



## **Incident Summary**

Uniformed Police Officers A and B were conducting directed crime suppression.

While traveling through a residential area, Officers A and B observed the Subject standing in front of a wrought-iron driveway gate of a residence, on the sidewalk. The Subject was drinking from a can of beer, in violation of 41.27(c) of the Los Angeles Municipal Code. After confirming their observations with one another, Officer A, the driver, advised Officer B he was going to stop and talk to the Subject, with the intention of citing or issuing a warning for the infraction.

According to Officer A, he stopped the police officers' vehicle and the officers exited. Officer B described the Subject as appearing to be nervous as he exited their police vehicle. Officer A illuminated the Subject with his flashlight, identified himself as a police officer, and advised the Subject that he wanted to speak with him. The Subject, facing the officers, immediately began to walk backward toward the driveway gate and discarded the can of beer onto the sidewalk. As the Subject continued through the partially open sliding gate and into the property, he attempted to slide the gate closed as the officers approached, but was unable to do so.

Officers A and B observed the Subject grab the front waistband of his pants, then turn and begin running down the driveway between the residence and a vehicle that was parked in the driveway. According to Officers A and B, due to the manner in which the Subject grabbed his waist, they each believed that he was securing a firearm tucked into his waistband. They based this presumption on prior experiences and multiple arrests of suspects armed with a gun. According to Officer B, he recalled that the Subject grabbed an L-shaped bulge at his waistband prior to turning and running through the driveway gate.

As the Subject turned to run, Officer B simultaneously ran around the front of the officers' vehicle and grabbed his police radio to broadcast their location. Officer A alerted Officer B that the Subject was in possession of a gun, then ran toward the front of the residence and entered the open gate onto the driveway.

Officer B unholstered his pistol with his right hand as he began to broadcast a request for a back-up unit on Metropolitan Division base frequency. As the Subject ran down the driveway toward the front steps of a residence, Officer A followed, repeatedly commanding the Subject to stop.

According to Officer A, his intention was to monitor the Subject's direction of travel and establish a containment when the Subject ran in the driveway. The Subject's right hand remained concealed at his waistband as he ran. As Officer A followed the Subject, he could hear Officer B behind him, broadcasting on the police radio. Officer A was unable to distinguish what was being said, but believed the broadcast was to provide information about their location and direction of travel. Officer B initially broadcast a request for a back-up unit as the

Subject began to run. It was immediately followed by his broadcast of shots being fired. The entire broadcast was received and acknowledged by Communications Division (CD).

The Subject proceeded up the steps of a residence and began to open the metal security door.

There were four steps leading from ground level to the entrance of the residence, resulting in the Subject being elevated relative to Officer A's position.

According to Officer A, the Subject, with his lower body moving forward toward the door, turned his upper body to his left, while removing a blue steel, semiautomatic handgun from his waistband with his right hand.

According to Officer B, the Subject drew the handgun from the right side of his waistband with his right hand and then turned to his right.

According to Officer A, the Subject leveled the barrel of the handgun along his torso, with his elbow bent at waist level and pointed it at him. Officer A slowed his pace and unholstered his pistol from his holster in a one-handed grip with his right hand. Officer A fully extended his right arm outward from his body and lowered the flashlight in his left hand down to his left side. Believing the Subject was going to shoot him, Officer A fired three consecutive rounds aimed at the center of the Subject's torso, from a decreasing distance of approximately 41 to 35 feet as he traveled forward, striking the Subject once in the left buttocks.

During a walk-through of the scene, Officer A placed himself near the rear bumper of the vehicle that was parked in the driveway, approximately 41 feet away from the Subject's position at the time he fired his first round. Three casings, matching Officer A's pistol, were located approximately 25 feet away from Officer A's estimated position, and approximately 16 feet away from the Subject's estimated position, at the time of the OIS. The casings were along a pathway between the wall of the residence and the parked vehicle. Officer A stated that, upon observing the Subject drawing the handgun, he slowed his pace and continued to move forward as he unholstered his pistol and fired.

According to Officer B, as he began to broadcast his initial request for back-up, he observed the Subject remove a handgun from his waistband and raise it toward Officer A. Officer B then heard his partner fire one round, immediately followed by two additional shots.

According to Officer B, he observed the Subject remove the handgun from his waistband and point it toward the ground just prior to turning toward Officer A and raising the handgun to waist level, pointing it at his partner. Officer B then heard one shot, a quick pause, followed by two additional shots as he traveled toward the open driveway gate.

During a walk-through of the scene, Officer B believed Officer A was standing at the opening of the gate at the mouth of the driveway when he heard the shots. Officer B, however, was focused on the Subject at that time. Officer B broadcast shots fired and provided his location.

During Officer B's initial request for a back-up unit, the sound of at least two gunshots could be heard in the background of the CD frequency recording. Officer B is immediately heard announcing that shots had been fired, and initially broadcast the incorrect location. The first responding unit, however, responded directly to the scene and broadcast the correct location upon their arrival.

The Subject entered the residence and closed the security door behind him. Officer A assumed a one handed, low-ready position with his firearm and briefly assessed. According to Officer A, once he fired the third round and lowered his pistol, he realized the front security door was closed and believed the Subject had entered the apartment. The front security door's mesh pattern prevented Officer A from clearly seeing inside the residence.

Officer A heard what he believed to be the distinct sound of a gun striking the floor inside of the front room of the residence just inside the front door. Officer A then heard a person running through the residence, away from the front door, and the sound of a male voice from inside, that he believed to be other than the Subject's. Realizing that the Subject had entered the residence, Officer A continued down the driveway toward the rear of the structure to establish a containment.

According to Officer B, he observed the Subject, through the mesh of the front security door, run to the right side of the residence. Officer B also heard what he believed to be additional voices inside.

CD simulcast a help call on the police radio, causing multiple units to respond to the officers' location.

Officer A, with his pistol unholstered, proceeded to the corner of the residence, while Officer B covered the front door.

The distance from the front entrance of the residence to the corner, was approximately 70 feet. According to Officer B, he had a clear and unobstructed view of Officer A and was able to render immediate aid if needed.

Approximately five seconds later, as Officers A and B waited for responding units to arrive, the Subject exited the residence through a side door, located on the side of the residence and ran toward the rear of the location. Officer A observed the Subject enter the yard at the corner. The Subject immediately fell to the ground in a seated position, exclaiming that he had been shot. Officer A reacquired his flashlight to cover the Subject with his pistol while illuminating him. Officer A ordered the Subject to turn onto

his stomach and to extend his arms outward. The Subject then threw his right arm over his shoulder discarding a small plastic bundle on to the ground, approximately one to two feet away from him. Officer A believed this bag contained a controlled substance.

Officer A alerted Officer B that the Subject was to the rear of the residence. Officer B immediately joined his partner as Officer A approached the Subject and commanded him to lie down and not to move. As Officers A and B covered the Subject with their pistols and waited for responding units, the Subject turned onto his stomach.

Metropolitan Division Police Officers C and D arrived at the scene and responded to the rear yard. As Officers C and D covered the Subject and the rear door of the location, Officer B holstered his pistol and handcuffed the Subject. Officer B searched the Subject, but did not locate a firearm.

While waiting for additional units to arrive, Officer B broadcast that they were at the rear of the location. Once Officers C and D arrived, they broadcast their status and location (Code-Six), and provided the correct location. After identifying that the Subject had been shot, they requested the response of a Los Angeles Fire Department (LAFD) Rescue Ambulance (RA).

According to Officer A, he covered the Subject with his pistol as Officer B handcuffed him. Officer A holstered his pistol once the Subject was in custody. According to Officer B, Officer A had walked to the front of the residence to coordinate responding units once Officers C and D had arrived.

According to Officer C, he believed that the Subject had already been handcuffed upon his arrival to the rear of the residence and did not unholster his firearm. Officer D, however, recalled being directed to cover the residence as Officer B handcuffed the Subject.

Believing that additional occupants were inside the residence and had access to the handgun that had been discarded, Officers A and B directed responding officers to establish a perimeter around the residence. When officers called the occupants out, Witness A, the sole occupant, exited.

Witness A was temporarily detained and walked to the street. Witness A was later released after it was established that he was not involved in the OIS and did not wish to remain at the scene. Witness A was interviewed by Force Investigation Division (FID) investigators.

Sergeant A arrived at the scene. Sergeant A immediately evaluated the scene and began directing officers to establish a perimeter of the area. Sergeant A directed the containment of the residence and coordinated a search team of officers who had formed to the side of the front door to conduct a protective sweep.

After another attempt to call any remaining occupants out from the residence, and announcing their presence at the door, the designated Metropolitan Division officers conducted a protective sweep. No additional occupants were located inside. Immediately upon entering the front room, Metropolitan Division Police Officer E observed a black semiautomatic handgun located on the floor of the front room and monitored it until the sweep of the residence was completed.

According to Officer E, he was able to see the handgun on the floor, through the open doorway, prior to entering the apartment.

Officer B also entered the residence during the protective sweep and observed that the handgun appeared to be the same as the handgun he had previously observed in the Subject's possession.

Sergeant B also entered the residence during the sweep and observed the handgun on the floor and ensured that it was monitored following the protective sweep.

Officers A and B independently responded to the front of the property and were met by Sergeant C. Officer A identified himself as being involved in the OIS and briefed Sergeant C of the ongoing incident. Sergeant C separated the officers and obtained a Public Safety Statement (PSS) from Officer A. Sergeant C directed Sergeant D to monitor Officer B. Sergeant D obtained a PSS from Officer B.

Los Angeles Fire Department (LAFD) RA paramedics arrived at the scene and treated the Subject for a single gunshot wound to the upper left buttock. LAFD subsequently transported the Subject to a nearby hospital for treatment. Officer D rode with LAFD personnel to the hospital followed by Officer C in a police vehicle.

### **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 and B's tactics warrant a finding of Tactical Debrief.

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

The BOPC found Officers A and B's drawing and exhibiting 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**

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 value 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 and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Use of Force Policy, Los Angeles Police Department Manual.)

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), 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:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this

circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

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.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. 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. (Tactical De-Escalation Techniques, October 2016.)

## **A. Tactics**

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

### **1. Pursuing Possibly Armed Suspects**

Officers A and B pursued a suspect they believed was possibly armed with a weapon.

Containment of an armed suspect demands optimal situational awareness. The ability to maintain the tactical advantage rests on the ability of the officers to effectively communicate, thus ensuring a coordinated effort and successful resolution.

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

In this case, the officers were dealing with a fleeing Subject who grabbed a bulge in his waistband that the officers believed to be a weapon. The officers attempted to minimize the threat to the public by pursuing him together, in containment mode, while broadcasting a backup request.

The BOPC was critical of the officers' actions as they may have created an

unnecessary risk by placing themselves closer to the Subject than normally desired while in containment mode.

However, based on the totality of the circumstances, the BOPC determined that the officers' actions were reasonable, and their decision to pursue the Subject was in the best interest of public safety and, therefore, not a substantial deviation from approved Department tactical training. This topic will be discussed during 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 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 review and discuss the incident and individual actions that took place during this incident.

In conclusion, the BOPC found Officer A and B's tactics to warrant a finding of Tactical Debrief.

## **B. Drawing/Exhibiting**

- According to Officer A, he observed the Subject reaching into his front waistband with his right hand and produced a handgun while turning his upper body to the left and drew his service pistol.

According to Officer B, as he was broadcasting, he observed the Subject remove a handgun from his waistband area and extend it outwards. Officer B then heard his partner fire his service pistol at the Subject, and, accordingly, drew his service pistol to a two-handed, low ready position.

Based on the totality of the circumstances, the BOPC that an officer with similar training and experience as Officers A and B, 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 Officers A and B's drawing and exhibiting of a firearm.

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

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

According to Officer A, he slowed his pace and observed the Subject pointing the

handgun in his direction. Fearing for his life and the life of his partner, he fired three rounds 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 Officer A, would reasonably believe that the Subject's actions presented an imminent threat of death or serious bodily injury and that the lethal use of force would be objectively reasonable.

Therefore, the BOPC found Officer A's lethal use of force to be in policy.