

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

**OFFICER-INVOLVED SHOOTING – 044-16**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On ( ) Off (X)</u></b>	<b><u>Uniform-Yes ( ) No (X)</u></b>
Outside City	7/26/2016		

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	19 years, 8 months.

**Reason for Police Contact**

An off-duty officer was inside his residence when his car, parked in his driveway, was burglarized. While waiting for local law enforcement to respond he heard a noise outside and went to investigate. Several subjects were driving by his house, and opened fire on his home, resulting in an officer-involved shooting (OIS). It was subsequently discovered that the subjects were shooting a paintball gun.

<b><u>Subject(s)</u></b>	<b><u>Deceased ( )</u></b>	<b><u>Wounded ( )</u></b>	<b><u>Non-Hit ( )</u></b>
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Subjects: Unknown

**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 June 6, 2017.

## **Incident Summary**

This incident began when Witness A, the wife of Officer A, exited their home. As she did so, she observed an older model vehicle parked in front of her home. The vehicle was running and a male was in the driver's seat. Witness A thought it was unusual, but walked toward her vehicle, parked in the driveway. As she approached her vehicle, she observed an unknown male inside her vehicle, going through the contents of the center console. The unknown male looked at her, and then ran to the running vehicle parked in front of her house. As he did so, a third male ran from around the corner to the waiting vehicle. Both men got into the vehicle, which then drove south, negotiated a U-turn, and drove away, heading northbound.

Witness A ran back into her house, went upstairs, woke Officer A, and told him what she observed. Officer A ensured she was unharmed before he went to his gun safe and retrieved his off-duty weapon and two magazines. His off-duty weapon was secured in an inside-the-pants-type holster. Officer A stated he was wearing pajama pants with a drawstring waist and secured his holstered pistol inside the waistband of his pajama pants on the right side. Officer A clipped two magazine pouches, containing two fully loaded magazines, to the outside left portion of his pajama pants waistband. Officer A then went outside to look at the officers' vehicle.

Officer A's off-duty weapon was registered in the LAPD Firearms Inventory Tracking System (FITS). Officer A stated the pistol and magazines are only used at home and not carried while on duty.

Officer A stated he armed himself because his wife could have been wrong about the suspects leaving the location, or they could return to the location. Additionally, he believed it to be unsafe and tactually unsound to investigate a crime involving three male adult unknown suspects without being armed.

According to Officer A, Witness A told him the suspects' vehicle was an older model vehicle. Additionally, she told him the male in the running vehicle was originally standing outside of the open driver's side door, but had driven away.

Officer A told his wife to wait inside the house, while he went outside to investigate. Officer A stated he did not see anyone, or any cars, on the street. He observed that his vehicle's dome light was on, the rear door was ajar, and numerous items had been removed from the center console and placed on the driver's seat. Officer A told Witness A to call 911 and report the crime.

Approximately 15 minutes later, two Deputies representing the location police department, responded to Officer A's residence and began to conduct a burglary from a motor vehicle investigation. After interviewing Witness A, one of the deputies left the location in an attempt to locate the suspects' vehicle.

Officer A stated that as he was standing in the driveway with the deputies, a dark gray vehicle with tinted windows drove slowly past, from north to south.

The deputy started a police report for petty theft, and began to fingerprint Officer A's vehicle. Before completing the fingerprinting process, the deputy heard the other deputy broadcast that he had discovered an additional burglary from a motor vehicle. The deputy went to assist him, after assuring Officer A that he would return.

While awaiting the return of the deputies, Witness A went into the garage to exercise, while Officer A sat on the couch in the living room. Officer A stated he fell asleep and an unknown amount of time had passed when he woke up and heard a vehicle driving slowly northbound. Officer A thought it was the deputies returning, opened the front door to his residence, and stepped outside. The deputies were not present, but Officer A observed the tail lights of a vehicle that was slowly driving north, away from his residence. When the vehicle was approximately three or four houses north of his residence, it conducted a U-turn.

Officer A stated the vehicle accelerated southbound on a projected path that would take it past the front of the Officer A's residence. When the vehicle was approximately one house north of his residence, Officer A heard what he believed to be a small caliber gun being fired in rapid succession. Officer A heard what he believed were bullet impacts on the garage door of his home and formed the opinion he was being fired upon. Fearing for his life, and the life of his wife, who was in the garage, he unholstered his pistol.

As the vehicle passed in front of his residence, Officer A observed two occupants he could only describe as male. The male passenger in the front passenger seat had his window partially down. Officer A also observed a male seated in the right rear passenger seat, pointing a gun at him.

Officer A stated the subjects' vehicle was the same dark vehicle that drove slowly past when he was standing in his driveway with the deputies.

Officer A continued to hear what he believed to be gunfire but did not observe muzzle flash; however, he believed one of the subjects was holding a weapon and shooting at him.

Officer A retreated to the cover of the wall of his house and heard rounds continue to impact his garage door. He fired two rounds from his off-duty pistol at the individual shooting at him as the subjects' vehicle passed the front of his house. He then moved to a position of cover behind a brick pillar, and fired two additional rounds at the Subject shooting at him. The subjects' vehicle accelerated and sped southbound and then eastbound out of his sight. Officer A assessed the area to ensure the subjects' vehicle was not coming back around the corner again and then holstered his weapon.

Witness A stated she heard three loud banging noises on the garage door and thought it was the deputies knocking on the garage door informing her they had returned. She left the garage and went into the house. She was met by her husband who informed her that someone had just committed a drive-by shooting into their house.

Officer A stated he met his wife at the door and told her what had happened. He grabbed his phone and called 911, told the dispatcher what happened, and gave a description of the subjects' vehicle. While speaking with the dispatcher, Officer A went back outside to look for ballistic impacts and observed what he believed to be evidence of paintball strikes on his house. He continued to talk with the dispatcher until deputies arrived at his house.

Officer A called his Division and informed the Division Watch Commander, he had just been involved in an officer-involved shooting (OIS).

Sergeant A arrived at Officer A's house and obtained a Public Safety Statement from him and monitored him until the arrival of his attorney.

Force Investigation Detectives reviewed all documents and circumstances surrounding the separation, monitoring, and the admonition not to discuss the incident to Officer A prior to being interviewed by FID investigators. All protocols were followed and properly documented.

### **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'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. Use of Lethal Force**

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

## **Basis for Findings**

### **A. Tactics**

- 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 Officer A did not deviate from approved Department tactical training, thus requiring a finding of Tactical Debrief.

The BOPC directed that Officer A attend a Tactical Debrief and that the specific identified topics are discussed.

### **B. Drawing and Exhibiting**

- According to Officer A, he observed a vehicle negotiate a U-turn and accelerate back toward his residence. As the vehicle approached his residence, he heard what he believed was small caliber gunfire in rapid succession and then started hearing impacts on his garage door. He moved behind cover but knew that he would be exposed as the vehicle passed his residence and remembered that his wife was inside the garage. He then drew his service pistol in defense of his life and his wife's life.

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. Use of Lethal Force**

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

First Sequence of Fire (Rounds 1-2, from a distance of approximately 55 feet)

According to Officer A, he observed an individual on the rear passenger side leaning out of the window, pointing a weapon at him. In fear for his safety, he fired two rounds at the Subject who was pointing a weapon at him.

Second Sequence of Fire (Rounds 3-4, from an approximate increasing distance of 72 feet to 110 feet)

According to Officer A, he stepped back behind the brick pillar to obtain more cover as he assessed the threat. He believed there was still a threat of being shot by the Subject who was holding a firearm and fired two additional rounds 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.