were not a substantial deviation from approved Department tactical training.

4. Tactical Communication/Planning (Substantial Deviation – Officers A, B, and C)

Officers A, B, and C did not communicate their observations or plan their actions with one another on multiple occasions throughout the incident.

Operational success is based on the ability of officers to effectively communicate during critical incidents. 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.

In this case, the officers' lack of planning and inability to effectively communicate with one another during this incident placed the officers at a tactical disadvantage.

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

5. Pursuing Armed Suspects (Substantial Deviation – Officer A)

Following the OIS, Officer A attempted to enter the opening in the chain link fence to pursue what he believed to be an armed suspect.

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.

Generally, officers are discouraged from pursuing armed suspects on foot. Nonetheless, officers must be afforded a level of discretion regarding the appropriateness of their decision to engage in a foot pursuit of an armed suspect.

In this case, Officer A attempted to pursue the Subject through the opening in the chain link fence, despite the fact that he had lost sight of the Subject and believed the Subject was armed with a handgun. Although Officer A recognized his actions were not a good idea and backed out of the opening, his decision to initially enter the opening unnecessarily risked his safety and placed him at a distinct tactical disadvantage.

Based upon the totality of the circumstances, the BOPC determined that Officer A's actions were a substantial deviation, without justification, from approved Department tactical training.

6. Foot Pursuit Broadcast (Substantial Deviation – Officer C)

Officers C did not advise CD when they went in foot pursuit of the Subject in the alley.

Although the roles of the primary and secondary officers in a foot pursuit are not absolute, and at any given time an officer's predetermined role may change from primary officer to secondary officer, the concept of effective communication via a radio broadcast cannot be compromised.

Additionally, as a general concept, the BOPC expects the primary officer in a foot pursuit to focus on the suspect rather than coordinating resources and the secondary officer in a foot pursuit to assume the responsibility for such broadcasts.

In this case, the officers had previously discussed tactics and agreed Officer C would be the designated communications officer. As such, it was his responsibility to advise CD that they were in foot pursuit.

Based on the totality of the circumstances, the BOPC determined that Officer C's failure to advise CD when they went in foot pursuit after the suspect was a substantial deviation, without justification, from approved Department tactical 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 the tactics be evaluated based on the totality of the circumstances.

In conducting an objective assessment of this case, the BOPC found that the tactics utilized by Officers A, B, and C substantially and unjustifiably deviated from approved Department tactical training, thus requiring a finding of Administrative Disapproval. Additionally, the BOPC found Officer G and H's tactics did not substantially deviate from approved Department tactical training and warranted a Tactical Debrief.

B. Drawing and Exhibiting

- According to Officer A, he observed the Subject grab what he believed to be a firearm and make a motion as if he was drawing it from his waistband. In fear for his life, Officer A drew his service pistol.

According to Officer B, he exited the vehicle and couldn't see the Subject's hands because they were in front of his body. Based upon his observations, he believed the Subject was trying to hold something, so he drew his service pistol.

Based on the totality of the circumstances, the BOPC determined an officer with similar training and experience as Officers A and B, while 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. Non-Lethal Use of Force

- **Officer G** – Firm Grip, Physical Force, and Body weight
- **Officer H** – Firm Grip and Physical Force

According to Officer G, he grabbed the Subject's left arm, Officer H grabbed his right arm, and they pulled the Subject forward to get him away from the door. He then placed his left knee on the Subject's shoulder blades with his left shin on his left shoulder and across his face to prevent him from moving while they placed him in handcuffs.

According to Officer H, he grabbed the Subject's right hand, while Officer G grabbed his left hand, and they pulled the Subject forward about two feet further from the door. He then handcuffed the Subject and took him into custody without further incident.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers G and H, while faced with similar circumstances, would believe that the application of non-lethal force by these officers would be reasonable to overcome the Subject's resistance, prevent his escape, and effect an arrest.

Therefore, the BOPC found Officers G and H's non-lethal use of force to be objectively reasonable and in policy.

D. Use of Lethal Force

- **Officer A** – (pistol, one round)

According to Officer A, he observed the Subject grab what he believed to be a firearm and make a motion as if he was drawing it from his waistband. In fear for his life, he drew his service pistol, and from a close contact position, fired one round 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 therefore, the use of lethal force would be objectively reasonable.

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