

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

**OFFICER-INVOLVED SHOOTING – 054-17**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Foothill	7/15/17		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	14 years, 2 months
Officer B	10 months

**Reason for Police Contact**

Officers attempted to conduct a traffic stop for a reckless driver. The driver was later determined to be one of the involved parties in a domestic dispute radio call that the officers had just handled. The Subject led the officers on a vehicle pursuit, followed by a foot pursuit. At one point during the foot pursuit the Subject fired at the officers, resulting in an officer-involved shooting (OIS).

<b>Subject</b>	<b>Deceased (X)</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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Subject: Male, 29 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 June 26, 2018.

## **Incident Summary**

Officers responded to a non-emergency (Code 2) domestic violence radio call at a residence. The comments of the call stated that the caller's family member had been involved in an argument with another family member, and it was unknown if a battery had occurred. The officers arrived at the location and, after notifying Communications Division (CD) of their location, spoke with one of the involved family members. She advised the officers that the other family member (the Subject) had left the scene on foot prior to their arrival. She further stated that the Subject was using unknown narcotics and was acting extremely paranoid.

The officers' investigation determined there was no evidence of domestic violence or other crime. Based on this determination, the officers advised the family member regarding procedures for obtaining a restraining order. They also told her that they would check the area and if they observed the Subject, they would talk to him regarding her wishes to end the relationship. In the event that he returned, they told her she could call them back to the scene if she needed officers to respond.

The officers left the location and began driving around the area when they observed a vehicle travelling down the street with its headlights off. The officers made a U-Turn and when they once again could see the vehicle, they observed it was now driving away from them still without headlights on.

**Note:** Unbeknownst to the officers when they began following the vehicle, it was being driven by the Subject.

The officers accelerated to catch up to the vehicle and upon passing the location of their prior radio call, Officer A noticed that one of the cars that had been parked in the driveway at that location was now gone. According to Officer A, he considered the possibility that the vehicle they were following was possibly being driven by the Subject.

The officers continued following the vehicle and observed the driver fail to stop at a stop sign, and then almost collide with a parked vehicle while turning. The driver increased his speed and turned on his headlights. This led Officer A to believe the driver had possibly realized there was a police vehicle following him. The driver continued running stop signs and almost colliding with parked vehicles, so Officer A formed the opinion that the Subject was driving in a reckless manner. The officers activated their emergency equipment and attempted to conduct a traffic stop.

The Subject failed to stop and Officer A determined that the driver was attempting to elude them by failing to stop; a vehicle pursuit ensued. Officer A directed Officer B to broadcast that they were in pursuit of a reckless driver. During the pursuit, the officers were able to approach the vehicle close enough to run the Subject vehicle's license plate and determine that the vehicle was registered to the location of their prior radio call. Officer A became more certain that the driver of the vehicle was most likely the Subject and told his partner to broadcast this information.

The pursuit continued for approximately seven minutes before returning back to the area of the original radio call, at which point Officers C and D joined the pursuit as the secondary unit. The police helicopter also arrived overhead.

Officer A feared that due to the Subject's drug-fueled paranoia (as described by his family member), coupled with the fact that the Subject fled from the police and had now returned to the area of his residence, the Subject intended to re-enter his residence for the purpose of harming his family. Based on this, Officer A told his partner that they needed to stay as close to the Subject as possible in order to prevent him from entering his residence. For this same reason, Officer A also did not consider pulling back and allowing the helicopter to track the Subject as a viable option because ground units in tracking mode would not be in position to prevent the Subject from entering his residence.

The Subject drove into the driveway of his residence and stopped. Officer A stopped his police vehicle 15 feet behind the Subject's vehicle and told his partner, "Be ready to run." Officers C and D stopped their vehicle approximately nine feet behind the primary vehicle. The officers exited their vehicles, took cover behind their respective ballistic paneled doors, and unholstered their weapons. Officers A and B pointed their weapons at the Subject, while Officers C and D held their weapons in low-ready positions.

Officer A attempted to broadcast the officers' location (Code 6), however, he stopped when the Subject suddenly exited his vehicle and turned counter-clockwise toward Officer A with a "shiny" gun in his hand held near his waistband pointed down. Officer A shouted, "He's got a gun!" to alert his partner. According to Officer B, from his vantage point on the passenger side of the police vehicle, he was unable to see the Subject's hands or a weapon in his possession because the Subject's vehicle blocked his view, but he did hear his partner state that the Subject was armed.

The Subject turned to his right and ran up the driveway, toward the rear of the property, away from the officers. The helicopter overhead illuminated his movements with the spotlight.

Officer A visually cleared the Subject's vehicle as he and Officer B moved forward to follow the Subject on foot. Officers C and D moved forward and stopped to visually check the Subject's vehicle for any additional suspects before proceeding to follow Officers A and B.

**Note:** According to Officer A, he intended to immediately apprehend the Subject, even though he was armed, in order to prevent him from entering his residence and endangering his family.

Officer B took the lead during the foot pursuit and held his pistol in a low-ready position, while Officer A was to the left and just behind Officer B. Officer A holstered his pistol because he was running while his partner was slightly ahead of him. According to

Officer B, he shouted at the Subject to stop and get on the ground several times during the foot pursuit.

The Subject ran to the rear yard and exited via an open sliding gate on the side of the property that led out onto a street. Officer A feared that the Subject might try to ambush them on the other side of the fence and told his partner, "Slow down!" Officer B stopped and cleared the exit by "pieing" to his right while Officer A unholstered his weapon.<sup>1</sup> Officer B then took a "quick peek" around the fence and observed the Subject running down sidewalk away from the officers. Officer B advised his partner, "He's still going!" while indicating the direction. The officers proceeded through the gate and observed the Subject, now with a much greater lead, turn onto the next street.

Officer A holstered his pistol and ran in the street utilizing parked cars along the curb for cover. Officer B ran along the sidewalk, holding his weapon in a low-ready position.

The officers continued following the Subject while the Air Unit continued to illuminate his progress with the spotlight. The Subject ran down the sidewalk and turned onto a residential property. The Subject ran up the driveway toward a rear structure behind the main residence. Officers A and B ran toward the location guided by the helicopter's spotlight, which was tracking the Subject's movements. According to Officer A, he wanted to assume a position on the street where the Subject turned the corner and begin setting up a perimeter.

Once the Subject entered the property, the helicopter officer broadcast the Subject's location and told the pursuing officers not to chase him. Officer A took cover behind the rear of a vehicle parked at the curb immediately south of the driveway to the property where the Subject had been located. Officer B moved toward cover on the sidewalk behind a six-foot-tall brick fence pillar just on the other side of the driveway from Officer A. As the officers were moving to their positions in front of the location the Subject suddenly turned and ran back down the driveway toward Officers A and B. This movement was broadcast by the helicopter officer to the officers on the ground.

The Subject held his handgun in his right hand, pointed it toward Officer A, and fired two rounds from approximately 68 feet away as he continued to run toward Officer A.

***The following are accounts of Officers A and B's observations and actions during the OIS, and may not reflect the order in which the sequence of events occurred.***

In fear of being shot and killed, Officer A unholstered his weapon, pointed it toward the Subject, and fired what he believed to be six to seven rounds from approximately 68 feet away as the Subject continued to run toward him.

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<sup>1</sup> "Pieing" refers to a tactical maneuver to clear a corner with slow incremental steps at a wide angle while scanning for threats on the other side.

Officer A assessed and observed the Subject slow down, stumble, and veer to his right. Officer A “pied” to his right to maintain sight of the Subject and utilized a brick pillar on the property fence in front of him for cover. The Subject turned toward Officer A and pointed his gun at him again. Officer A, in continued fear for his life, fired what he believed to be four to five rounds at the Subject from approximately 55 feet away.

**Note:** The investigation determined that Officer A fired a total of 11 rounds during the OIS.

Officer A assessed and observed the Subject run away back toward the rear of the property. Officer A conducted a tactical reload by ejecting the partially used magazine and inserting a fully loaded magazine in his pistol, then placing the original magazine in his pocket.

According to Officer B, in fear of Officer A being shot and killed, he pointed his weapon toward the Subject and fired 5 rounds from approximately 47 feet away. Officer B assessed and observed the Subject turn and run away back toward the rear of the property. Officer B also conducted a tactical reload.

Simultaneous to Officers A and B firing their weapons, Officers C and D moved to positions of cover next to Officer A, behind the same vehicle that he was using for cover. The helicopter officer then broadcast the Subject’s movements and the observation that he had something in his hand.

Shortly thereafter, Officer A issued a “shots fired” broadcast and Officers C and D moved forward to Officer B’s location behind the brick pillar to get a better vantage point. Officer A’s broadcast also included information about the Subject having a gun and his direction of travel. He asked the helicopter officers to maintain visual contact with the Subject and told them the officers on the ground would hold their position at the front of the property.

**Note:** Witness A was in a nearby residence when she was awaked by the sound of gunfire. She looked out a window and observed the Subject illuminated by the helicopter’s spotlight, holding a “silver” handgun in his right hand, and standing near a five-foot tall cinder block wall on the side of the property. Witness A heard the Subject state, “You got me [expletive]...I’m dying.” The Subject attempted to scale the wall but appeared not to be able to do so. He then turned and walked away out of view.

Additional broadcasts were made regarding the Subject’s movements and observations of him holding a gun. An “officer needs help” call was also put out over the radio, and responding officers set up in positions around the property.

The Subject walked back toward the driveway, stumbled, and collapsed next to a vehicle parked in the rear of the driveway under a carport. The Subject fell to his

left side with his right hand extended up above his head and against the passenger side of the car.

**Note:** The carport blocked the helicopter's spotlight so the officers at the front of the property attempted to illuminate the Subject with their flashlights, but they were unable to determine if he was still armed.

Sergeant A arrived at scene and met with Officers A and B. He determined they had been involved in an OIS and assumed the role of the Incident Commander. He also established a Command Post. Sergeant A broadcast that the officers would hold their positions until additional resources arrived and the helicopter officer requested the response of a Rescue Ambulance (RA).

As responding officers covered the Subject, Sergeant A took Public Safety Statements from Officers A and B and ordered them not to discuss the incident until they were interviewed by Force Investigation Division. The separation and monitoring of the officers began at that time.

Sergeant A organized a group of officers to move up toward the Subject using the ballistic panels of his vehicle. From that position he believed they would have cover and be able to illuminate the Subject with the vehicle's headlights and spotlights while they devised a plan to arrest him. The officers moved up until they were approximately 59 feet from the Subject. Sergeant A then directed a few of the officers to evacuate the residents of the property to secure their safety in the event of any additional gunfire during the arrest of the Subject.

An officer assigned to a specialized division broadcast that he and his partners were equipped with ballistic shields and asked if their assistance was needed at the scene (they were in another division at the time but had been monitoring the radio traffic). Sergeant A agreed and asked that the officers expedite their response because the Subject appeared to be wounded, and Officer A wanted to get the Subject into custody as soon as possible so they could get him medical attention.

The ambulance responded and was standing by when the officers with the ballistic shields arrived. An approach plan was devised and an arrest team was formed. One officer would hold the shield while the others provided cover. The officers positioned themselves behind the police vehicle in the driveway while one officer shouted commands at the Subject to show his hands and come toward the officers. The Subject failed to respond to the commands. The team was then directed to move forward.

As the team moved closer, they observed a handgun on the ground in the driveway a few inches from the Subject's feet. Two officers were then directed to handcuff the Subject. As the officers attempted to do so, they were unable to dislodge the Subject's right hand from the car as his fingers had become wedged in a gap where the front passenger door met the A-pillar and the front right quarter-panel of the vehicle. One of

the officers used a tool to dislodge the Subject's fingers, and he was taken into custody without further incident.

Los Angeles Fire Department personnel were then escorted to the Subject's location and began a life status assessment. They found the Subject to be non-responsive and suffering from a gunshot wound to the upper torso. He displayed no signs of life and was determined to be deceased by paramedics 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 A, B, C, and D's tactics to warrant a Tactical Debrief.

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

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

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

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

### **Basis for Findings**

- **Detention**

The officers observed the Subject driving a vehicle without headlights, in violation of CVC Section 24250. As they followed the vehicle from a distance, the officers observed the Subject commit several additional Vehicle Code violations and attempted to conduct a traffic stop on the vehicle. The officers' actions were appropriate and within Department policies and procedures.

## A. Tactics

- **Tactical De-Escalation**

Tactical de-escalation does not require that an officer compromise his 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.

In this case, the officers were faced with a rapidly unfolding tactical situation when the Subject fled from the vehicle at the termination of the pursuit, while holding a handgun in his hand. As the officers began to establish a perimeter, the Subject reappeared, pointed a handgun in their direction, and fired two rounds at the officers. Faced with an imminent threat of serious bodily injury or death, the officers utilized lethal force to stop the deadly threat.

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

1. Apprehension vs. Containment Mode/Pursuing Possibly Armed Suspects

Officers A and B went in foot pursuit of the Subject who was armed with a handgun in apprehension mode.

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.

It is the BOPC's expectation that officers are decisive in their actions during a rapidly-unfolding, life-threatening situation, while taking into consideration police work is inherently dangerous.

In this case, the officers pursued the Subject together, in apprehension mode, believing that if apprehension was delayed, the Subject could enter the residence and cause serious bodily injury or death to the occupants. When the Subject ran past the residence and away from the immediate vicinity of the property, the officers determined that the Subject was no longer a threat to the occupants; they immediately transitioned to containment mode and began to establish a perimeter to contain the Subject.

Based on the totality of the circumstances, the BOPC determined that the officers' actions were reasonable and their decision to pursue the Subject in apprehension mode was in the best interest of public safety and, therefore, was a substantial deviation, with justification, from approved Department tactical training.



## 2. Running with a Service Pistol Drawn

The investigation revealed that Officer B pursued the Subject with his service pistol drawn. Officer B was reminded there is a heightened concern for an unintentional discharge when running with a drawn service pistol.

These topics were to be discussed at 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-specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

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

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

- According to Officer A, at the termination of the vehicle pursuit, he exited the vehicle, drew his service pistol, and assumed a position of cover behind his driver-side ballistic door. According to Officer A, as he and his partner approached the sliding gate, he drew his service pistol because he wanted to make sure that the Subject was not waiting to ambush them from the sidewalk.

From his position of cover behind the parked vehicle at the curb, Officer A looked down the driveway and observed the Subject running back toward their direction from underneath the carport. Believing that the Subject was still armed with a firearm, he drew his service pistol.

According to Officer B, at the termination of the vehicle pursuit, he exited the vehicle and then heard his partner broadcast that the Subject was armed with a gun. Fearing for the safety of the occupants inside the residence, he drew his service pistol.

According to Officer C, at the termination of the vehicle pursuit, he exited his police vehicle and observed the Subject enter the rear yard of the residence. He drew his service pistol, entered the driveway, and cleared the Subject's vehicle.

According to Officer C, he heard two to three shots coming from the residence next to his location. He then drew his service pistol and assumed a position of cover to the rear of a parked car.

According to Officer D, at the termination of the vehicle pursuit, the Subject exited his vehicle while holding his front waistband. He then heard the helicopter broadcasting that the Subject had an object in his hand. Believing the Subject was possibly armed with a firearm, he exited the vehicle and drew his service pistol.

According to Officer D, as he walked toward the location where the Subject was last observed, he drew his service pistol again.

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

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

- **Officer A** – (pistol, 11 rounds)

#### First Sequence

According to Officer A, the Subject ran towards them and then raised his right arm up in their direction. He then heard two shots fired and observed muzzle flashes. Believing that the Subject was shooting at him and trying to kill him, Officer A fired six to seven rounds from his service pistol at the Subject to stop the deadly threat.

#### Second Sequence

According to Officer A, after firing his weapon, he assessed and observed the Subject stumble but not go down. The Subject slowed down, veered to his right, and started to turn his back towards the officers. In order to maintain sight of the Subject, Officer A took a small step to his right and assumed a position of cover behind a cinder block pillar in front of him. The Subject then turned back towards Officer A again, raised the firearm, and pointed it toward his direction. In defense of his life, he fired four to five additional rounds from his service pistol at the Subject to stop the deadly threat.

- **Officer B** – (pistol, five rounds)

According to Officer B, he was moving to a position of cover behind a cinder block pillar in front of the residence when he heard a gunshot and observed muzzle flash.

He then observed the Subject approaching in the officers' direction from the carport area, while pointing a handgun in the direction of his partner, and heard another shot. In defense of his and his partner's lives, he fired five rounds from his service pistol 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 A and B would reasonably believe 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 A and B's lethal use of force to be in policy.