

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

**OFFICER-INVOLVED SHOOTING – 041-16**

<b>Division</b>	<b>Date</b>	<b>Duty-On ( ) Off (X)</b>	<b>Uniform-Yes ( ) No (X)</b>
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Outside City	07/06/16		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	2 months
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**Reason for Police Contact**

Officer A was off-duty at a fast food restaurant, when the Subject approached him, demanded his cell phone and brandished a replica firearm, resulting in an officer-involved shooting (OIS).

<b>Subject(s)</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Subject: Male, 19 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 May 9, 2017.

## **Incident Summary**

Officer A was off-duty and in an outside city, getting a tattoo. Officer A had arrived two hours earlier for his session with the tattoo artist, and they were taking a break to allow the artist to change out ink and for Officer A to get something to eat.

Officer A walked across the street toward a fast food restaurant.

As he walked toward the restaurant, he observed a male, later identified as the Subject, riding a bicycle and wearing a black baseball cap and a white jersey. According to Officer A, the Subject approached another male, later identified to be Witness A, who was standing at the northwest corner of the building. Witness A was wearing dark clothing and holding a backpack.

The Subject got off the bicycle and began speaking with Witness A. According to Officer A, the Subject was looking around him as he handed Witness A something. Based on his training and experience, Officer A believed that he had just witnessed a possible narcotics transaction. Aware that he was in an off- duty capacity, Officer A's intention was to return to the tattoo parlor with his food and then decide if he wanted to report his observations to the local police department.

Officer A entered the restaurant, ordered his food at the front counter from Witness B, and waited on the east side of the dining area, next to the pickup window located adjacent to the front counter. As he waited, he looked out of the north side window and observed the Subject staring at him intently. Officer A stated he made a conscious effort to avoid eye contact with the Subject.

The Subject walked into the restaurant through the main entrance doors, located on the northeast side of the location. He walked to the front counter and asked Witness B for a water cup.

According to Witness B, as she handed the Subject a cup, she could smell a strong odor of marijuana coming from him. She suspected that he intended to fill the water cup with soda and walked over to the northwest side of the dining area to alert her manager, Witness C, who was on a break and sitting at a table. As the Subject filled his cup with soda, Witness B told Witness C that the Subject smelled of marijuana, and she stepped forward to stop him. Witness C told her to stop, and they continued to watch the Subject, believing that he was about to cause a problem.

The Subject walked toward Officer A and placed his water cup on a countertop. As he approached Officer A, who was standing facing north, the Subject continued to make eye contact and alternately looked at Officer A from the top of his head down to his feet. Officer A believed that the Subject was assessing him and intended to rob him or challenge him.

According to Officer A, the Subject stood facing south, directly in front of Officer A, and from a distance of approximately three feet, immediately stated, "Let me borrow your phone. I need to make a phone call."

**Note:** Another cell phone was later recovered in the Subject's pocket by paramedics. It is unknown if it was operational.

Officer A told the Subject that he did not have his phone on him, and that he left it at the tattoo shop. The Subject remained in front of Officer A and continued to stare at him up and down, so Officer A repeated to the Subject, "I don't have my phone. I left it at the tattoo shop."

The Subject stated, "Oh, you getting tattoos over there? Are they good? Are they a good spot? Should I go?" Simultaneous to his statement, the Subject lifted up his jersey and exposed the grip and rear sights of a black semiautomatic handgun in the waistband of his pants.

The Subject continued to display the handgun for several seconds without touching it, then placed his jersey back down over the handgun. The Subject kept his hand over his waistband where the gun was located, then stated to Officer A, "So, what about that phone."

**Note:** In Officer A's interview with the local police, he stated that he understood by the seriousness and gravity of the Subject's tone and actions that he better hand over his cellphone, or the Subject was going to pull out the handgun and shoot him.

The Subject then leaned to his left at the counter of the pickup window, lifted his jersey with his right hand, and displayed a pistol at his right waistband. The Subject then looked over his right shoulder and looked directly over at Witnesses B, C, and D. Witness D believed that the Subject intended to rob Officer A.

Officer A believed that the Subject could see the outline of his wallet and phone inside his front shorts pocket. Out of his peripheral vision, Officer A also observed Witness A, who was outside the location, walk to the south west side of the restaurant.

In fear for his life, Officer A stepped back with his right foot, slightly pivoted his body to his right side, and looked behind him. As he looked, Officer A could see children at the corner table directly behind him, along with an older female seated several feet away. He was also aware of restaurant employees in the dining area. He considered the option of walking away from the Subject, but felt that the Subject would shoot him and possibly hit the civilians behind him.

According to Officer A, "When I turned around, I saw the kids, and in my head all I thought about was these kids, my son, what's going to happen? This guy is going to do something. In my mind, he was taking my phone by force or fear. He had -- he

brandished his handgun. He was ready to use his handgun on me. I was scared for my own life. I was scared for the children behind me. Had the gentleman taken out his firearm and shot, he could have easily shot the kids behind me, the family behind me. In my mind, the only thing that crossed my mind was I have to defend myself and defend these children. I immediately thought immediate defense of life. I have to do something.”

Officer A also believed that in the event he did comply, the Subject would check Officer A’s pockets and discover that he was armed with a concealed handgun and police identification card, and possibly shoot him.

As he was facing away from the Subject, Officer A reached with his right hand into the waistband of his shorts and unholstered his handgun. He turned back in the Subject’s direction, stepped forward with his right leg and, holding his pistol in a two-handed grip, fired at the Subject’s upper torso, until the Subject fell to the ground. The Subject was later pronounced deceased. A replica firearm was recovered from his front waistband. In addition to numerous independent witnesses, much of the OIS was captured on security surveillance video.

### **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, unanimously made the following findings:

#### **A. Tactics**

The BOPC found Officers A’s tactics to warrant a Tactical Debrief.

#### **B. Drawing/Exhibiting**

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

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

The BOPC found Officer A’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. Off-Duty Tactics (Planning and Other Resources)

While off-duty, Officer A was confronted by a suspect that was armed with a handgun and wanted his cell phone.

In this case, the BOPC considered the circumstances surrounding this incident and ultimately concluded that Officer A's options were limited because the Subject had the tactical advantage and had already demonstrated his potential to use deadly force when he lifted his shirt above his waistband and exposed a handgun. When Officer A looked around for an avenue to get away from the Subject, he observed that there were several children and an older female in the dining room directly behind him who could be injured if the Subject started shooting at him.

The BOPC also expressed concern for the safety of the citizens in the dining room and the lack of any cover available to the officer.

Based on the totality of the circumstances, the BOPC determined that Officer A's decision to quickly draw his service pistol and engage the Subject without prior warning was reasonable and necessary to gain the tactical advantage and stop the immediate deadly threat to himself, and defend the lives of the people directly behind him.

- The BOPC additionally considered the following:

#### 1. Notification of Plainclothes Attire

The investigation revealed that when Officer A called 911, he did not provide the 911 operator with his physical description or attire. Officer A is reminded of the importance of providing his description to avoid confusion with the responding law enforcement personnel.

In conclusion, the BOPC found Officers A's tactics to warrant a Tactical Debrief.

### **B. Drawing/Exhibiting**

- According to Officer A, the Subject lifted his shirt and exposed a black handgun in his waistband then lowered his shirt and kept his hand near the handgun. Officer A believed he was in an immediate defense of life situation and drew his service pistol.

Based on the totality of the circumstances, the BOPC determined an officer with similar training and experience as Officer A, 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 Officer A's drawing and exhibiting of a firearm to be in policy.

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

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

According to Officer A, he observed that no one was standing behind the Subject and that he had his hand still close to his gun. In defense of his life and the lives of the citizens around him, he fired three rounds at the Subject to stop the immediate 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 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 lethal use of force to be in policy.