

Incident Summary

Officer A completed his shift and was driving home in his personal vehicle (PV). He had his duty weapon with him. Officer A became involved in a "road-rage" incident with the Subject, who believed Officer A had cut him off. Words were exchanged between the two; however Officer A tried to de-escalate the situation and continue his drive home. After turning onto another street, en route to his home, Officer A observed that the Subject was following him. Officer A started to turn into a driveway not far from his home, and the Subject drove toward Officer A's vehicle as if he were going to broadside it. The Subject's vehicle came to a stop so close to Officer A's vehicle that Officer A could no longer observe the vehicle due to the high profile stance of the Subject's vehicle and the low profile stance of Officer A's vehicle.

Note: Witnesses observed the Subject's vehicle come to a stop and heard the Subject's tires screech as he slammed on his brakes and came to a stop.

Officer A stated that he did not want to stay in his vehicle because he did not know the Subject's intentions. Officer A felt the need to move to a location where he could see the Subject and be able to react to his actions. Officer A exited his vehicle and walked a few steps out into the street, past his rear bumper, as he scanned the street for the Subject.

Officer A looked north and observed the Subject's vehicle approximately three feet from him and driving toward him at approximately 10 to 15 miles per hour. Officer A did not have time to react to remove himself from the path of the oncoming vehicle. According to Officer A, the front of the vehicle struck him at approximately 10 to 15 miles per hour. According to Officer A, when he was struck by the vehicle, his left hand came to rest on the hood of the vehicle. The bumper hit his knees, and he was lifted off the ground and onto the hood of the vehicle. He believed he moved a few feet in the air.

Officer A simultaneously unholstered his handgun with his right hand, assumed a one-handed straight-armed shooting position and fired one round through the windshield of the vehicle, at the center body mass of the Subject. Officer A indicated he fired his weapon because he believed his life was in danger due to the possibility of being dragged by the vehicle.

Note: Witnesses observed Officer A being struck by the Subject's vehicle. The Subject indicated that Officer A jumped in front of his vehicle but then moved out of the way before being struck. According to the Subject, he swerved away from Officer A and was shot as he drove by. Finally, the Subject indicated that his intention was not to strike Officer A but to get him as mad as possible.

The Subject was struck in the elbow area of his left arm. He drove away but was later apprehended.

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 Officer A's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officer A's drawing and exhibition of a firearm to be in policy.

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

- The evaluation of the decision to take enforcement action in the capacity of an off-duty officer requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Each incident must be looked at objectively and the areas of concern must be evaluated based on the totality of the circumstances.

Officer A was off-duty driving home after completing his assigned shift when he was subsequently involved in a verbal altercation with the Subject. The following analysis is based in part on Officer A's actions during the verbal altercation and his attempts to defuse the situation by separating himself from the Subject.

Despite Officer A's repeated attempts, the Subject was determined to continue the altercation while driving on the roadway.

The BOPC conducted a thorough and comprehensive review of this case and determined that it was reasonable for Officer A to have responded as he did in this instance. However, the BOPC also believed that Officer A could benefit from a discussion of off-duty considerations associated with the decision to initiate enforcement action.

- The BOPC additionally considered the following:

Evidence Preservation - Upon arrival, Sergeant A took control of Officer A's pistol upon arrival at scene. Captain A was made aware of the incident and indicated he would address the issue of OIS protocol during supervisor training.

The BOPC found that Officer A's tactics warranted a Tactical Debrief and that the topic of off-duty considerations be covered.

B. Drawing/Exhibiting

- In this instance, Officer A walked to the rear of his vehicle at which time the subject drove forward directly at Officer A as he emerged from the rear of his vehicle. Believing the situation had escalated to a deadly force incident; Officer A drew his off-duty pistol.

The BOPC determined that the actions of the subject driving his vehicle and striking Officer A rose to the level of deadly force. Furthermore, 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 had escalated to the point where deadly force may be justified.

C. Lethal Use of Force

- **Officer A** (pistol, one round)

As Officer A was lifted off his feet, he stabilized himself with his left hand. Officer A believed his life was at risk as a result of being dragged to death. Additionally, Officer A recalled various experiences while assigned as a traffic officer that involved numerous deaths and serious injuries resulting from vehicles striking pedestrians. Consequently, Officer A pointed and discharged his pistol at the Subject.

After firing the round, the Subject stopped the vehicle causing Officer A to slide off of the bumper. Officer A stepped out of the path of the Subject's vehicle at which time the Subject fled from the scene.

The Department policy of Shooting at Moving Vehicles clearly indicates that firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. Given that the moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force, this instance was unique. Had the Subject's actions continued, an imminent threat of serious bodily injury or death to Officer A was evident. Additionally, the policy states that it does not apply to every situation, wherein instances may occur causing the discharge of a firearm at a moving vehicle, or subject within a moving vehicle, to be justified. Officer A was in a situation that did not afford him a means of escaping the path of the moving vehicle, as it struck him. Officer A's close proximity to the Subject increased the likelihood that he would impact his intended target as he discharged his pistol, with the decreased probability that the round(s) fired might ricochet or cause harm to innocent persons.

The only weapon used by the Subject was the moving vehicle at the specific time that Officer A elected to utilize lethal force; however, there were specific circumstances as previously mentioned, wherein Officer A had no other option but to resort to lethal force to stop the Subject's actions and the moving vehicle.

In conclusion, although Officer A's actions substantially deviated from approved Department tactical training, his actions were justified and were consistent with the Chief's expectations. However, in an effort to enhance future performance during similar situations, this topic be discussed during the Tactical Debrief.

An officer with similar training and experience as Officer A would reasonably believe that the Subject driving his vehicle at Officer A causing him to be struck posed an imminent threat of serious bodily injury or death and the use of lethal force would be a reasonable option.

In conclusion, the BOPC found Officers A's use of lethal force to be in policy.