

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

OFFICER-INVOLVED SHOOTING – 010-20

Division	Date	Duty-On () Off (X)	Uniform-Yes () No (X)
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Topanga	3/30/20		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	10 years, 1 month
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Reason for Police Contact

An off-duty officer was inside his/her residence when he/she heard noises outside. The officer looked out his/her bedroom window and observed a vehicle parked in front of his/her house with its doors open. The officer believed his/her home was being burglarized and armed him/herself. The officer observed a male run toward his/her rear yard. The officer walked to and opened his/her front door when an additional person (the Subject) appeared in the driveway and produced a handgun, resulting in an Officer-Involved Shooting.

Subject	Deceased ()	Wounded ()	Non-Hit (X)
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Unidentified.			
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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 Office of the Inspector General. The Department Command Staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on February 9, 2021.

Incident Summary

On Monday, March 30, 2020, at 0125 hours, Officer A, was off-duty, inside his/her residence with Witness A, when he/she heard a vehicle stop outside of his/her house.

Officer A lifted the window shade, looked outside and observed the rear end of a white Dodge Charger. The Dodge Charger stopped in the middle of the street, directly behind Officer A and Witness A's vehicles, which were parked facing north in the driveway. Officer A observed the Dodge Charger facing east with the driver's and front passenger's doors opened.

Officer A monitored the vehicle for a few seconds and observed a male wearing black clothes run toward his/her rear yard along the east side of his/her house. Officer A indicated his/her property was under construction and seeing this male run toward the rear yard led him/her to believe that the male was breaking into his/her home. Officer A told Witness A to call 911, advised her that someone was breaking into the house, and retrieved his/her Department back-up pistol from under the bed.

At the time of this incident, Officer A's front and rear yard were under construction. There were no fences or gates to prevent access to the front or rear yards. The bedroom was on the southwest side of the property. The bedroom window faced south onto the front yard, the driveway area, and the street.

According to Witness A, Officer A jumped up and looked out of the bedroom window. Witness A stated that Officer A stared out the window for a couple of seconds, then grabbed his/her gun from under the bed and told her to go into the closet and call 911. Witness A indicated she was scared and did not know what was occurring outside. She crawled to the bedroom closet and called 911.

Officer A walked to the front door of the residence. He/she opened the front door and heard a male voice yell something but could not make out what the male had yelled.

Officer A observed the white Dodge Charger but did not see anyone near it. He/she heard a commotion and footsteps on the east side of his/her house near the garage. Officer A exited the house and walked 10 to 15 feet from the front door into the front yard toward the area where he/she heard the noises. Officer A described carrying his/her holstered gun in front of his/her chest with his/her right hand in a pistol grip and the left hand holding the holster when he/she walked outside.

Officer A indicated that as he/she walked through the yard, a male (the Subject) jumped up from behind the rear passenger trunk of his/her black vehicle. Simultaneously, Officer A heard the male in black clothing running along the east side of the residence and heard him yell something similar to, "Get the gun."

Officer A described that the Subject was crouched behind his/her (Officer A's) vehicle, jumped up, and quickly moved from the rear passenger trunk to the rear driver's trunk area. According to Officer A, the Subject quickly sidestepped and moved west toward him/her. Officer A indicated he/she observed the Subject's arms down to his sides and holding a black object in his right hand.

The Subject stopped between Officer A's vehicle trunk and the pillar at the yard's corner. Once the Subject stopped, Officer A realized the black object that the Subject held in his right hand was a black semi-automatic pistol.

As described by Officer A, the Subject extended his right arm and began to raise the gun in his/her direction. Officer A believed the Subject was going to shoot him/her. In fear for his/her safety, Officer A removed the holster with his/her left hand and dropped the holster on the ground to unholster his/her pistol.

Officer A described holding his/her pistol with his/her right hand, and as he/she moved the pistol from his/her chest forward, he/she aimed at the Subject's center body mass and fired his/her pistol once.

Officer A assessed and observed the Subject quickly sidestepping west behind the pillar at the corner of his/her yard while still raising the gun in his/her direction. Officer A believed the Subject was seeking cover behind the pillar. As Officer A fired his/her pistol at the Subject a second time.

Officer A assessed and sidestepped to his/her left to seek cover and obtain a better view of the Subject. Officer A realized he/she did not have cover. The Subject had now moved behind the pillar, and the left side of his body was covered with the pillar. Officer A was able to see the right side of the Subject's body. The Subject continued to raise the gun in Officer A's direction. Officer A extended his/her right arm, aimed his/her pistol at the right side of the Subject's body, and fired two additional rounds as he/she backpedaled to his/her front door.

Officer A believed that he/she fired his/her pistol four times and described holding his/her pistol with his/her right hand only when he/she fired. The investigation determined that Officer A fired his/her pistol a total of six times from an increasing distance of approximate 36 to 50 feet.

Officer A indicated that he/she briefly lost sight of the Subject, but once he/she reached the threshold of his/her front door, he/she observed the Subject dive from the pillar at the corner of his/her yard back toward the trunk of Officer A's vehicle. As the Subject dove, Officer A observed the Dodge Charger driver's door close. The Subject immediately stood up, ran around the Dodge Charger's trunk, and jumped into the front passenger seat. The Dodge Charger drove east and fled the area. Officer A returned inside his/her house and observed Witness A on the phone with the Emergency Board Operator (EBO).

According to Witness A, she was inside the closet dialing 911 when she heard Officer A open the front door to walk outside. After the front door opened, Witness A heard three to four gunshots. Witness A indicated she heard the gunshots before speaking with the

EBO. Witness A heard Officer A re-enter the house and close the door. She also heard screeching tires and a car driving away after the shots.

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). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC found Officer A's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Officer 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

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life.

Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Special Order No. 4, 2020, Policy on the Use of Force - Revised.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in *Graham v. Connor*, 490 U.S. 386 (1989), stating that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Use of De-Escalation Techniques. It is the policy of this Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a Subject and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

Use of Force – Non-Deadly. It is the policy of the Department that personnel may use only that force which is “objectively reasonable” to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

Use of Force – Deadly. It is the policy of the Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or another person; or,
- To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible.

Note: Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

The Department's Evaluation of Deadly Force. The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*. (Special Order No. 4, 2020, Policy on the Use of Force - Revised.)

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

A. Tactics

Tactical De-Escalation Techniques

- **Planning**
- **Assessment**
- **Time**
- **Redeployment and/or Containment**
- **Other Resources**
- **Lines of Communication (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)**

Tactical de-escalation does not require that an officer compromise his/her/hers or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning – Officer A was off duty and inside of his/her residence during early morning hours with his/her family. Officer A observed a white Dodge Charger stopped in the street behind the parked vehicles in his/her driveway and observed a male dressed in black clothing move towards the east side of his/her residence which was accessible to the public due to construction. Officer A, in the limited time that he/she had, communicated to Witness A to contact 911 and move to the closet in order to place herself in a safer secured area. Officer A retrieved his/her off-duty pistol, which was secured in a pocket holster from underneath his/her bed in order to be prepared and have an available option in the event the incident escalated to a point where deadly force was necessary. Officer A moved towards his/her front door and exited his/her residence in an attempt to investigate possible criminal activity which he/she believed was likely occurring.

Assessment – As Officer A observed the white Dodge Charger stopped in the street behind the parked vehicles in his/her driveway during early morning hours, he/she

took a few moments to assess what was occurring. Officer A observed a male run towards the east side of his/her residence which was vulnerable since there were no barriers to prevent access to the rear yard due to the front and rear yards being under construction. Based on his/her assessment, Officer A believed his/her residence was possibly in the process of being burglarized. Officer A retrieved his/her off-duty pistol, which was secured in a pocket holster, from under his/her bed to have a lethal force option based on the possible threat presented by the subject.

Time – As Officer A observed the white Dodge Charger stopped in the middle of the street with its doors open, he/she attempted to utilize the time he/she had to assess what was occurring; however, he/she observed a male run towards the east side of his/her residence and believed his/her family was potentially in danger and that his/her residence was possibly being burglarized. Officer A utilized the time he/she had to communicate with Witness A and directed her to contact 911 in an effort to request additional uniformed police resources to the location to assist in the event a burglary was occurring. As Officer A opened his/her front door, he/she utilized the time he/she had to listen and continue to assess the situation.

Redeployment and/or Containment – As Officer A assessed the situation while observing the white Dodge Charger stopped in the street behind the parked vehicles in his/her driveway, he/she observed a male run towards the east side of his/her residence. The BOPC considered Officer A believed his/her family was in danger, his/her residence was possibly about to be burglarized, and there were no barriers preventing access to the unknown subjects. Officer A was situationally aware that his/her front and rear yards were uncontained and that the subjects had access to both the front and rear of his/her property.

Other Resources – Immediately upon observing the male running towards the east of his/her residence, Officer A believed his/her residence was possibly about to be burglarized. Officer A directed Witness A to contact 911 in an effort to initiate the response of uniformed police resources.

Lines of Communication – Upon observing the male run towards the east side of his/her residence, Officer A believed his/her residence was possibly about to be burglarized. Officer A established lines of communication with Witness A, directed her to contact 911 to request the response of additional uniformed police resources.

During the review of the incident, the following Debriefing Topics were noted:

1. Off-Duty Tactics

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.

A successful and safe outcome of any off-duty officer action requires situational awareness and good judgement. In an effort to balance officer safety and a

sense of duty, officers should always consider the safety risks involved to themselves and others before taking action while off-duty. Unless absolutely necessary, being a good witness may be an off-duty officer's best option depending on the totality of the circumstances. Off-duty officers enhance their efforts in assisting the public by contacting on-duty law enforcement personnel and acting as good witnesses. Situational awareness of off-duty officers improves overall officer safety by each officer remaining cognizant of their surroundings, remaining at scene, and providing pertinent information to the uniformed officers.

In this circumstance, Officer A was off-duty during early morning hours, inside of his/her residence with his/her family, when he/she heard a vehicle stop in the street behind the parked vehicles in his/her driveway. Officer A looked outside of his/her window and observed a white Dodge Charger stopped behind both of the vehicles parked in his/her driveway with the front driver's and front passenger's doors open. Officer A took a few moments to assess the scene and observed the male dressed in black clothes run towards the east side of his/her residence which did not have any gates or barriers due to construction on the exterior of Officer A's residence.

Officer A believed his/her residence was going to be burglarized and retrieved his/her off-duty pistol, which was secured in a pocket holster, from under his/her bed. Officer A advised Witness A to contact 911 and moved towards his/her front door. As Officer A opened the door of his/her residence, he/she heard an unknown voice yell, but was unable to hear what was said and observed the white Dodge Charger with no one near it. As Officer A exited his/her residence with his/her off-duty pistol held near his/her chest, he/she walked out approximately 10 to 15 feet to investigate what was occurring. As Officer A moved from his/her front door, Officer A stated that he/she observed the Subject suddenly jump up from behind Officer A's parked vehicle in his/her driveway while holding a black object in his/her hand. Simultaneously, Officer A heard footsteps on the east side of his/her residence and heard the male in black clothing yell, "Get the gun," or a statement that Officer A described as "something about getting a gun."

Officer A stated that he/she immediately recognized the black object as a semi-automatic handgun which the Subject began to raise up towards Officer A. Officer A feared the Subject was going to shoot him/her and drew his/her off-duty pistol from its pocket holster and was subsequently involved in an OIS. Officer A assessed and redeployed as he/she fired his/her rounds and ceased firing when he/she no longer observed the Subject pointing the gun at him/her. Officer A observed the subjects return quickly to their vehicle, which fled east.

Based on the totality of the circumstances, the BOPC determined that Officer A's off-duty tactics during this incident did not deviate from approved Department tactical training.

- The BOPC also considered the following:

- **Off-Duty Actions/Tactics (Holstering a Back-Up and Off-Duty Firearms)** – The FID investigation revealed that Officer A retrieved his/her off-duty pistol and held the off-duty pistol in his/her right hand near his/her chest, which was still secured in its pocket holster when he/she exited his/her residence and remained on his/her own private property. Officer A's off-duty pistol was held near his/her chest and not in a concealed manner as Officer A exited his/her residence into the front yard of his/her own private property. Officer A was subsequently involved in an OIS close to his/her front door as he/she was confronted by the Subject, who was armed with a handgun, and began pointing the handgun towards Officer A. In this case, Officer A remained on his/her own private property as his/her off-duty clothing and the suddenness in which he/she encountered the Subject while in close proximity to his/her home, were factors which limited his/her ability to conceal his/her off-duty pistol.
- **Preservation of Evidence** – The investigation revealed that following the OIS, and after speaking to the EBO to provide pertinent information, Officer A exited his/her residence to his/her front yard and retrieved his/her pocket holster which he/she had discarded when he/she drew his/her off-duty pistol and was subsequently involved in an OIS. Officer A holstered his/her off-duty pistol and placed it on his/her kitchen counter. Officer A indicated that he/she was not sure whether he/she retrieved his/her pocket holster prior to or after responding officers had arrived.
- **Communications Division Protocols** – The FID investigation revealed that Police Service Representative A, Communications Division (CD), initially broadcast the radio call at 0129 hours as a Code Three (emergency call) shooting that had just occurred involving an off-duty LAPD officer. At 0131:50 hours, CD upgraded the radio call to a “shots-fired, Officer Needs Help” call. The initial broadcast should have been already upgraded to an “Officer Needs Help” broadcast.

B. Drawing and Exhibiting

- **Officer A**

According to Officer A, he/she walked outside of his/her residence towards his/her driveway while holding his/her off-duty pistol secured in a pocket holster in his/her right hand near his/her chest area. Officer A observed the Subject “pop up from behind” his/her car. Simultaneously, he/she heard movement from the east side of his/her residence and heard the male in black clothing yell, “Get the gun” or a statement that Officer A described as “something about getting a gun.” Officer A initially observed a “black object” in the Subject’s right hand which was down by the Subject’s side. The Subject then started “lifting” the black object up towards Officer A, at which time Officer A recognized the black object as a handgun. Officer A who was cupping his/her off-duty pistol’s holster in his/her left hand, grasped the butt of his/her off-duty service pistol in his/her right hand, and drew his/her off-duty pistol.

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 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, six rounds)

According to the FID investigation, an analysis of an audio recording from a residential video camera indicated that the OIS took approximately four seconds from the time of the first gunshot to the last gunshot.

Background: According to Officer A, he/she discharged his/her off-duty service pistol in a southeasterly direction. The FID investigation determined that the background for the OIS was a hillside with plants, shrubs, trees, and a wood deck. Investigators from FID canvassed the area for evidence and bullet impacts. No bullet impacts were identified.

Volley One – Two rounds, discharged in a southeasterly direction.

The FID investigation determined that Officer A discharged his/her off-duty service pistol a total of six times; however, Officer A only recalled discharging his/her off-duty service pistol a total of four times.

According to Officer A, he/she was inside of his/her residence when he/she observed a white Dodge Charger through his/her window, stopped in the middle of the street, behind the parked vehicles in his/her driveway. Officer A briefly monitored the vehicle through his/her bedroom window, retrieved his/her off-duty pistol, and exited his/her residence to determine what was occurring. Officer A walked out of his/her residence towards his/her driveway while holding his/her off-duty pistol secured in a pocket holster in his/her right hand near his/her chest area, observed the Subject suddenly appear near the rear of his/her vehicle, holding a black object in one hand, and, as described by Officer A, begin "extending his/her [the Subject's] arm and lifting it up towards me [Officer A]." Simultaneously, Officer A heard movement from the east side of his/her house and heard the male in black clothing yell, "Get the gun," or a statement that Officer A described as, "something about getting a gun." Officer A recognized the black object the Subject was holding was a black semiautomatic handgun and drew his/her off-duty pistol from its pocket holster.

Officer A was in fear for his/her safety, believed the Subject was going to shoot him/her, and discharged his/her off-duty service pistol from a one-handed "close contact" position targeting the Subject's "center mass," due to the imminent lethal threat that was presented. Officer A stated it was necessary to fire his/her off-duty pistol due to the fact that the Subject was armed with a handgun, began pointing it at

Officer A, and his/her belief that the Subject was going to “shoot” him/her if he/she did not fire his/her pistol.

Volley Two – Two rounds discharged in a southeasterly direction.

The FID investigation determined that Officer A discharged his/her off-duty service pistol a total of six times; however, Officer A only recalled discharging his/her off-duty service pistol a total of four times.

According to Officer A, after he/she discharged his/her off-duty pistol, he/she observed the Subject begin to run westbound towards one of the fence columns which made up various portions of an unfinished wall in Officer A’s front yard. Officer A observed the Subject still raising the handgun that the Subject had been armed with, towards his/her (Officer A’s) direction. Officer A discharged his/her off-duty pistol.

Volley Three – Two rounds fired in a southeasterly direction.

The FID investigation determined that Officer A fired his/her off-duty service pistol a total of six times; however, Officer A only recalled discharging his/her off-duty service pistol a total of four times.

According to Officer A, he/she attempted to gain some cover and began “retreating and going backwards” as the Subject moved from behind Officer A’s vehicle to the fence column. As Officer A continued to redeploy backwards towards the cover of his/her front door, he/she observed “half his [the Subject’s] body was covered with the column.” Officer A observed that the Subject was still facing Officer A, and that the handgun the Subject was armed with was still coming up and pointed towards Officer A. Due to the imminent lethal threat presented by the Subject having a tactically advantageous position of cover and continuing to point a handgun at Officer A, Officer A discharged his/her off-duty pistol at the Subject.

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 that the use of deadly force would be objectively reasonable and necessary.

Therefore, the BOPC found Officer A’s lethal use of force for all six rounds to be In-Policy.